GARRISON UNIT REFORMULATION

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SEPTEMBER 29, 1998, WASHINGTON, DC

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OVERSIGHT HEARING ON GARRISON UNIT REFORMULATION

TUESDAY, SEPTEMBER 29, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:05 p.m., in room 1324, Longworth House Office Building, Hon. John Doolittle (chairman of the Subcommittee) presiding.

STATEMENT OF HON. JOHN DOOLITTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DOOLITTLE. The Subcommittee on Water and Power will come to order.

The Subcommittee is meeting today to hear testimony concerning the Garrison Reformulation Unit and to also receive testimony regarding H.R. 1213, the Perkins County Rural Water Systems Act of 1998.

Today's hearings will cover these two projects. So these projects, and particularly Garrison, have been the subject of thousands of hours of debate over the last several decades. In the last couple of years, many of those who are presenting information today have made a dedicated effort to resolve some of the major outstanding issues. We acknowledge their hard work and their thoughtful consideration regarding this complicated situation. I believe that everyone involved in these projects has a genuine desire to address the fundamental needs for water.

The Garrison Unit of Pick-Sloan Land has a colorful history. It represents a longstanding effort to develop North Dakota's water resources. It has been at times controversial, both inside the State and in the Nation's Capitol. Management of these water needs in North Dakota is incredibly complex, from too much water at Devil's Lake to too little water quality in the Red River Valley.

The project remains an issue with the Canadian Government, several other States, and interest groups outside North Dakota.

Very much related to the Garrison project is the Perkins County project to provide Garrison water to Perkins County, South Dakota. The Perkins project was considered when the Garrison Diversion Unit Reformation Act of 1986 was passed.

I hope that these hearings will provide a discussion on the available alternatives to provide reliable, high-quality water supplies in both these North Dakota and South Dakota project areas.

Several different agencies have participated in rural water system development projects over the years, including the Bureau of Reclamation. However, rural water development does not have a regular place in the Federal budget. In imperative declining budgets, it remains a serious challenge to provide for these programs while continuing to meet the other obligations we must fund such as existing authorized projects, the Safety of Dams Program, and the substantial backlog of maintenance activities.

We look forward to hearing from our witnesses today and be pleased to recognize our Ranking Member, Mr. DeFazio, for his statement.

[The prepared statement of Mr. Doolittle follows:]

STATEMENT OF HON. JOHN T. DOOLITTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Today's hearings cover the Garrison Unit in North Dakota, and the Perkins County Rural Water System in South Dakota. These projects, and particularly Garrison, have been the subject of thousands of hours of debate over the last several decades. In the last couple of years, many of those who are presenting information today, have made a dedicated effort to resolve some of the major outstanding issues. We acknowledge their hard work and their thoughtful consideration regarding this complicated situation. I believe that everyone involved in these projects has a genuine desire to address the fundamental needs for water.

The Garrison Unit of the Pick-Sloan plan has a colorful history. It represents a long-standing effort to develop North Dakota's water resources. It has been at times controversial, both inside the state and in the Nation's Capital. Management of North Dakota's water needs is incredibly complex, from too much water at Devil's Lake to too little quality water in the Red River Valley. The project remains an issue with the Canadian government, several other states, and interest groups outside North Dakota.

Very much related to the Garrison Project is the Perkins County Project to provide Garrison water to Perkins County, South Dakota. The Perkins project was considered when the Garrison Diversion Unit Reformation Act of 1986 was passed.

I hope that these hearings will provide a discussion on the available alternatives to provide reliable, high quality water supplies in both these North Dakota and South Dakota project areas. Several different agencies have participated in rural water system development projects over the years, including the Bureau of Reclamation. However, rural water development does not have a regular place in the Federal budget. In a period of declining budgets, it remains a serious challenge to provide for these programs while continuing to meet the other obligations we must fund, i.e., existing authorized projects, the dam safety program, and the substantial backlog of maintenance activities.

I look forward to hearing from our witnesses today.

STATEMENT OF HON. PETER DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. DEFAZIO. Thank you, Mr. Chairman. I will not be able to stay for a good part of the hearing today but will review the testimony. We have an impressive list of witnesses, and I look forward to the discussion.

I am best described as a skeptic on the issue, particularly the original proposal and aspects of the current proposal which might reflect that or move us back in that direction. But I also represent a very large district and a district where I have communities that are water poor and need some Federal assistance with rural water development, so I'm sympathetic particularly to those aspects of it.

And I've got to say that our colleague, Earl Pomeroy, has done a tremendous job in advocacy and in bringing this forward to fruition in the hearing because, you know, they're sort of the initial

reaction for those members who have been around here for a long time is, "Oh, no, not again."

[Laughter.]

So I congratulate him on his persistence and the fact that he has convinced those of us who have concerns, you know, to work with him and work through the process and see if we can resolve those as we go forward.

I'd be remiss if I didn't mention a letter from the Ambassador of Canada who was expressing grave concerns about the interbasin transfer, similar to ones they've expressed in the past, and so there are some big hurdles that we have to—that the advocates will have to overcome.

So I appreciate the chairman making the Committee available and gathering information on this.

Mr. DOOLITTLE. Thank you.

We have a distinguished panel of witnesses before us.

As I understand, Senator Conrad is on his way and Senator Dorgan, his whereabouts is being ascertained, so perhaps we'll begin with the representative for the State of North Dakota, Mr. Pomeroy, who has done so much to get us to hold this hearing.

STATEMENT OF HON. EARL POMEROY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. POMEROY. Well, thank you very much, Mr. Chairman.

I think this afternoon's hearings is amazing in two respects. First, that it's being held at all; this is a day where no recorded votes are scheduled, and the fact that you have proceeded to hold the hearing as you promised me you would, I think really reflects very, very highly on you. And you're a man of your word, and the State of North Dakota appreciates it because we've been looking forward to this opportunity.

The second thing that's amazing about this hearing is here we are, 5 weeks from a general election and you'll see the senior elected leadership of the State of North Dakota before you. We are not all of one party, yet we will all be singing from the same play book this afternoon. This is a broad, bipartisan consensus on behalf of this Dakota Water Resources Act, and I think it—especially at a time when many issues are highly polarized and extremely political—it's remarkable the depth of unity in North Dakota behind this bill.

We all see H.R. 3012 and it's companion bill, Senate Bill 1515, as critical to the future of North Dakota. We think that the broad support it has among the political leadership is also reflected upon the depth of support it has back in North Dakota, across not just the people of North Dakota, but a host of groups that represent a variety of important perspectives.

To that end, Mr. Chairman, I would like to offer into the record today, letters from these groups. There are in excess of 20 entities represented in these letters, as well as the testimony of the Spirit Lake Tribe. Now one of the tribes will be testifying on behalf of all of the tribes in the course of this hearing, but this testimony I'd like to introduce as well.

Mr. DOOLITTLE. Yes, without objection, so ordered.

[The information referred to may be found at end of hearing.]

Mr. POMEROY. In the mid-1950's, construction was completed on six mainstem dams on the Missouri River, and the flooding began in North Dakota creating our largest lake, Lake Sakakawea. The flooding destroyed prime farmland, about 500,000 acres of it. It cut the Fort Berthold Indian Reservation into two separate geographic units which has caused tremendous hardship over the years in terms of transportation, economic development, administrative demands.

In addition, the Oahe Dam, created in South Dakota on the Missouri, flooded up into North Dakota and split the Standing Rock Sioux Reservation in North and South Dakota. Unlike the floods most folks are used to, this flood is with us for good, flooding an area in our State about the size of the State of Rhode Island, to let you know the North Dakota contribution to this Missouri River management plan.

Now when we agreed to play host to this flood, we were also given some commitments, commitments that water from the Fort Peck Dam in eastern Montana would be used in western North Dakota for irrigation. Over the years, it was determined through extensive testing that irrigation was not feasible in light of the soil and other issues, and attention turned to irrigating the eastern part of our State with water from the Garrison reservoir.

This plan has been changed and changed and changed over the years, yielding to feasibility difficulties as well as to political realities. The status right now is that we've got more than 100 miles of supply works constructed delivering water to nowhere.

In response to the concerns involving the feasibility of widespread irrigation and our frustration with the status of the existing project, the elected leadership of North Dakota has refocused the priorities of the Garrison project to address our needs going on into the next century, primarily by focusing the project on to creating a safe, reliable water supply for municipal, rural, and industrial use.

The Dakota Water Resources Act completes the journey started in 1944 by providing safe water to these communities. The irrigation feature has shrunk from more than 100 million acres envisioned in the first design of the project to now 70,000 acres of authorization is what we're seeking in this plan before you.

I can personally tell you, Mr. Chairman, about the difficulties we have across this State with quality potable water. I grew up three miles outside the town of Valley City. My family had to haul drinking water because our well water wasn't fit to drink, and that is precisely the situation many North Dakota families continue to find themselves in.

Now the MR&I feature of the existing Garrison authorization, has met the drinking water needs of a number of families. For example, the Southwest Water Pipeline, to date, has taken families—we're dealing with tap water of this color and turned it into safe, potable drinking water, now delivered through the Southwest Water Pipeline. I think this is an example of what can be accomplished through MR&I works in the State of North Dakota.

It should certainly be noted that there's a lot of work to be done. We have a number of communities across the State and on our Indian reservations where people every morning turn on tap water to

this rather than this. It's especially ironic when you consider the States of the reservations being adjacent to this tremendous reservoir of water and yet not able to find potable water in light of the destruction done to their artisan wells and the aqueducts in their region.

We have reformulated a project so that it has $300 million geared to the State MR&I needs. This will continue on a 75–25 cost share basis with the State. We also pay particular attention to Indian MR&I needs, moving funding from $20.5 million provided in the 1986 Act, up to $200 million. The 1986 Act was represented to be a place holder figure while the full extent of Indian MR&I needs was ascertained. Even at the $200 million figure, we estimate that it is only 80 percent of meeting the full water needs presently experienced on our Indian reservations.

The final major component of H.R. 3012 is $200 million designed for developing reliable water supply to the Red River in eastern North Dakota. I call your attention to the pictures on the charts. They reflect two different occasions—we have a third illustrated as well—where the Red River essentially ran dry. Now the Red River is two of our largest cities; Fargo and Grand Forks, are on the Red River, and you can take a look at what history has dealt us to know why we're concerned about the adequacy of Red River water supply to our major metropolitan areas going on into the future.

We construct a canal—to begin with, we constructed canals under the earlier versions of the project which create water supply heading to eastern North Dakota. The key linking structure didn't work under the 1986 Act. And what we do in the bill before you is have a pipeline connection that delivers the water from the canals to waterways that can carry the water to the Red River Valley and deal with this issue.

To address the concerns that have existed in the past about interbasin transfer of water, we actually provide for the treatment of this water in the pipeline supply works to deal head-on with that problem that has been central to the fate of this bill in the past.

The final issue I'd mention in the bill before us, $25 million for the expansion of existing Wetlands Trust, $6.5 million for recreation and ecotourism development, and $40 million for construction of a new bridge across Lake Sakakawea on the Fort Berthold Reservation.

We believe, Mr. Chairman, that there's a commitment that was made to us that has gone unfulfilled, and the sheer weight of the needs of the people of North Dakota for safe and clean water drive this legislation. We should not have people dealing with the water quality issues that presently exist in all too many homes in North Dakota. We need better water, and the bill before us would help us get this water.

I thank you for your interest. I can't emphasis how critical we believe this project is to the future of North Dakota.

[The statement of Mr. Pomeroy follows:]

STATEMENT OF HON. EARL POMEROY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Thank you Mr. Chairman for holding this hearing on the Dakota Water Resources Act of 1998.

I am grateful for the opportunity to express my strong support for this legislation—H.R. 3012 in the House, and its companion, S 1515 in the Senate. This legislation is a critical component to the future of North Dakota and has a very broad, bipartisan base of support in my state as you will hear from the testimony today.

In the mid 1950s, construction was completed on one of the six main stem dams on the Missouri River. At this time, the flooding began which eventually created North Dakota's largest lake—Lake Sakakawea. This flooding destroyed prime farmland on the Fort Berthold Indian Reservation and created a geographic separation which has caused numerous hardships in terms of transportation, economic development, and various administrative demands. In addition, the Oahe dam in South Dakota created Lake Oahe, which is partially situated on the Standing Rock Sioux Reservation of North and South Dakota. Unlike the floods most folks are used to—the type where a spring snow melt causes a river to rise, or a storm temporarily makes a river flow over its banks, this flood is with us for good. In total, almost 550,000 acres of North Dakota land—a chunk of real estate the size of Rhode Island—has been lost for the sake of this project.

When North Dakota agreed to play host to this flood, a commitment was made to our state that we would be able to use water from the Fort Peck dam in eastern Montana for irrigation.

Extensive testing of the soils in western North Dakota revealed that the land was not suited to such irrigation development and attention turned to irrigating the eastern part of our state with water from the Garrison reservoir. Numerous problems arose as we pursued this plan and further studies and negotiations resulted in a series of changes, most notably reducing the irrigation component from an original figure of over 1.2 million acres to the 70,000 acres in this bill—none of which will be located in the Hudson Bay drainage basin.

In response to the concerns involving the feasibility of wide-scale irrigation, elected leaders of North Dakota have refocused the priorities of the Garrison Project to better address the need across the state for safe, reliable water supplies for municipal, rural, and industrial use. The Dakota Water Resources Act completes the journey started in 1944 and will provide this safe water to communities across the state.

Today you will hear of the tremendous success of the Southwest Water Pipeline, a feature of the Garrison Project which has brought clean water to thousands of North Dakotans who no longer have to haul their water from town. Mr. Chairman, I can personally attest to the difficulties of growing up with poor well water. For years, my family hauled water from town to our home outside Valley City. Prior to the Southwest Pipeline, water in some communities was both unreliable and unsafe.

I would like to show you just exactly what these folks dealt with and what many still deal with in North Dakota where good water isn't available. I have a pop bottle here that I'm glad no one mistook for a Pepsi and tried to drink. This is water from a community in Southwest North Dakota prior to the construction of the Southwest Pipeline. Now, these people enjoy clean, safe drinking water, but there are plenty of other communities across North Dakota, and on our Indian Reservations, where people get up every morning and turn on their tap to find water like this. I believe Chairman Bud Mason of the Fort Berthold Reservation has brought some samples of his own to show you today—a sad irony considering the people who use the water he will show you are little more than a stone's throw away from Lake Sakakawea itself, yet cannot tap into its vast store of clean, safe water.

To continue to the progress we have made with features such as the Southwest Water Pipeline, the Dakota Water Resources Act authorizes $300 million to continue work on this pipeline and develop other projects across the state which will bring safe, clean water to many North Dakota communities. This will continue on a 75-25 cost-share basis with the state. In addition, a second major component of this legislation is the commitment to the Indian Reservations in North Dakota. The Garrison Reformulation Act of 1986 provided for MR&I funding of $20.5 million for The Standing Rock Sioux, the Three Affiliated Tribes, and the Spirit Lake Nation. It was understood this number was not representative of their needs, but rather a starting point. Of course, we now recognize this was a wholly inadequate level of funding and the unique and pressing needs of the reservations in North Dakota are much greater. The Dakota Water Resources Act provides $200 million for water development on the reservations in North Dakota—which, in fact, is still short of meeting their documented needs.

The final major component of H.R. 3012 is the $200 million designated for developing a reliable water supply to the Red River Valley in eastern North Dakota. This area of North Dakota is the most heavily populated, and the city of Fargo is one of the most rapidly growing cities in the region.

The Red River is known for its dramatic changes in stream flow from one year to the next. We all recall the vivid pictures from the great flood of 1997, yet vivid

pictures of just the opposite are something we've experienced on many occasions in the past. A photo here taken in 1932 of the Red River shows children playing within its banks.

To address this, we began building canals under earlier versions of this project which were designed to connect the water supply created by the Garrison dam to the Sheyenne River, which flows into the Red River. However, after building canals from each end of this project, the key linking structure in this plan was deemed unworkable, leaving approximately 20 miles between these two canals which remains unconnected today. A number of issues led to the stoppage of this project, one of which was that bringing water from the Missouri basin to the Red River Valley would result in an interbasin transfer of water. Should the study of water needs and supply in the valley conclude that this is the most appropriate method for delivering water to communities in eastern North Dakota, the interbasin transfer of water concerns would be addressed by using a pipeline link the two canals which would incorporate treatment of this water to meet the environmental concerns of downstream interests.

This component of the legislation, as well as the portion of those structures already in place which may be used to move water to the east will be reimbursable. This is considerable value to the U.S. Government, as the state would not be repay the Federal Government for existing project features which will never be placed into service.

Finally, the bill before us today includes $25 million for the expansion of the existing Wetlands Trust, $6.5 million for recreation and ecotourism development, and $40 million for construction of a new bridge across Lake Sakakawea on the Fort Berthold Reservation.

Mr. Chairman, while we believe a commitment was made to us which has gone unfulfilled, it is the sheer weight of the needs of the people of North Dakota for clean and safe water which drive this legislation. No child should have to bathe in water like this. The resource is available, the need is significant, and this legislation is our answer. This is a fair and reasonable closure to the commitment by the Federal Government to the state of North Dakota. The need across the state and on our Indian reservations for an improved water supply—one that is safe and reliable—is well-documented. The bill before us today is the product of numerous, intense negotiations among the elected leaders of both parties in North Dakota, tribal leadership, the environmental community, city leaders, and others to develop a plan that effectively addresses these water needs and fulfills the commitment of the Pick-Sloan Missouri Basin Program. I would like to submit for the record almost thirty letters recently received from organizations across the state which demonstrate the support I mention for this Act.

Again, I thank you Mr. Chairman for your interest in this project and for scheduling this hearing. This is one of the most critical issues before the people of North Dakota and your willingness to hold this hearing is very important as we move forward to bring clean, safe water to the people across my state.

Mr. DOOLITTLE. Thank you.

Our next witness is Senator Kent Conrad from the State of North Dakota. Senator.

STATEMENT OF HON. KENT CONRAD, A SENATOR IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Senator CONRAD. Thank you, Congressman; thank you very much, very much, for holding this hearing, and thank you very much for your patience.

I believe this project is fiscally responsible, is environmentally sensitive, and is a treaty-compliant approach to completing the Garrison project.

Mr. Chairman, we started on this effort five long years ago. When we recognized, in a bipartisan basis in the State of North Dakota, that with the 1986 reformulation, we were never going to achieve the results promised to the people of North Dakota. It was just very unlikely that the Sykeston Canal would ever be completed to deliver water to eastern North Dakota.

And so 5 years ago, we started on what we called the "Collaborative Process." And in that collaborative process, we tried to involve all of the stakeholders. The Governor was involved, the congressional delegation; the Bureau of Reclamation worked with us on a technical basis. We had all of the tribes of North Dakota represented, and we asked both the national environmental community as well as the environmental community in the State of North Dakota to participate. It is a result of the lengthy deliberations through the collaborative process, a myriad of studies that were done by the Bureau of Reclamation that has brought us to where we are today.

Mr. Chairman, in 1997, in February, we held in my office a 10-hour marathon negotiating session to reach agreement on the 12 principles that would guide the drafting of the legislation. With your permission, Mr. Chairman, I'd like to enter those 12 principles into the record at this point.

Mr. DOOLITTLE. Certainly. Without objection, so ordered.

[The information referred to follows:]

Senator CONRAD. Mr. Chairman, we believe we have been faithful to those 12 principles. They form the foundation of the bill that is before us today.

And I want to especially highlight organizations that help bring this all together in North Dakota. The North Dakota Water Users and the North Dakota Chapter of the Wildlife Society, they played absolutely critical roles in bringing us together.

And, Mr. Chairman, what you see is remarkable. I've never in my experience in public life in North Dakota, seen more agreement in our State than on this measure, on a bipartisan basis, with every stakeholder signed up to support the Dakota Water Resources Act. So we believe we've made enormous progress.

Mr. Chairman, we have been working very closely with the Bureau of Reclamation, and they had a whole series of things that they believed we ought to change. And so for 3 months, we have worked with them, and now we believe we're down to four issues. We met with them again last week, and we think dramatic progress has been made. Let me just highlight the four, and then I will end.

They're still concerned about the OM&R costs in this bill. They estimate they are from $5 to $12 million a year, with $200 million available in their budget on a yearly basis, they're concerned with that amount of money.

Second, they are concerned about the revolving loan fund feature of the $300 million of State MR&I.

Third matter, is they are concerned about the Four Bears Bridge that is included here. Mr. Chairman, we understand this is unusual to have a bridge in a reclamation bill. The reason that it's here is because it is project-related and because this bridge, which is going to cost $45 million, is truly a hazard. I'd invite the chairman and anybody else who is interested to come and go across that bridge with us sometime—about midnight on a Saturday night would be a good time. Mr. Chairman, it is a hazard; it needs to be replaced. The State doesn't have the money to do it. It is project-related, and we thought the best place to put it was here.

Finally, they raised the issue of total cost. I think we probably understand that they make the point that we still need to have a shave and a haircut here. I'm hopeful that it will be just a minor shave and a minor haircut, because frankly, Mr. Chairman, we've gone a long way toward making this project fiscally responsible, environmental sensitive, and Treaty-compliant. We believe we have delivered a project like that to the Committee and to the Congress.

We are certainly prepared to listen as you counsel us in what other changes need to be made so that we can cross the line.

And again, Mr. Chairman, I want to thank you for your patience and your interest.

[The statement of Mr. Conrad follows:]

STATEMENT OF HON. KENT CONRAD, A SENATOR IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. Chairman, I greatly appreciate your willingness to hold this hearing. It is a pleasure to indicate my strong support for the Dakota Water Resources Act of 1998.

I believe this legislation represents a fiscally-responsible, environmentally-sound, Treaty compliant approach to completing the Garrison project. I will focus my comments on the history of the development of the bill before the Committee, because the process we have followed has been an unprecedented and cooperative process that has taken more than five years. Our approach has been to seek input from every quarter.

THE COLLABORATIVE PROCESS

In 1993, after it became apparent that the project authorized by the 1986 Garrison Diversion Reformulation Act would not be constructed, we began the "Collaborative Process" to seek ways to again reformulate the project into one that could be completed. That process involved a group of representatives from the North Dakota congressional delegation, the State of North Dakota, the Indian Tribes within North Dakota, and local and national environmental organizations.

Additionally, the Bureau of Reclamation provided technical support to the group and acted as a facilitator to the discussions. Those initial discussions, while not leading to an immediate compromise, began the 5-year long process of formulating a new project.

Following the "Collaborative Process" and time for organizations to develop alternatives, we organized meetings with all stakeholders to begin a new effort to complete the project.

DEVELOPING THE DAKOTA WATER RESOURCES ACT

We held public meetings in North Dakota in December, 1996, to get a fresh start with the various stakeholders to develop the plan to meet the contemporary and future water needs of North Dakota. Those meetings were used to solicit views from all interested groups about how the project should be reformulated.

In February, 1997, we met with several North Dakota and national environmental interests in my Washington office to discuss how to develop an environmentally-sensitive approach to completing the project. From that 10-hour meeting, we developed 12 principles that have guided our efforts to craft the detailed legislative language to settle this issue. I ask consent to have a copy of the "12 Principles" included in the record.

The bill, based on those 12 points, requires full compliance with NEPA and the Boundary Waters Treaty with Canada. It includes additional funds for wetland enhancement and other natural resource conservation in the state. The bottom line, Mr. Chairman, is that we have developed a bill that is an environmentally-sensitive proposal based on the agreement we reached at that marathon negotiating session in February, 1997.

Let me emphasize that all parties came to an agreement at that meeting, including two organizations that will present testimony today in opposition to the bill. We have continued to reach out to those organizations to hear their views about how the substitute amendment before Congress differs from the 12 Points. We remain willing to hear their specific concerns.

Following the February, 1997 discussions, we worked to write the legislative language that would remain true to the 12 Points. After going through several drafts and seeking reaction from interested groups, we reconvened all the stakeholders for a day-long meeting in Washington last October. Unfortunately, at that time the Na-

tional Audubon Society and the National Wildlife Federation chose to withdraw from the process, and invited us to introduce the legislation we had developed for a thorough public debate.

That October session helped us further narrow differences on the draft bill. At this point I would like to highlight the yeoman's effort of two organizations—the North Dakota Water Users and the North Dakota Chapter of the Wildlife Society. Those groups put forward an extraordinary effort to help us complete drafting the bill in a way that meets North Dakota's water needs in an environmentally-acceptable manner. That effort culminated in S. 1515 and H.R. 3012, which were introduced November 10, 1997, in the Senate and House of Representatives.

PROGRESS SINCE INTRODUCTION

Since we introduced the bill, we held a field hearing in Fargo, North Dakota, in February to hear the reaction of North Dakotans to the proposal. At that hearing, virtually every organization or interest that testified supported the Dakota Water Resources Act. I have never seen such broad, bipartisan support for anything in our state.

That support ranges from North Dakota's bipartisan elected leadership, the four Indian Tribes located in North Dakota, a wide variety of water interests across the state, the North Dakota Wildlife Society, the North Dakota Rural Electric Cooperatives, the state's Chamber of Commerce (called the Greater North Dakota Association), the North Dakota Farmers Union, the North Dakota Education Association; and many more.

Following that hearing in Fargo; the Interior Department raised questions about the legislation and interpreted parts of the bill differently than we intended. For more than three months this summer we held an intensive effort to re-write the bill to clarify provisions that were open to interpretation and to make substantive changes to address concerns expressed by the Department.

From those discussions, we significantly narrowed the differences between the Bureau and the sponsors of the bill. The substitute amendment before the Subcommittee represents those changes, and I believe the Administration's testimony today will acknowledge that effort.

I believe we have substantially narrowed the differences on this legislation so that we now have only a handful of issues remaining with the Department. We have been working since the July hearing before the Senate Energy Committee to continue to discuss those issues with the Department.

CONCLUSION

Mr. Chairman, the work of the past two years has brought us to where we are today—ready to move forward with a plan to re-direct, and complete, the Garrison Diversion project. The process we have followed in developing the bill is one of inclusiveness.

The legislation represents a fiscally-responsible, environmentally-sound, Treaty-compliant approach to completing the Garrison project. I urge the Committee to approve this bill and send it to the full House for its consideration.

SUMMARY OF GARRISON DISCUSSIONS

FEB. 24, 1997, WASHINGTON D.C.

As a result of the non-binding talks on Feb. 24, the following are areas of potential agreement.

1. Form of legislation—offer as amendments to the 1986 Reformulation Act.

2. Indian MR&I—increase current authorization by $200 million. Will need to: (1) net BUREC OK on needs assessment and (2) require Sec. Interior to rank projects and set a timetable in consultation with Indian Health Service.

3. Indian Resources—keep existing authority for irrigation at Standing Rock and Ft. Berthold; add an estimated $40 million to replace Four Bears Bridge at Ft. Berthold; get refined bridge cost estimates from DOT and ND DOT, seek funding for Ft. Yates Bridge in Highway Reauthorization Bill once tribe agrees to move ahead.

4. State MR&I—increase current authority by $300 million. Should fund 80 percent of 40-year needs.

5. Water to Red River Valley—increase current authority by $200 million for construction of facilities to provide Missouri River water to RRV or for alternative solutions preferred by the local communities and the state. Establish a process by which the BUREC would complete its phase 2 study so that all stakeholders could make a decision by the end of 1997.

6. State Role—continue to share MR&I and other costs; handle O&M on completed facilities.

7. Devils Lake—do not include outlet or inlet in amendments to '86 Act. Outlet is being considered on a separate emergency basis.

8. Integrated Projects—(a) require Corps review of Missouri River bank stabilization options downstream of Garrison Dam, (b) retain authorization for Turtle Lake demonstration and deal with next steps in report language after peer review is completed, and (c) increase authority for recreation projects by $5 million.

9. Repayment—reaffirmed principle that ND should only pay for capacity or features it uses. Feds pay 100 percent of Sheyenne treatment/distribution. Define a specific plan for forgiving capital and operation/maintenance costs for existing facilities and apportioning costs for future facilities. Power Rates—leave as in '86 Act to retain existing rate structure.

10. Irrigation—Keep irrigation as an authorized purpose. Retain canal-side irrigation on McClusky Canal of 10,000 acres and authorize 1,200 acres along New Rockford Canal if full costs are paid. Do not provide Federal funding for 5,000 acre Oakes site. Deauthorize other designated irrigation except as provided in Indian Resources and Integrated Projects.

11. Wildlife and Water Resource Management—keep current authority for Kraft Slough; turn the Wetlands Trust into a broader Resources Trust, which would then deal with grasslands conservation and riparian areas, too; increase Trust by $25 million; earmark a specific share of the Trust to prevent any decrease for wetlands; funci a $1.5 million Intepretive Center through the Trust; deauthorize Lonetree Reservoir and convert to a Wildlife Management Area; keep operation's maintenance/repairs of mitigation projects as a Federal responsibility.

12. Economic Recovery Fund—do not include in legislation.

Mr. DOOLITTLE. Well, thank you very much.

Our next witness is the other Senator from the great State of North Dakota, Senator Byron Dorgan.

STATEMENT OF HON. BRYON DORGAN, A SENATOR IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Senator DORGAN. Mr. Chairman, thank you very much.

My colleagues have pretty well covered it. Let me add a couple of points.

First, a more historical note, I wasn't here back in the 1940's when those viewing the Missouri River decided it was kind of a ornery river from time to time. Especially in the spring it would create chaos and massive flooding in the downstream cities, and softball would be interrupted in the city parks in Kansas City because of a river that was overflowing and wild and ornery.

So, Federal officials decided the way to harness the Missouri River and get some benefits from that river was to build a series of mainstem dams. They decided they wanted to have one of those dams in North Dakota. So they came to North Dakota with this plan, the Pick-Sloan Plan, and told North Dakotans, "In order to control this river and prevent flooding from downstream and all of the problems it causes, we'd like to propose that we have a permanent flood in your State. If you'd just be willing to accept this, the flood will come and visit your State and stay forever. We propose it be about the size of Rhode Island. We propose that it never leave, and we understand that it would be kind of a dumb thing for you to say, 'Yes, we'd love to have a permanent flood without getting something in return.'

"So what we'd do is this; we'd propose a bargain with you. We'd have the flood visit your State, and you be host to it forever, and we will understand that you are a semi-arid State and would be able to use water from behind that dam to move around your State

for the benefit of your State—for safe drinking water, clean water, municipal and industrial needs, industrial development and so on."

The State thought about that and decided, well, that was a pretty good trade and a pretty good bargain to make, and so we did, and so the flood came. And President Eisenhower went out and cut the ribbon to dedicate the dam, and the water came, and so we're now host to a permanent flood.

We got the costs of this bargain, but have never realized the full promise. It's not to say we haven't realized anything; we have received benefits—about a half a billion dollars and the clean water that Congressman Pomeroy held up which comes to my hometown and many others in North Dakota. There are very significant benefits from this project.

Throughout the years this project, we were promised as much as a million acres of irrigation—which is a very significant issue for a semi-arid State like ours. Imagine! A million acres of irrigation we were told. That project has now, like a plum to a prune, has shrunk and shriveled. And now with all of its wrinkles, is 70,000 acres of irrigation in the reformulated plan pending before the Subcommittee.

The plan itself is necessary because in 1986 we reformulated the then-Garrison Diversion project to best meet the State's needs at that point. But in this room and in the agreement that was made, there was one piece called the Sykeston Canal which was the connecting link needed to accomplish a lot of the project's purposes. It was uncertain whether that link was going to work as intended. Of course, over time, it was clear. It was from an engineering standpoint, not workable; from a cost standpoint, not workable.

And so we had, then, to retool this project one additional time, one last reformulation to fine tune the project to better meet the needs of the State.

The latest revisions in S. 1515 include all of the features my two colleague have just mentioned. I will not mention them again. But I do want to mention three final issues very quickly.

First is the issue dealing with North Dakota Indian reservations. My father spent some time in his youth in Elbow Woods, North Dakota, and that doesn't exist anymore. That's at the bottom of our permanent flood. Chairman Russell Mason of the Three Affiliated Tribes is here to testify; he comes from that part of North Dakota. His tribe very much needs the resources that were promised and the resources that will be delivered in this piece of legislation, as do the people of eastern North Dakota and many other communities throughout the State who will benefit from this legislation.

Second, we dealt with this with a realistic budget. One, we retained the cost share of 25 percent for the MR&I projects. Two, we repay the $200 million for Red River water supplies. Three, we also reimburse the government for the share of the capacity of the mainstem delivery features, index MR&I features only from date of enactment, and we target the State's critical water development needs. Meanwhile, the Federal Government will earn tax revenues from economic growth and receive reimbursement from the project users.

And finally, let me just make another quick point. We addressed the legitimate concerns of the environmental groups, the Canadi-

ans, and the downstream States. Those who say that we didn't address those problems are just dead wrong. We expressly bar any irrigation in the Hudson Bay Basin. We give the Secretary of the Interior the authority to select the Red River Valley water supply feature, determine the feasibility of newly authorized irrigation areas in the scaled-back project, and we extend the EIS period. As far as boundary water measures are concerned, biota transfers is a nonissue because only treated water would be transferred, and so on.

Moreover, we scale back the authorized irrigation for 130,000 to 70,000 acres and limited withdrawals from the Missouri River to 200 cfs.

All of this is in my full statement that I would hope you'd make a part of the record.

All of these provisions reflect those of us in this group, Republicans and Democrats who are interested in this project from the standpoint of benefiting our State. We understood what kinds of criticisms were being leveled at this project, and we dealt with those criticisms in a very direct way. I'm proud, as Senator Conrad and Congress Pomeroy indicated, to be sitting here with the Governor and the majority leader of the State house; we're united on what's important for our State and what we'll invest and build for the future of our State, and I'm pleased to be here to present this testimony.

Mr. DOOLITTLE. Thank you. I must say, I've never experienced nor do I know of a situation where we've had this kind of top-elected leadership of the State assemble all for one purpose such as this. It is quite remarkable I think.

As Governor, we've talked several times about this. I know you, along with the others, have been a real leader and proponent of bringing this issue to the forefront. I'd like to recognize you now for your testimony, Governor Ed Schafer, Governor of North Dakota.

STATEMENT OF HON. EDWARD SCHAFER, GOVERNOR OF THE STATE OF NORTH DAKOTA

Governor EDWARD SCHAFER. Thank you, Mr. Chairman. Thank you for the opportunity to be here and testify. We do appreciate the time.

For the record, my name is Edward T. Schafer. I'm the Governor of North Dakota, and I do thank you for the opportunity to testify in support of the Dakota Water Resources Act.

As Governor of North Dakota, I am here today to address the current and future water needs of our State, and to show how this Act will serve the Federal Treasury—will save the Federal Treasury—compared to the cost of completing the Garrison Diversion project under current law.

The Dakota Water Resources Act is the key to solving these needs. The project unlocks North Dakota's future as an indispensable element for water supply, economic development, agriculture, recreation, tourism, and wildlife enhancement.

The Bureau of Reclamation has stated that the cost of the Dakota Water Resources Act is no more than the cost of the 1986 Garrison Diversion Reformulation Act. As a matter of fact, the cost of meeting the needs of the 1986 Act is far in excess of the cost of

the Dakota Water Resources Act, and for these reasons, what is good for North Dakota is good for the Nation as well.

The greatest challenge before us is to find a solution for a dependable water supply for current and future generations of North Dakotans. Good drinking water is necessary for economic stability and growth. Presently, much of North Dakota suffers from either insufficient quantity or/and a lack of adequate supply of water quality for drinking. The solution to this challenge is the delivery of water from the Missouri River throughout our State. By providing Missouri River water throughout the State, we will also be able to support the growth experienced in certain areas of our State in recent years. This growth has come about largely because of new manufacturing and new industry service centers. As communities grow, so does the demand for water and so does the need for a safe water supply.

The Dakota Water Resources Act ensures our citizens an adequate supply of high quality and reliable water for MR&I water systems across this State. The greatest single need in this regard is to provide citizens of the Red River Valley with long-term water supply. This includes the need for our citizens as well as the need for our neighbors in Minnesota.

An important aspect of the Red River water supply is the fact that the cost of delivery of Missouri River water is reimbursable with interest. This is an important factor which helps reduce the impact of the Federal Treasury.

Water supply development for Native Americans on our Indian reservations within our State also is included in this Act, as well as opportunities to manage and conserve the natural resources of North Dakota through an expanded Natural Resources Trust.

When Congress authorized the MR&I Water Supply Program in 1986, it was a positive first step in fulfilling the water needs of our State. The total identified needs then were more than $400 million. And unfortunately, even after addressing some of these needs under current law, the total remaining water supply needs in the State today exceeds $600 million because of inflation and newly identified needs.

The current need is outlined in a report that I have provided to the Committee for the record.

[The information referred to may be found at end of hearing.]

Governor EDWARD SCHAFER. This report lists water supply needs for more than 520,000 people in 144 water systems, including community and rural needs as well. The report does not cover the water supply and water treatment needs of the Indian reservations in North Dakota. A separate needs assessment reports are to be completed for the reservations. Also, the means for contributing the non-Federal share of the State MR&I program are already in place.

MR&I funds include local, State, and Federal funds, have improved the quality of life for many North Dakotans; 32 communities and rural water projects have been developed since 1986 at a cost of more than $200 million. And the non-Federal contribution to these projects has been approximately $73 million.

I might take a minute, Mr. Chairman, you mentioned in your comments about the Perkins County project. The South Dakota project, however, ties into North Dakota water supply projects, and

unlike some other States or neighbors, North Dakota is cooperating with this project and certainly support the needs of South Dakota, their people, and this water development project in Perkins County.

The water supply needs of the Red River Valley are being addressed separately in order to evaluate the best available method to solve the Red River Valley water supply problem. And as you've heard, this is a cooperative effort of Federal, State, and local agencies. Water conservation, available water supplies in the basin, and diversion of water from outside the basin are all being considered for the future Red River Valley needs.

The preliminary estimates for total water requirement for Red River Valley ranges from 100 to 200 cubic feet a second in the Cheyenne and Red Rivers to meet the supply needs of the valley by 2050. And under any scenario, the amount of water necessary for the Red River Valley represents less than 1 percent of the annual Missouri River flow leaving North Dakota.

You know the Red River Valley Water Supply projects, the Southwest Water Pipeline, the Northwest Water Pipeline, evidenced here, the projects that we've been working on, but it is equally important to complete the project to allow North Dakota to use the Missouri River water properly throughout our State.

That distribution of the water will also provide a habitat to sustain fish and wildlife through drought years and will allow enhanced recreation during normal years.

We have identified $1.6 billion of water management projects in the State. Since 1986, local and State entities have spent more than $88 million; therefore, we do believe we are showing our willingness to continue to fund our share of these water supply projects.

We've talked about the reduction of irrigation acres, but it's important to note that no additional Federal funds are being sought for the developing of these acres. This results in a further reduction to the Federal Treasury in cost, and that is authorized under current law. None of the irrigation is located in the Red River Basin or in the Devil's Lake Basin.

Water supply to North Dakota is a great concern to Manitoba and Canada, and these concerns will be thoroughly addressed through the consultative process to ensure compliance with the United States-Canada Boundary Waters Treaty Act of 1909. And from a technical standpoint, compliance is clearly attainable.

I know that there's also been a concern raised about the efforts of our State to control the flood at Devil's Lake. Some suggest that this is a back-door approach to diverting Missouri water to Devil's Lake, and this is simply not the case. And for the record, the proposed Devil's Lake outlet cannot be operated in any way to divert Missouri River water to Devil's Lake. These two issues are totally separated physically, as well as by law.

In addition, you will hear testimony from folks and organizations from outside of our State that purport to be testifying in our best interest. And I want to assure you that the people of North Dakota that live and work in our State understand our needs and desires, including the wildlife and environmental organizations, support this project in our State. We are 100 percent committed to meeting

the quality and environmental standards and safeguards that Congress has had the foresight to put in place. And the Dakota Water Resources Act is written in such a way that there is no question that we will fully comply with the National Environmental Policy Act, as well as the Boundary Water Treaties Act.

I know my time is up here, Mr. Chairman. I appreciate the opportunity to testify.

In closing, I do have more comments which I'll submit for the record, but I would like to enter into the record also the Resolution of the North Dakota State Water Commission, which I chair, supporting the authorization of the Dakota Water Resources Act.

[The information referred to may be found at end of hearing.]

Governor EDWARD SCHAFER. North Dakotans from cities, from farms, from businesses are committed to this Garrison Diversion project. The project we know will never be what was promised to us in 1944, but it will continue to be the most important water management project in our State.

I want to thank you for your past support for the Garrison Diversion project, and I hope that you will continue your support to helping secure a brighter, better, and bolder future for North Dakota through this water resources Act. Let's bring this 50-year project to closure.

In closing, let me ask—I guess I'm kind of curious when we receive a letter from Canada, when we have a neighboring State comment, when a national environmental or wildlife group, or a downstream State makes some testimony, I guess I'm curious as to why those efforts get the credence, the creditability, and the priority over North Dakotans when we who live and work in our State know the needs. We love the environment, our clean air, and our clean water, and we would never do anything to ruin the quality of life in our State or for anybody else in a neighboring State or country.

I thank you for the opportunity, Mr. Chairman.

[The prepared statement of Governor Schafer follows:]

STATEMENT OF HON. EDWARD T. SCHAFER, GOVERNOR, NORTH DAKOTA

Mr. Chairman and Members of the Subcommittee, my name is Edward T. Schafer, Governor of North Dakota. Thank you for the opportunity to testify in support of the Dakota Water Resources Act.

As Governor of North Dakota, I am here today to address the current and future water needs of our state, and to show how this Act will serve the Federal treasury compared to the cost of completing the Garrison Diversion Project under current law. The Dakota Water Resources Act is the key to solving these needs. The project unlocks North Dakota's future and is an indispensable element for water supply, economic development, agriculture, recreation, tourism, and wildlife enhancement. The Bureau of Reclamation has stated that the cost of the Dakota Water Resources Act is no more than the cost of the 1986 Garrison Diversion Reformulation Act, and as matter of fact, the cost of meeting the needs of the 1986 Act is far in excess of the cost of the Dakota Water Resources Act. For these reasons, it is good for North Dakota as well as the nation.

The greatest challenge before us is to find the best solution for a dependable water supply for current and future generations of North Dakotans. Good drinking water is necessary for economic stability and growth. Presently, much of North Dakota suffers from either insufficient quantity or lack of an adequate supply of good quality water for drinking. The solution to this challenge is the delivery of water from the Missouri River throughout the state. By providing Missouri River water throughout the state, we will also be able to support the growth experienced in certain areas of the state in recent years. This growth has come about largely because

of new manufacturing and new industry service centers. As communities grow, so does the demand for water and so does the need for a safe water supply.

The Dakota Water Resources Act ensures our citizens an adequate supply of high quality and reliable water for municipal, rural and industrial water systems across the state. Our greatest single need in this regard is to provide the citizens of the Red River Valley with a long-term water supply. This includes the need for our citizens as well as the need for some of our neighbors in Minnesota. An important aspect of the Red River water supply is the fact that the cost of the delivery of Missouri River water is reimbursable with interest. This is an important factor which helps to reduce the impact to the Federal treasury. Water supply development for Native Americans on the Indian reservations within our state is also included in the Act, as well as opportunities to manage and conserve the natural resources of North Dakota through the expanded Natural Resources Trust.

When Congress authorized the Garrison Municipal, Rural and Industrial (MR&I) Water Supply program in 1986, it was a positive first step in fulfilling the water needs of our state. The total identified needs then were more than $400 million. Unfortunately, even after addressing some of these needs under current law, the total remaining water supply needs in the state today exceeds $600 million because of inflation and newly identified needs. The current need is outlined in a report I have provided to the Committee for the record. The report lists water supply needs for more than 520,000 people in 144 water systems including community and rural needs. The report does not cover the water supply and water treatment needs of the Indian reservations within North Dakota. Separate needs assessment reports are to be completed for the reservations. Also, the means for contributing the non Federal share of the state MR&I program is already in place.

MR&I funds including local, state and Federal funds have improved the quality of life for many people across North Dakota. Thirty-two (32) community and rural water projects have been developed since 1986 at a cost of more than $200 million. The non-Federal contribution to these projects has been approximately $73 million.

The water supply needs of the Red River Valley are being addressed separately in order to evaluate the best available method to solve the Red River Valley water supply problems. This is a cooperative effort of Federal, state and local agencies. Water conservation, available water supplies in the basin, and diversion of water from outside the basin are all being considered to meet future Red River Valley needs. The preliminary estimates for the total water requirement for the Red River Valley ranges from 100-200 cubic feet per second to the Sheyenne and Red Rivers to meet the water supply needs in the year 2050. Under any scenario, the amount of water necessary for the Red River Valley represents less than 1 percent of the annual Missouri River flow leaving North Dakota.

Projects such as the Red River Valley Water Supply, the Southwest Pipeline Project, the Northwest Area Water Supply, and many other city and rural projects are all important parts of the Dakota Water Resources Act. Furthermore, and equally as important, completing this project will allow North Dakota to use its Missouri River water right.

Distribution of Missouri River water in the state will also provide habitat to sustain fish and wildlife through drought and to allow for enhanced recreation during normal years. Providing additional water from the Missouri River is a potential solution to low stream flows as well as meeting municipal, rural and industrial needs.

Besides need for water supply, North Dakota's State Water Management Plan shows overall needs for flood control, recreation, irrigation water supply, bank stabilization, and fish and wildlife. The Plan identifies $1.6 billion of total water management needs in the state. Since 1986, the state and local entities have spent more than $88 million on water management projects alone, and are willing to continue to fund their share of future projects. These efforts are in addition to our efforts for water supply projects.

It is important to note that the Dakota Water Resources Act will reduce the number of acres of irrigation from 130,000 acres to 70,000 acres. No additional Federal funds are being sought for developing these acres, resulting in a further cost reduction from the Federal treasury as authorized under current law. Also, none of the irrigation is located in the Red River Basin or the Devils Lake Basin.

Water supply to eastern North Dakota has been a great concern to Manitoba and Canada. These concerns will be thoroughly addressed through a consultative process to ensure compliance with the United States-Canada Boundary Waters Treaty of 1909. From a technical standpoint, compliance is clearly attainable.

Concern has also been raised about the state's effort at flood control at Devils Lake, which some suggest is a back-door approach to diverting Missouri River water to Devils Lake. This is not the case. The proposed Devils Lake outlet cannot be operated in any way to divert Missouri River water to Devils Lake. These two issues

are totally separated physically, as well as by law. In addition, you will hear testimony from some folks and organizations from outside of our State, that purport to be testifying in our best interest. I want to assure you that the people of North Dakota that live and work in our state and understand our needs and desires, including wildlife and environmental organizations, support this project. We are all 100 percent committed to meeting the quality and environmental standards and safeguards that Congress has had the foresight to put in place. Some of these folks will give you misguided information and numbers in an attempt to subvert this project. The Dakota Water Resources Act is written in such a way that there is no question that the project will fully comply with NEPA, the National Environmental Policy Act, as well as the Boundary Waters Treaty.

The Dakota Water Resources Act also provides for the continuation of our efforts to manage and conserve wetlands as well as other essential natural resources. Operating since 1986, the North Dakota Wetlands Trust has been successful in protecting wetland areas, and when expanded to a Natural Resources Trust will manage and protect other areas as well, such as tall grass prairies, woodlands and river bottoms. Overall, the Dakota Water Resources Act will greatly enhance our environment, and the State's natural resources.

Everyone must cooperate to meet the challenge of providing safe, affordable and reliable water to our citizens and neighbors, and to address our water management needs. There are problems in all corners of our state, and there is agreement that cities, rural areas, agricultural interests, conservationists, and water managers can solve these problems by working together. The completion of the Garrison Diversion Project, through the Dakota Water Resources Act, is the best approach to solving our difficult water problems for current and future generations of North Dakotans.

The Dakota Water Resources Act is a reasonable solution from the Federal perspective as well. As I stated earlier, we have reduced the acres of irrigation and although our total MR&I need is more than $600 million, we have agreed to provide $100 million upfront to projects and to also reimburse $200 million for the delivery of water to the Red River. As you can see, the people of North Dakota are willing to provide for 50 percent of the identified MR&I need.

In 1944, when the Pick-Sloan Missouri River program was authorized, North Dakota agreed to give up 550,000 acres of valuable Missouri River bottomland for the creation of dams and reservoirs providing a multitude of benefits for our country. We, in turn, hoped to realize the benefits promised for our state. Passage of the Dakota Water Resources Act is necessary to help our state recover its losses from the development of the Pick-Sloan reservoirs. The Act will bring to a reasonable and final conclusion, the long and sometimes controversial history of Garrison.

Finally, I am providing a December 1, 1997 resolution of the North Dakota State Water Commission, which I chair, supporting the authorization of the Dakota Water Resources Act. North Dakotans from cities, farms and businesses are committed to the Garrison Diversion Project. The project can never be what it once was planned to be in 1944, but it will continue to be the most important water resource management project in our state. I thank you for past support for the Garrison Diversion Project, and it is my hope you will continue your support in helping to secure a better, brighter, and bolder future for North Dakota through the Dakota Water Resources Act, and bring this 50 year project to a final closure.

Thank you.

North Dakota State Water Commission
900 EAST BOULEVARD • BISMARCK, ND 58505-0850 • 701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696

RESOLUTION NO. 97-12-477

In Support of the
Dakota Water Resources Act of 1997

WHEREAS, the Garrison Diversion Project was reformulated in 1986 and there have been significant changes in the state since; and

WHEREAS, the state still has tremendous water resource needs, including MR&I water supply, economic development, irrigation, tribal, and fish and wildlife; and

WHEREAS, the Dakota Water Resources Act of 1997 would provide funds for MR&I water supply projects in North Dakota, South Dakota and Minnesota including the Southwest Pipeline Project, the Northwest Area Water Supply Project, and others, and would provide a water supply for the Red River Valley; and

WHEREAS, the Dakota Water Resources Act of 1997 would provide for agricultural economic development and would provide for further protection of the wetlands and natural resources of the state; and

WHEREAS, the Dakota Water Resources Act of 1997 would continue to protect and preserve the hydropower component of the Pick-Sloan Missouri Basin Program; and

WHEREAS, the Dakota Water Resources Act of 1997 would provide for the completion of the Garrison Diversion water supply facilities in an environmentally sound and economically feasible manner; and

WHEREAS, the Dakota Water Resources Act of 1997 would offset the significant sacrifice that has been made in North Dakota and South Dakota for the Pick-Sloan Missouri Basin Program.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission, its Chairman, Edward T. Schafer, and State Engineer, David A. Sprynczynatyk, at a meeting held on December 1, 1997, in Dickinson, North Dakota, do hereby express their strong support of the proposed amendments to the Garrison Diversion Project contained in S. 1515 and H.R. 3012 and also known as the Dakota Water Resources Act of 1997; and

BE IT FURTHER RESOLVED that the passage of these bills in Congress be accomplished as quickly as possible in order to address the water needs of the state in a timely manner.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

Edward T. Schafer
Governor-Chairman

David A. Sprynczynatyk
State Engineer, and
Chief Engineer-Secretary

SEAL

GOVERNOR EDWARD T. SCHAFER
CHAIRMAN

DAVID A. SPRYNCZYNATYK, P.E.
SECRETARY & STATE ENGINEER

Mr. DOOLITTLE. Thank you.

Our final witness at the beginning here will be Representative John Dorso, who is the majority leader in the State House of Representatives, who has also been a vigorous proponent and been in contact with the Committee on various occasions.

Representative Dorso.

STATEMENT OF HON. JOHN DORSO, STATE REPRESENTATIVE AND MAJORITY LEADER, NORTH DAKOTA STATE HOUSE OF REPRESENTATIVES

Mr. DORSO. Thank you, Mr. Chairman, and members of the Committee. For the record, my name is John Dorso; I'm North Dakota House of Representatives majority leader.

I really appreciate the opportunity to testify today in support of the Dakota Water Resources Act. As part of the leadership of the North Dakota Legislature, I am here to speak in behalf of the State legislature.

Also with me today and sitting behind me is the State senate majority leader, Gary Nelson. Unfortunately, neither State Minority Leader Tim Mathern nor State House of Representatives Minority Leader Merle Boucher could be here today, although, as well as Senator Nelson, they asked me to stress the importance of the Dakota Water Resources Act to the State of North Dakota, and the total bipartisan support of the legislature, and the past and present willingness of the State to contribute to the implementation of the Garrison Diversion project.

You have heard from our congressional delegation, as well as the Governor, on the importance of this Act to the State of North Dakota. Senator Nelson, Mathern, and I all live in the Red River Valley in eastern North Dakota. Our principal water supply, the Red River, has gone dry several times in the past. Also, the population of the Red River Valley has increased substantially where today more than 25 percent of our population resides within 15 miles of our eastern border with Minnesota. It is obvious that we need to develop the future water supply for that area. The Red River Valley is a significant and critical economic engine for North Dakota. Without a water supply for it, as would be reauthorized by this Act, our whole State will suffer.

Every State legislative assembly since 1944 has gone on record by resolution supporting this project, and most recently in 1997, the framework for the Dakota Water Resource Act. That resolution has come completely by bipartisan support, urges the completion of the project, and recognizes the critical priority of the project for water management and development in North Dakota. Be it for municipal, rural, industrial, tribal, recreation, or fish and wildlife needs, the Dakota Water Resources Act is essential for economic sustainment and development of our State.

Because of the importance to North Dakota, the State legislature has provided funding to show its commitment to the Garrison project. In the past, we have appropriated general funds for water projects, including the Garrison Diversion project, and we have also dedicated, by constitutional measure, a Resources Trust Fund for water development. Most recently in 1997, we provided authority for bonding for the Garrison project as part of our comprehensive

statewide water development program. The State legislature stands ready to address ways to meet future needs for funding the non-Federal share of the Dakota Water Resource Act as proposed.

Mr. Chairman, I'm going to just digress a little bit from my written testimony here. I heard you mention, or maybe it was Representative DeFazio earlier, about Representative Pomeroy's persistence in this matter. The fact of the matter is, is I think any of us who live in North Dakota and are elected to be political leaders of our State, will continue to be persistent. I don't think we have any choice because of the nature of the changing economy of our State where we have tried, through bipartisan efforts, to diversify our economy, water has become so critical. We have no choice but to be here and continue to ask to get something done, because the Red River Valley cannot sustain itself without a sustainable, clean source of water.

So I would appreciate your support and members of the Committee. We will continue to be here and work with you as much as we can to solve this problem for our people.

Thank you.

[The prepared statement of Mr. Dorso may be found at end of hearing.]

Mr. DOOLITTLE. Well, thank you.

I just have a couple of questions. Maybe Mr. Dorso—let me just ask you, do you and your colleagues accept the present cost share that's proposed for the State in this bill? I mean you think you'd be able to meet that?

Mr. DORSO. Well, Mr. Chairman, to be completely honest, I didn't really like the formula. I thought it should be quite a bit less, the State's share, based on what we've spent in the past. But, through the compromise process, I can assure you that the legislature will support this formula for funding, and hopefully we'll be able to do something in 1999 as we meet to move forward.

Mr. DOOLITTLE. I know you're not going to like the direction of this and, hopefully from your standpoint, it will be what it is in the bill, but does the State's legislature have the will—does the State have the capacity if it took even a higher share of local cost to accomplish this, do you think you could rise to that occasion?

Mr. DORSO. Well, Mr. Chairman, I think that that's a fair question, but I think I have to ask you, if we have to do something about the Devil's Lake problem, and that's the outlet, and all of the costs there, I think in the short run, "No." I think we'd be very hard pressed with all of the problems that we have dealing with water in North Dakota. We also have the Grand Forks Dike issue that we have to face. I just don't know where, in the short term, we could come up with additional funds.

Mr. DOOLITTLE. Let me jump in and ask, I notice in this emergency supplemental that's moving through the Congress now, there's an amount of money for Devil's Lake. I don't know how that relates to—does that solve the problem for Devil's Lake or not?

Mr. DORSO. Well, we have to have a State share for that, too, Mr. Chairman.

Mr. DOOLITTLE. So, you're saying that when you meet that State share, you think you wouldn't be able to go much above the 25 percent?

Mr. DORSO. Mr. Chairman, in the short term, I don't believe we would be able to.

Mr. DOOLITTLE. Thank you.

Governor, what has been the nature of your discussion with the Government of Manitoba and other governmental officials on the Garrison issue?

Governor EDWARD SCHAFER. Well, I obviously have met several times with the premier, especially of Manitoba. We've had technical exchanges with some of their folks up there as well through our Water Commission, and there are ongoing discussions. Certainly, they understand our problems, are interested in our needs. I found it interesting that the premier, Premier Filman, from Manitoba, is an engineer. And he said, "Normally, I look at, as an engineer, I look at ways at how you solve problems. If you have a barrier, how do you get through them?" However, he told me directly that he is unalterably opposed this project. I think this project is emotional there. I think there are political considerations in Canada that just won't allow us to be able to deal with this. It just seems to me that even though that we can show it to be technically safe, that it will not have risk to the Canadians and to our friends and neighbors, the Manitobans. I just think that we will never get them to support this project, and it's going to be necessary for the U.S. State Department to just say, you know, "You will comply with the Boundary Water Treaties Act." We're committed to it. I don't think we're ever going to convince them that we can do it, but I guarantee that our State will make sure we meet the requirements at the border of the Boundary Water Treaties Act.

If I might go back to your previous question, as far as what we've been able to do, the State has already, in the current projects, committed funds in the range from 25 to 35 percent. I mean we're putting our share of dollars in as needed, but as Representative Dorso mentioned, we have such huge needs for water projects in our State, including the flood problems in the Red River Valley. I know it seems strange to talk about flood problems——

[Laughter.]

[continuing] in for Red River Valley when we're talking about moving water over there, but those are the up and down cycles of water, and certainly the needs are there. And our State has shown the willingness to contribute our fair share.

Mr. DOOLITTLE. Coming from California, I can fully appreciate how you can be faced with both drought and flooding in the same year.

I'd also like to recognize the presence—acknowledge the presence of the Senate majority leader, so we have everybody; that's impressive. Welcome.

Well, Mr. Farr has joined us. Did you wish to address questions to the witnesses?

Mr. FARR. Thank you very much, Mr. Chairman. I appreciate you having this hearing.

It's ironic that two Californians, both from northern California who have all the water, are sitting here. Usually we're battling with our colleagues in southern California who want our water.

[Laughter.]

So we're very sympathetic to the needs. As I just read the quick summary of it—and I want to thank Congressman Pomeroy for coming into my office and briefing me on this issue—I was very sympathetic to your needs.

But looking over here, is there really—is the cost of this, as it adds up to be about $725 million? Is the analysis here—the overview, is that the additional $300 million for the municipal, rural, and industrial water for the MR&I under the 1986 reformulation, an additional $200 million for the tribal MR&I, authorization of $200 million to meet the Red Valley water needs, and adding $25 million to the existing Wetlands Trust for broadened purposes, and then some offsets, reducing the authorized irrigation from 130,000 acres to 70,000 acres, and provide protection for the Western Area Power Administration's rate payers. What is the bottom line need?

Mr. POMEROY. Mr. Chairman, if I might.

Mr. Farr, it's about a $770 million tag and the three principal components of it. Three hundred million dollars State MR&I, the conversion of this project from primarily an irrigation project to primarily a municipal water supply project, and that's the $300 million figure. All right, in addition, as was recognized at the time of the 1986 reauthorization, the water needs on our Indian reservations are enormous, and once more the equity claim in particular of two of the four tribes that have literally been split apart by this reservoir are very significant. It's $200 million to the Native American MR&I needs. Two hundred million dollars as the third central feature of this project, Congressman Farr, relating to the transport of water from the reservoir in the west to the population in the east.

And so those are the three most significant features of this project. And then there are some other issues; the Wetlands Trust and the Four Bears Bridge allowing this particular tribe at Fort Berthold to have a workable transportation artery over the reservoir itself.

Mr. FARR. Can you segment that? Is that where you can get $200 million for the project for the pipeline and then work on the formulas in subsequent years, because those don't all come due at the same time, or do they?

Mr. POMEROY. Well, the $200 million is reimbursable on that water, west to east, so there would be an income stream coming back repaying that obligation to the Federal Government.

Mr. FARR. OK. Well, I'll be on the Appropriations Committee next year, so I'll be looking forward to working with you.

Mr. POMEROY. You know, as was said, actually you missed our presentations, and this is a big price tag, but we have put this project together. It's a comprehensive project for our State's water needs and represents the quo and the quid pro quo the State entered into at the time we got flooded with a reservoir that's literally the size of the State of Rhode Island.

We are the host to the flood, but we have yet to get the optimal plan in place that gives us a fair use of the water from that reservoir. And so, that's why this is as it is, and we haven't asked the Federal Government, "Well, fund this little leg; fund that little leg." We put it together in a comprehensive package that would represent the culminating of the Federal Government's response to

North Dakota for the building of the dam on the Missouri River and the flood that resulted in Lake Sakakawea.

Mr. FARR. It's too bad you couldn't have that pipeline reach Los Angeles. You'd sell it in a quick minute.

[Laughter.]

Mr. DOOLITTLE. I'd like to thank our witnesses' extraordinary appearance by the officials of North Dakota. We certainly know you are committed to this project, and we thank you for taking the time to be here.

We may have additional questions we'll wish to address, and we'll do that in writing, and we'll hold the record open for your responses.

And with that, we thank you for being here. We'll excuse——

Mr. POMEROY. Mr. Chairman, as this panel breaks up, I would have two requests for the record. We held a couple of hearings in the State of North Dakota, one in Fargo and one in Minot, to illicit responses from and to allow the general public in the State to show what they thought of this particular plan. We would like to introduce the testimony from those two hearings, one held in Fargo on February 14, 1998, one held in Minot, August 11, 1998, into the record.

Mr. DOOLITTLE. We'd be pleased to, without objection, include that in the record.

[The information referred to may be found at end of hearing.]

Mr. POMEROY. Thank you, Mr. Chairman. And finally, we'd like to add to the records a letter from Robert Griffin, Brigadier General U.S. Army, division engineer with the Army Corps of Engineers, basically assessing the impact on downstream flows from the proposed project.

Mr. DOOLITTLE. And we'll include that as well, without objection.

[The information referred to may be found at end of hearing.]

Mr. POMEROY. Thank you, Mr. Chairman.

Mr. FARR. And I think for the record, I've—and I'm still new to this place—but I have never seen a more distinguished panel in the entire political leadership; House, Senate, and Governor are sitting at one table from any one State. I don't think any other State could do that, and I compliment you on your ability to bring it all together.

Mr. POMEROY. Thank you.

Governor EDWARD SCHAFER. Thank you.

Mr. DOOLITTLE. As the witnesses are leaving, let me invite the members of panel one to come forward.

Any objections to Mr. Pomeroy joining us at the desk? Being none, he is invited.

Let me ask, please, the members of panel one if you will rise and raise your right hand.

[Witnesses sworn.]

Mr. DOOLITTLE. Let the record reflect that each answered in the affirmative. We appreciate your being here, and we will begin with our Commissioner of the Bureau of Reclamation, Mr. Martinez.

STATEMENT OF ELUID MARTINEZ, COMMISSIONER, U.S. BUREAU OF RECLAMATION, DEPARTMENT OF INTERIOR, WASHINGTON, DC

Mr. MARTINEZ. Mr. Chairman, members of the Subcommittee, I have submitted by written testimony for the record, and if appropriate, I'd like to summarize my statement.

I'd like to start off by extending my appreciation to the North Dakota delegation, the Governor's office, State legislative leaders, their State engineer, and the Conservancy district with working with reclamation over the past year to try to address some of the outstanding issues and the concerns of the administration.

While we have not been able to adequately address all those issues, we are a lot closer today than we were 6 months ago in trying to resolve the administration's concerns with this, including a meeting I had last week with the delegation. I'm optimistic that additional progress can and will be made.

There is still some concerns that need to be addressed, and if I may, I'll divert from my prepared statement. We have the issue of the concern by Canada about water quality. I view that as a technical issue and a political issue. I think from a technical prospective, these issues can be addressed.

The other issue that my testimony addresses is a question of tieing the Wetlands Trust funding to development or to the progress of development on the Red River Valley initiative. The administration believes they should be decoupled and stand on their own merits.

I'd like to, if at all possible, try to help you, Mr. Chairman, and the Committee with some of the questions that you raised and try to place this in some kind of a perspective. And my figures might be a little bit off, and if so, I'll correct the record. But it's my understanding that in 1965, under Public Law 98–108, where Congress sort of adopted or fashioned a project that involved 250,000 acres of irrigated land. It was at that process at that time that the amount of money necessary to construct that project was about $2.2 billion, 1965.

In 1986, by the time this project had sort of been reformulated, Public Law 99–294, was looking at a total project cost of about $1.5 billion with no indexing involved. In other words, no escalation for increases in price of construction. And, to date, out of that $1.5 billion, $800 million has been authorized, and the Bureau of Reclamation has, through this year, gotten appropriations of about $614 million.

The current proposal before you now, as proposed by this legislation, is about $1.6 billion and does not include index cost. In other words, that price will escalate based on the time it takes to construct and the indexing of those costs, so I think from all——

Mr. DOOLITTLE. Commissioner, just to clarify, you said that it will escalate?

Mr. MARTINEZ. Yes. The $1.6 does not include indexing costs.

Mr. DOOLITTLE. Right.

Mr. MARTINEZ. So it would escalate. So I think the argument could be made that it's sort of a wash in terms of the total number of Federal dollars that were contemplated to be committed sometime in 1986 versus the current proposal.

Within this $1.6 billion that the project sponsors are seeking, is an increase of about a billion dollars to fund, in essence, a $200 million part of the project for bringing water into the Red River Valley. Now as I understand, this would be reimbursable with interest, paid back to the Federal Treasury, but it is my understanding that the payments would not occur until such time as the project would be put in operation.

There's a $300 million increase in the non-Indian MR&I, or municipal, rural, and industrial portion of this project. That $300 million represents a 75 percent cost share of the Federal Government of what I assume to be a $400 million project. The administration has concerns about the 75 percent cost share. It's longstanding policy at the Bureau of Reclamation that these kind of projects, that the project sponsor fund 100 percent, reimbursable with interest, with these kind of projects.

Now I fully understand that the Committee is aware that there is, within the Garrison project right now, $200 million which has been authorized for similar projects that are being funded with a 75 percent cost share by the Federal Government.

Mr. Chairman, if I may, I might want to exceed——

Mr. DOOLITTLE. You just take the time you need, Mr. Martinez.

Mr. MARTINEZ. OK.

So, and I think the administration is committed to that $200 million, so we're talking about an additional $300 million. And the question is, whether that should be a 75 percent Federal cost share to the extent that that cost share reduced that $300 million requirement would come down, bringing down the total cost of the project.

There's a $200 million portion for Indian municipal, rural, and industrial water supply. And I understand that would only meet 80 percent of the Indian needs in the State. The administration supports that. I believe that the Indian community needs to have their needs addressed. But we are concerned about the operation and maintenance, perpetual costs associated with that project.

The Bureau of Reclamation, as Commissioner, I'm concerned about the $40 million in this proposal for the Four Bears Bridge. Now I understand the need, and I don't question the need, for the bridge, but given the fact that the Bureau of Reclamation's budget has been decreased and continues to be in a decreasing mode for the last few years, I would find it difficult to be able to seek the appropriation for $40 million for a bridge when I have competing needs, as you know, toward reclamation efforts westwide.

So I think from my perspective, Mr. Chairman, assuming you get past the water quality issue with Canada and some of the environmental concerns, it's really a question of funding and where the money is going to come from if Congress sees fit to move this project forward.

We will continue to work with the Committee and the project's sponsors to try to find ways to reduce the Federal expenditure on this project by reductions in the Federal OM&R expenses as well as the total project outlay.

Mr. Chairman, that concludes my comments.

[The prepared statement of Mr. Martinez may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Our next witness will be the Honorable Bruce Furness, Mayor of the city of Fargo, in North Dakota.

Mayor Furness.

STATEMENT HON. BRUCE FURNESS, MAYOR, FARGO, NORTH DAKOTA

Mayor FURNESS. Chairman Doolittle, Congressman Farr, Congressman Pomeroy, thank you for the opportunity to be with you today.

I do represent the city of Fargo, but, in addition, today I'm representing the Eastern Dakota Water Users group and the North Dakota League of Cities, which just this past Saturday, the North Dakota League of Cities, 361 cities, approved a resolution of support for the Dakota Water Resources Act which I'd like to have entered into the record if I may.

Mr. DOOLITTLE. Without objection, so ordered.

[The information referred to may be found at end of hearing.]

Mayor FURNESS. Fargo is located right on the edge of North Dakota on the Red River. It is the largest city in North Dakota and with Moorhead, Minnesota, right across the river, represents about 165,000 people in population. We have enjoyed a growth rate of about 2 percent over the last 15 to 20 years and see that continuing in the near future. In fact, we think it's actually accelerating at this point. This is one of the reasons why we're concerned about the quantity of water available. And from a statewide prospective, nearly 40 percent of the State's population live in the six counties that border the Red River.

I am going to paraphrase my report, but I would like to read two parts of this. And the first is a summary of the problem characterized by a report from our consultant, Black & Veatch, when we designed our new water plant. They say that, "The city of Fargo has rights to two water sources for treatment and subsequent supply to its citizens for potable use: the Red River of the North and the Cheyenne River. Unfortunately, both sources are of poor quality and, even taken together, they do not offer a reliable quantity of water to meet Fargo's present and certainly the future water needs. The diversion of Missouri River water to Fargo by way of Garrison Dam would provide a long-term lifeline for the community." That's their conclusion.

We are concerned about the quantity of water. You've seen the pictures of some of the drought situations, and I want to also describe to you a commentary, I guess, by former Governor William Guy of Fargo. "If you were to look at the Red River near the water plant in the 1930's, you would wonder how they ever made the water fit to drink. The searing hot drought hung over heavily the Upper Midwest through the entire decade of the 1930's. The Geological Survey records say that the murky Red River ceased to flow at Fargo for a period in every year of that decade. The driest year was 1936 when the Red River stopped flowing for 166 continuous days. Cars were not washed. Lawns went unsprinkled. There was talk of returning the Fargo Sewage Plant discharge to the river above the city water intake for reuse. Moorhead, across the river, was drawing all of its water from wells east of the city, and their

tap water tasted good. With a population of around 25,000 at that time, Fargo's water situation was desperate. Today—" and I'm still quoting Governor Guy—"both Fargo and Moorhead draw their water from the Red River, while their combined population has increased five fold from the dry 1930's. Industries not even dreamed of 65 years ago now use copious amounts of Red River water. It is easy to understand why the Garrison Diversion project to bring Missouri River water east to the Red River Valley has been on the minds of thinking people for more than 50 years." and that's the end of his quote.

We are concerned about low flow quantities as well. There has been a study performed in the past that suggested that a seven cubic feet per second minimum flow in the Red River is sufficient, and that is totally unacceptable. You won't be able to see this chart——

[Laughter.]

I can hardly see the chart from here. So I'll just have to describe it to you. But it is a chart; I think it was in the packet of information that was sent to you. It's a chart of annual 7-day duration low flows in the Red River from 1900 to the present time. And what it shows is—what it takes is 7-day periods, 1-week periods, and finds the lowest of those for the given year, and that's what is recorded on the chart.

So you can see that there's a green line toward the bottom of that chart. That represents the current capacity or the current average daily use of our water plant in Fargo, 12 million gallons a day. And when the blue line goes below that green line, that means there's insufficient water to handle that average usage of water. So it doesn't happen too often. You can see in the 1930's that there is no blue line there. That's when we had that zero flow. You can see in the 1970's there was some, but of recent years it has been fairly good.

The next line above that is a black line and it represents the capacity of our new water plant at 30 million gallons per day, which we just invested $60 million in, and the line above that, the kind of dark blue line, horizontal line, represents our future capacity. The plant was designed to be expanded to 45 million gallons per day. If you look at that line, the 45 million gallon line across, and then look below that for all of the blue trend lines, those would be situations where in the past there would not have been enough water to run that plant at capacity. So we think we didn't enter into that investment of $60 million lightly. We have that capacity now, and we'd like to have the water available for that as well.

The obvious source of that kind of water is the Missouri River water; 96 percent of the usable surface water in North Dakota is in the Missouri River, and it makes sense, we think, to transport that east. And as was pointed out before, the 100 cubic feet per second that would go potentially to eastern North Dakota is about 1 percent of the entire water flowing through the State in the Missouri River.

And I had a graphic description which didn't get here, but if you were to take a pail of water that represents the water in the Missouri River going through Garrison and down out of the State, the

amount that would be diverted into the eastern part of the State would be represented by just a single thimble of water.

We are also concerned about quality, and I'll let the written report deal with that. And we are also concerned about conservation, which we are doing in our community now and will continue to do and enhance that.

The last point I would like to make is my last paragraph in the written statement. Although impossible to predict with any certainty, it is believed that the Red River Valley has adequate water supply for the next 10 to 15 years. Should drought conditions occur, however, that estimate may be reduced 3 to 5 years. Consequently, little time remains to resolve these concerns. Activity must begin now to address the many issues relating to water quantity and quality. And I urge your favorable consideration of this critical legislation.

Thank you.

[The prepared statement of Mr. Furness may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Now our witness will be Mr. Russell D. Mason, Sr., chairman of Three Affiliated Tribes, in North Dakota.

Mr. Mason.

STATEMENT OF RUSSELL MASON, SR., CHAIRMAN, THREE AFFILIATED TRIBES, NORTH DAKOTA

Mr. MASON. Thank you, Mr. Chairman, and members of the Subcommittee, Congressman Farr, and our good friend Congressman Earl Pomeroy. I want to thank you for the opportunity to present testimony today concerning H.R. 3012, the Dakota Water Resources Act.

I am Chairman Russell Mason of the Three Affiliated Tribes of the Bandan, Hidatsa, and Arikara Nations. Also, accompanying me is Chairwoman Mira Pearson of the Spirit Lake Nation, who is sitting in the audience here.

I'd like to share with you a little bit about the Three Affiliated Tribes. As you may recall, the Three Affiliated Tribes greeted Lewis and Clark in the early 19th century as they made their expedition up the Missouri River and over to the Pacific coast. And if it wasn't for the Three Affiliated Tribes, I don't think he would have survived his first winter. And also, I don't know if he would have been able to find his way if it hadn't been for a guide that was one of our women from the tribes up there, and that was Sakakawea who provided a guide as well as an interpreter.

But also, in sitting here and listening to the testimony and having testified at a number of hearings and on the Senate side, the Three Affiliated Tribes were one of the tribes that signed the 1851 Fort Laramie Treaty, at the time when we were given over 11 million acres.

Since that time, lands were taken by Executive Order, by congressional actions, and the last land grab—and if you were to look at the map of the Garrison Reservoir—is that the Three Affiliated Tribes gave the most and sacrificed the most. About 69 percent of the land needed for that dam belonged to the Three Affiliated Tribes. We occupied that valley; 99 percent of our people lived in

that valley, and I grew up there. I can never go back, and I can never say, "This is where I was born." like any one of you can go back wherever you were born.

It caused social disorganization that we're still recovering from. It disorganized our clanship systems, our medicine societies, and caused havoc. It took some of our most fertile lands from us.

What I want to say that, today—and I think that Congressman Farr identifies with this—we're one of the few States that has a solid working relationship with not only our congressional delegation, but also with our Governor, with our State legislatures, and our friendship goes across partisan lines. And I think many States could follow this example.

I want to say, clearly, that the Three Affiliated Tribes strongly supports the Dakota Water Resources Act and urges its immediate passage. And, I would like to show—everyone has their water bottles here, but I brought mine, too. But this is the water that we get from most of the wells in North Dakota. Someone just brought this to me. They said this was from the Committee coffee shop——

[Laughter.]

[continuing] which really isn't very far off from these other colors. In fact, my mother is 86 years old, and she lives out in the country. Her water was darker than this. We shut her well down, otherwise, I would have brought a sample. We have to haul her water. And so, without laboring—and I think that my good friends have given all of the information that is needed—is that we need this.

But also we were promised many things in the same manner that we were promised many things in our treaties. We were promised the replacement of a hospital; we have never received that.

We were promised a bridge, and that bridge that spans the Missouri River that we were talking about, Four Bears Bridge, is not an Indian bridge; it's a North Dakota bridge, and it has a lot to do with the commerce in western North Dakota. You have farmers and rangers that live on each side of the river who farm on the other side of the river. That needs to be replaced. Those spans for those bridges were taken from bridges that were constructed in the 1930's, and it is one of the most dangerous bridges in the country. And as Senator Conrad had mentioned is that one only needs to drive, not only on a Saturday night but anytime of the day, to see how dangerous that bridge is.

I would have several remaining issues that I hope this Committee could address, at a minimum in the final committee report of H.R. 3012.

One, is that we would ask that the language be in the final committee report recognizing the reserved water rights of the Three Affiliated Tribes to water from the Missouri River and its tributaries that are within the Fort Berthold known as Winters doctrine rights.

Two, we would also request that authority be provided for Federal funding of additional irrigation sites for the Three Affiliated Tribes, should they prove feasible other than those already authorized.

Finally, we would ask that the final Committee report accompany the bill include language that states that this bill fulfills some

of the goals set forth in the Garrison Unit Joint Tribal Advisory Committee report, dated May 23, 1986. I have attached a copy of that report to my original copy of my written testimony and would ask that this be included in the record of this hearing.

As I mentioned, we were promised many things when we lost our homelands almost 50 years ago. And as Senator Dorgan said on the floor of the Senate when the Senate version of this bill was introduced, "We expect the Federal Government this time to keep their promise."

Thank you very much.

[The prepared statement of Mr. Mason may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Our next witness will be Ms. Michelle McCormack, of Southwest Water Authority, in North Dakota.

Ms. McCormack.

STATEMENT OF MICHELLE McCORMACK, SOUTHWEST WATER AUTHORITY, NORTH DAKOTA

Ms. MCCORMACK. Mr. Chairman, members of the Committee, my name is Michelle McCormack, and I have been a resident of southwest North Dakota for the past 17 years.

I am one of the many people in North Dakota that has benefited from the partially completed Southwest Pipeline project. I support the passage of legislation on the completion of Garrison Diversion because I know firsthand, the social, economic, and personal hardships of having poor water.

My first home in southwest North Dakota had clear water, but it was "hard enough to walk on" according to the water tester. It was high in sodium and high in iron. It left rust stains on our clothes and it left stains and deposits on fixtures. It was so invasive that lifetime faucets had to be replaced every 7 years. Water pipes and shower heads filled up with hard lime deposits, so the water pressure was reduced, and eventually plumbing would leak and have to be replaced.

My husband and I built a house 10 years ago on a building site with an existing well. The well water was light brown, the color of tea, and it was soft, but it was very limited. When the cattle were drinking there was no water in the house.

That well began to fail after a few years. Because of the soils in our area, wells often fail, filling in with a light silt. We added filters, attempted to clear the water through the use of settling tanks, and finally we had to accept the fact that we needed a new well. At a cost of $12 a foot, we dug until we had spent over $6,000. And we found water—abundant, soft, potable, safe for cattle, but dark brown. We had the choice of digging deeper, hoping to find better water; however, there was no guarantee that it would be there. Or we could live with the brown water that we had and wait for the pipeline to come.

That brown water stained everything. One washing would turn a white dishtowel grey. Even dark clothes were dulled and dingy. My children learned to dry their hair after a shower; if they did not, their damp hair would stain the collars of their white t-shirt.

The picture you see here of the baby in the bathtub is my son. When he was five, he asked me if there was a rule that only motels and grandmas got to have white sheets. We bought dark towels, dark linens, and very little white clothing. We had to haul all our white laundry to the nearest laundromat, a 30-mile trip one way.

It took full strength toilet bowl cleaner to remove dried stains from sinks, showers, and fixtures. We distilled all the water we used for cooking and drinking and cleaning. The water had tested safe for human use, but boiling pasta or potatoes in that water was unappetizing at best. Our distiller ran 24 hours a day.

It wasn't pretty and we endured it because we had to. Our family and friends hated to visit or stay overnight, and the kids' friends didn't like to see it. So there was a social cost and a high economic cost to distill, and haul laundry, and a long-term cost to the house plumbing and fixtures.

Our friends and our neighbors, they all have stories like this. They tell stories of faucets that erode away every 5 years; garbage disposal blades eaten by the water; stains, costs, frustrations, and hard work over a resource that most Americans take as a given part of their life.

I've been lucky; I am one of the people who benefited greatly from the Southwest Pipeline project. There are others.

Don and Sarah Froehlich from Belfield were about to sell their dairy cattle operation before the pipeline arrived at their farm. High levels of sulfate contaminated their water causing Don to be sick with flu-like symptoms for over a month. In addition, the water caused a bad taste in the milk and cheese their cattle produced.

Douglas Candee from Dickinson has expanded his buffalo herd to over 200 head which he attributes to the abundant, dependable water he receives from the Southwest Pipeline project.

Joe and Mag Kathrein, of New England, have struggled constantly with water in the past, hauling water twice a day to their cattle herd 20 miles round trip. Now they enjoy quality water in abundance.

Bernice Jahner, of Hettinger, appreciates the health benefits she receives from Southwest Pipeline water. For the past 5 years, she has been doctoring for ulcers on her legs, taking whirlpool baths twice a day. After using pipeline water for just 1 month, her doctors were amazed at her improvement.

The North Dakota State Water Commission has currently identified 524 projects that are necessary for water development in the State with an approximate cost of $1.8 billion. One hundred twenty-four of these projects are targeted specifically for the next biennium, at a total cost of $362 million. Several large projects, such as flood control for Grand Forks and Devil's Lake and the Maple River Dam are included in this cost.

I can personally say the cost of a pipeline water bill every month is a bargain, compared to what we paid to make our water usable. Pipeline water is better for our health, affordable, less work, and a real blessing to all of us in an area where wells are not reliable.

I have some supporting documents that I ask be made part of the record.

Thank you for the opportunity to share my experience.

[The prepared statement of Ms. McCormack may be found at end of hearing.]

Mr. DOOLITTLE. Thank you, and the documents that you and I think Mr. Mason referred to will be admitted, without objection.

[The information referred may be found at end of hearing.]

Mr. DOOLITTLE. Our final witness in this panel is a former staff director of this Subcommittee in a previous life and is the former Commissioner of the Bureau of Reclamation, and now is senior vice-president for Public Policy of the National Audubon Society, Mr. Dan Beard.

Mr. Beard, welcome.

STATEMENT OF DAN BEARD, SENIOR VICE PRESIDENT, PUBLIC POLICY, NATIONAL AUDUBON SOCIETY, WASHINGTON, DC

Mr. BEARD. Thank you, Mr. Chairman. It's nice to be back.

I appreciate the opportunity to testify before the Subcommittee today. For the reasons I'll detail below, we strongly oppose enactment of the Dakota Water Resources Act.

We appreciate all the time and hard work Congressman Pomeroy has put into this proposal. We also recognize it reflects a consensus among a variety of interests in North Dakota. And while we appreciate all that work, we still oppose the legislation.

Mr. Chairman, the Garrison Diversion Unit water project has been the subject of controversy for 50 years. It has generated countless lawsuits, legislative battles, diplomatic negotiations, interstate controversies, and environmental confrontations. Even worse, the taxpayers have spent about $600 million on the project facilities, many of which don't fulfill their intended purpose.

In our view, H.R. 3012 would not end the controversies surrounding the Garrison project and water development in North Dakota; this legislation would just continue old controversies and create new ones.

Mr. Chairman, rather than go through the bill line-by-line and detail our objections, I would prefer to focus on several important reasons why we believe this legislation is deficient.

We believe the proposal is premised on a faulty assumption. As you've heard today, the major premise for this legislation seems to be that a debt is owed North Dakota as a result of a construction of the mainstem Pick-Sloan reservoirs.

Rather than revisit the historical accuracy of this supposed commitment, let me point out that the Congress in 1986 expressly said that whatever commitment may have existed was fulfilled by the 1986 legislation. Subsequent Congresses and administration, both Democratic and Republican, with the support of the environmental community, have met this commitment by making available over $400 million to the State of North Dakota for the construction of rural water systems, Indian water projects, and other project facilities. Over 80,000 North Dakotans have directly benefited from these expenditures, as you've heard today with things like the projects like the Southwest Pipeline. In addition, according to data provided by the Corps of Engineers, the State also receives about $130 million in benefits each year from the mainstem Missouri River facilities.

Thus, the State has received well over a billion dollars in benefits and direct Federal appropriations since 1986. In our view, the Dakota Water Resources Act fails to present a forceful and compelling case why the taxpayers should make available an additional $900 million in Federal funds and debt forgiveness.

The Congress should know the facilities and features it is authorizing. We believe it is absolutely essential that the Congress only authorize construction of features that have been thoroughly considered and planned. As currently drafted the legislation directs the Secretary to build facilities that are not clearly described or known, may not be needed, and perhaps cannot be used. The Federal Government should take the lead for implementing any legislation.

There are interstate and international issues and a host of environmental challenges surrounding this project. We don't believe it is appropriate for the Federal Government to cede authority for addressing these issues to the State of North Dakota, as it would in several sections of the bill.

There are several sections of the bill that would provide for forgiveness or changing the rules for reimbursable expenditures made in the past. We don't believe inclusion of these provisions is appropriate.

The legislation would provides that the State will play an integral part in the planning and design of facilities, and in the preparation of an environmental impact statement on Red River Valley water supply facilities. Given the interstate and international problems surrounding this issue, we believe it would be inappropriate to give the State this authority.

The final problem we would like to raise is the opposition of the Government of Canada to importing water from the Missouri River into the Red River drainage. In 1977, the International Joint Commission recommended the construction of those portions of the Garrison project delivering water from the Missouri River into streams that ultimately drain into Canada not be built, due to the potential for violation of the Boundary Waters Treaty of 1909. Twenty-one years later, there still is no assurance that project facilities that will be completed and operated under this legislation would not violate the Boundary Waters Treaty.

Now, as we said, we appreciate the opportunity to detail our objections to the legislation. Let me outline a suggested list of elements that we believe could lead to a positive resolution of the issues surrounding this controversy.

First, we oppose the legislation to complete the Garrison Unit because the project does not represent responsible, economically sound, or environmentally acceptable water resource development.

Second, if legitimate need is demonstrated for importing Missouri River water to the Red River Valley for MR&I use, we support formal consultations with Canada and discussion with Minnesota to determine if an acceptable means can be developed to deliver treated Missouri River water by pipeline directly to the targeted cities.

Third, we support projects to meet tribal MR&I needs using cost-effective delivery systems.

Fourth, we support irrigation development on tribal lands adjacent to the Missouri River using water directly from the river.

Fifth, we support other MR&I water projects in North Dakota utilizing local water supplies or pipelines where they are economically feasible and environmentally acceptable.

Sixth, we oppose the expenditure of additional Federal funds for the construction, operation, or maintenance of the Garrison Diversion Unit principal supply works, which have been authorized previously.

And finally, the Garrison Diversion Conservancy District is the entity primarily responsible for insisting that construction proceed on the principal supply works. They have done so before major problems associated with the project were resolved and despite the objections of landowners and other groups. Therefore, the costs associated with abandonment of the principal supply works should be borne by the C-District rather than by the American taxpayer.

I appreciate the opportunity to be here today and would be happy to answer any questions.

[The prepared statement of Mr. Beard may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

I realize that we have—it does seem strange to me that with all the planning of the expenses of these projects that we could build them, and then it just turns out they just don't work. I know that's happened various times, and apparently it's happened here.

I personally think all of the upset about the interbasin business is a little exaggerated. We have enormous transfer of water that crosses basins in the State of California and doesn't seem to be causing too many problems in that regard.

I would like to ask the Commissioner, it's obvious to me you have a real problem with water like that in the picture, but we do have a shrinking budget for the Bureau of Reclamation, and I guess I'd ask our Commissioner if you'd tell us how this project ranks with the other authorized projects that you have. In your mind, how does it fit in?

Mr. MARTINEZ. My perspective of this particular project merits the same consideration as a lot of other projects. And from my perspective, the question is not the authorization, the question is the funding. And that's a very difficult decision when we look at the projects that we have to fund under the Bureau of Reclamation budget.

And when I'm looking at costs associated with dam safety and operation and maintenance, fixing our facilities, I need to place emphasis on those versus requesting from the Congress appropriations for new ongoing projects.

As I stated, there's no question in my mind, once you get past the environmental issue and the water quality problem with Canada, that it really centers on economics. And I'm telling you the way I see it.

Mr. DOOLITTLE. Well, Commissioner, I don't expect you to be an expert on the economics of North Dakota, but is there from what you do know about the situation, is there a better way they could solve their problem than the way that's being proposed in this legislation? I mean, do you see any suggestions that you could offer them as to how to go about this?

Mr. MARTINEZ. With respect to the water supply needs in the Red River Valley, it's my understanding that studies are taking place to determine an assessment as to how those needs can or will be met and, you know, to the extent that that's incorporated in the legislation, I think we'll probably look at the best and most feasible approach.

But with respect to the other issues dealing with the question of the $300 million additional dollars that the State is requested for MR&I needs, again, to the extent that the State would fund that at a 100 percent, like what we're requesting, it would reduce the total project cost by $300 million. Or, if the Congress decides on another appropriate cost share, that would reduce that cost.

I have no reason to question that the studies will reflect probably the best engineering and least costly way to address these problems, but they're still going to be very, very expensive.

Mr. DOOLITTLE. It was your testimony, wasn't it, that there's already on the books of what an authorization for—maybe it was an appropriation, but I think it said authorization—for $200 million worth of rural water supply already in the Garrison?

Mr. MARTINEZ. That's my understanding; yes, and that's what is being sought is an additional $300 million for the non-Indian component.

Mr. DOOLITTLE. To your knowledge, are those the main exceptions to the policy that the Federal Government doesn't provide money for rural water supply, or do we have other examples as well?

Mr. MARTINEZ. Well, I think what I tried to express is the—as the Senator addressed as the issues—the main issues are the question of who pays for the appropriate share of O&M costs.

Mr. DOOLITTLE. In this case, the O&M costs would be O&M for that pipeline and all the related facilities.

Mr. MARTINEZ. The O&M costs associated with the Indian part of the project, the O&M costs associated with what has already been constructed, and of course the O&M of the future facilities.

Mr. DOOLITTLE. Well now let me ask for the Indian part of it, does the Federal Government normally fund that, or how does that get handled?

Mr. MARTINEZ. I'd have to get back to you, but it is my understanding it has been dealt with differently in different projects.

Mr. DOOLITTLE. OK. That's the answer I thought you were going to give.

[Laughter.]

Mr. MARTINEZ. Now the other issue has to do with a $300 million increased request for MR&I purposes. Not only is the request being made for $300 million, which represents a 75 percent cost share, but it is also being requested to put that money in a State revolving fund to be able to use that money for the State to lend out that money, to earn interest on that money, be able to enable itself to make limited dollars stretch.

The administration has some concerns with the use of that revolving fund, to the extent that that type of revolving fund is perhaps appropriate and to the extent that if the State would generate interest revenues, maybe the $300 million can be reduced.

These are the kind of things that we're willing to sit down and discuss with the project sponsors in the Committee.

Mr. DOOLITTLE. Let me interrupt and ask about that revolving fund. Is that a unique proposal, or do we have examples where that's been done before?

Mr. MARTINEZ. I'm not aware of a proposal in the Bureau of Reclamation, but we do make reference to a APA-type revolving fund that this might be able to be modeled after. So I'm sure there's something that guides us within the Federal bureaucracy on these issues.

Then the other issue is the Four Bears Bridge, $40 million bridge. Like I said, I have no reason to question the need of it. The concern I have is the Bureau of Reclamation, the appropriate place to fund a State bridge.

And those, I guess, basically, are the big financial issues as I view them.

Mr. DOOLITTLE. Let me ask about the bridge, because I'm aware of—bridges are an issue, actually, in my district. You said it's a State bridge, but Mr. Mason said there was somebody—I guess I was going to ask him, and maybe I will ask now.

You said you were promised—North Dakota was promised—I guess it was North Dakota—was promised this bridge. Was that you mean by the Federal Government?

Mr. MASON. Yes, sir.

Mr. DOOLITTLE. And that was back when they built the Garrison Dam, you mean?

Mr. MASON. Yes, this was in the 1940's.

Mr. DOOLITTLE. And Mr. Beard said that in 1986 in that legislation that reformed the 1940's legislation that they had basically declared all those prior claims were settled by the 1986 legislation. Is that your understanding, Mr. Mason?

Mr. MASON. Yes, sir.

Mr. DOOLITTLE. But was the bridge set aside as a separate outstanding issue unresolved, or how do you——

Mr. MASON. I'm not sure of that.

Mr. DOOLITTLE. Anybody want to comment on that who might know about it?

Mr. BEARD. Well, if I could, Mr. Chairman. I think there's a couple of things. There is the issue of whether the Federal Government has an obligation since the bridge was built and has been maintained on a State road. And the question is, does the Federal Government have an obligation to replace that bridge?

Mr. DOOLITTLE. So, the bridge was built originally by the Federal Government; now it's deteriorated, and so North Dakota wants a replacement for the bridge.

Mr. BEARD. I need to throw another thing on the table. In 1992, the Congress passed legislation, title 35 of Public Law 102–575, which provided authorization to divert surplus Western Area Power Administration revenues in the amount of about $250 million to the tribes in North Dakota because the Congress felt the tribes had not been fairly compensated for the taking of their land at the time the mainstem reservoirs were built. This recommendation came from the Garrison Commission in 1984, and it was a rec-

ommendation addressed in the Committee reports in 1985, and then in the 1992 legislation.

So, in addition to the amount that have been made available for the Garrison project, I'd also point out that an additional amount has been made available to the tribes in recognition of the fact that they were not compensated fairly at the time that the original mainstem reservoirs were built.

Mr. DOOLITTLE. And that amounted to $250 million?

Mr. BEARD. The authorization is for $250 million of surplus Western Area Power Administration revenues to be diverted to the tribes.

Mr. DOOLITTLE. Do you know how much of that they've actually——

Mr. BEARD. I don't have that figure with me.

Mr. POMEROY. Mr. Chairman, that legislation was passed before I came to Congress, but was not in any way related to either the bridge issue or the MR&I needs of the reservations.

It was a settlement related to the fact that at the time they went ahead with this "let's dam the Missouri River plan," the Pick-Sloan plan, it just so happened, probably not coincidentally, that the flooded lands were quite often Indian reservation lands, and that this was a fundamental inequity that needed to be addressed. And as a measure of addressing it, the JTAC legislation was passed.

On the bridge, specifically, this was an area that didn't need a bridge because we didn't have water before the reservoir was flooded. At the time they were doing this grand project, they bought a bridge somewhere. If I understand it, Mr. Chairman—you can correct me if I'm not correct—they bought a bridge which was an existing bridge; it wasn't built from scratch for this purpose and stuck it in here. The problem was that it was never adequate because it wasn't wide enough. It was always an extremely narrow hazardous bridge, and we've just lived with it for all these many years. So this isn't kind of a road maintenance issue; this artery never worked, and we didn't even need an artery if we wouldn't have had this federally constructed reservoir.

And that's how this all ties together. We understand that it is an unusual feature of a water project.

Mr. DOOLITTLE. What does this bridge span anyway? Is it an arm of the reservoir?

Mr. POMEROY. Yes.

Mr. DOOLITTLE. OK. Well let me recognize Mr. Pomeroy for some questions.

Mr. POMEROY. Thank you very much, Mr. Chairman.

I, in particular, want to express my appreciation for Director Martinez who has, I think, demonstrated on behalf of the Bureau and understanding that this is a Federal relationship to North Dakota's water needs that has not been met and needs to be met, specifically, as to the point made by Dan Beard. Did the 1986 Act absolve the Federal Government of some kind of obligation back to the State of North Dakota?

The 1986 Act really had a—represented a plan, and the plan included some MR&I funding, but it included a water distribution works that was to allow the State to access and use this Missouri River water. Now this distribution works, known as the Sikeston

Canal didn't work. And so the central part of the 1986 reformulation—a central part of the 1986 Act—simply has failed.

That's what got us back to the drawing board so that we might come up with something that does meet our needs going forward. And we have reconfigured the needs. We haven't just said, "Well this distribution piece doesn't work. How else do we maintain this exact project?"

We basically took a look at—let's go back to the drawing board, stay within the dollars that were represented by the 1986 Act, but come up with a plan that better meets our needs into the 21st century. And so that's really the plan that is before us.

Because the 1986 Act represents, and specifically states—the 1986 Act recognizes this could be a commitment of the Federal Government by declaring as a purpose of the bill, quote, "to offset the loss of farmland resulting from construction of major features of the Pick-Sloan Missouri Basin program by means of a federally assisted water resource development project." unquote.

Well, that project didn't work, so we don't believe that the 1986 Act extinguishes the obligation. Rather, we think, it represents part of the ongoing Federal-State relationship as we try to come up with an appropriate resolution of what the State ought to have for its role in this comprehensive Missouri River management plan that has caused us this flood.

Specifically, I would respond to Dan Beard, in saying that of your list of seven, I mean I think there are four points of general agreement between North Dakota and the Audubon Society. Now to the extent that you rely on you would transport water from west to east by piping it all the way to Fargo, Mr. Chairman, a distance in excess of 200 miles, we would use an existing—we'd use first of all the 100 miles of canals that have already been constructed and natural terrain features to get the water over there. But we're basically talking about the same thing—water, west to east.

You indicate we shouldn't breach the Boundary Waters Treaty. We agree; we shouldn't breach the Boundary Waters Treaty, and obviously this will not go forward if it does. But on the other hand, we don't think it's simply up to Canada to indicate whether or not that treaty is breached. We've actually put in a treatment capacity to make certain that the treaty is in all respects complied with. So this isn't a treaty violative proposal we're putting forward; it's a treaty compliant measure that addresses more than any of the iterations of Garrison have in the past of those concerns raised by our friends to the north.

There are a number of issues, obviously, that we would take exception to. I mean while we agree, maybe conceptually in certain respects, we certainly have other points of what I'd call adamant disagreement with the Audubon Society's testimony. But rather than take your time, Mr. Chairman, hammering it out here, we recognize these will be discussions to be held going forward.

I would like to describe, though, so you understand how this project came together. We really opened the door to all interested parties as we tried to come up with a reformulated plan for Garrison Diversion. That included a number of representatives of the environmental community. At some point, the Audubon Society elected not to continue at the table with us, and they decided instead

to resist. Other representatives of the environmental community stayed at the table and have signed off on the completed plan.

We don't want to continue this debate another 40 years. We want a completed water project that meets our State's needs into the 21st century. To the extent, I think we have made concessions that have gone far beyond what have ever been done before to try and get a comprehensive consensus of views that this is the plan that gets this done.

Obviously, the concerns raised by Director Martinez will be a source of ongoing discussions and negotiations, and we'll continue to be available to discuss these other issues that we recognize we'll have to deal with them in the legislative process anyway. But I particularly am appreciative of the Bureau's interest in the proposal and the supportive words you have made, as well as those representatives of the environmental community that stayed at the table and helped us bring this plan to its present state.

Thank you, Mr. Chairman.

Mr. DOOLITTLE. Thank you.

Commissioner, could I ask you—or maybe somebody else wants to volunteer—if this thing in 1986, these canals or whatever it was, had worked as they were designed, then would this problem have been resolved then or not?

Mr. MARTINEZ. I'd have to—maybe former Commissioner Beard might be able to give us some insight on this. My knowledge is limited on this. It's not the question they didn't work; it's just that they stopped building them. They left a gap in the middle.

Mr. DOOLITTLE. Well, that's why they didn't work.

Mr. MARTINEZ. Because of concerns. So, what you've got, is you've got some oversized canals. The project has changed; the formulation of the project has changed.

Mr. DOOLITTLE. Well, I want to hear from Mr. Beard. Maybe he'll comment on that. But, that's a useful clarification. So they stopped the construction of these canals——

Mr. POMEROY. Mr. Chairman, the Sikeston Canal feature, Commissioner, was not going to work. I mean it was—construction wasn't begun because even before we began we realized that that which the Act had provided for physically wasn't going to do that which was intended, and, therefore, the construction didn't begin. But it was a design feature that simply didn't work as had been envisioned at the time the Act was passed.

Mr. MARTINEZ. Mr. Chairman, for the purpose of clarifying the record, we'll present something in writing to sort of give a little history on that.

Mr. DOOLITTLE. That would be useful.

Mr. MARTINEZ. Thank you.

Mr. DOOLITTLE. Mr. Beard?

Mr. BEARD. Yes, if I could, Mr. Chairman, I think maybe I can, hopefully, bring some clarity to the discussion by characterizing it this way. This is my view, certainly, and it isn't, I'm sure, held by the delegation, Mr. Pomeroy, and others. But, we're here today, not because we're addressing a "project." We're here today for political reasons. We're here today because, as the delegation stated and I stated in my testimony, that there is a feeling on the part of—and earnestly felt—on the part of people in North Dakota that there's

an obligation from the Federal Government to provide something to the State of North Dakota in compensation for the construction of the mainstem reservoirs. That's why we're here.

And so the legislation you have is essentially not one project, it's a whole bunch of things to take care of individual interest groups. There's a bridge; there's $25 million for some in the environmental community who want more grant-making authority. There's more money for MR&I all throughout the State, which is a legitimate need. There's some money for Indian MR&I and Indian irrigation, and there's some money to move water to eastern North Dakota.

All of these are specific interests. They've all been collected, put together in one bag, and called the "Dakota Water Resources Act," and in that sense, fulfills a political problem, which is this feeling that there is a commitment owed.

I think the principal question for you and the rest of the Committee members is, should this Congress address this political issue, this commitment issue? And, should it address the commitment in the ways that have been suggested in the legislation? That's the challenge before you, because we're not here for some engineering reason, certainly. We're here to fulfill a political obligation.

As I tried to point out in my testimony, I think a very compelling case can be made that the Federal Government has gone a long way to fulfilling this commitment already. And the question is, how much more should it undertake on behalf of fulfilling this obligation?

So I hope that helps.

Mr. MARTINEZ. Mr. Chairman?

Mr. DOOLITTLE. Mr. Martinez.

Mr. MARTINEZ. I don't think the place is appropriate for me to be debating the issue with a former Commissioner but I think that there's a need. There's no question there's a need out in that area to deliver this service. And it appears to me that not only North Dakota, but also South Dakota and other western States are coming before this Subcommittee and asking for these kind of projects, and will continue to ask for these kind of projects.

The question is how the Congress wishes to deal with this issue. It's either a total package, if in fact it believes that it owes something to North Dakota because of what happened back 50 years ago, or because it wants to address this issue comprehensively rather than having it piecemealed to death. Because, in essence, if you look at what's happening in other parts of the west—and we have another project coming right behind this one where they're coming in one after another, rather than comprehensive. And, you know, that's what I want to leave with you.

Mr. DOOLITTLE. Well, I'd have to agree with you on that score, and I'm afraid I haven't been very encouraging to Mr. Pomeroy and the people that—or Mr. Thune from South Dakota because, heretofore, we haven't made great ventures into the area of MR&I supply as we're now being asked to do. And yet I certainly understand the need is legitimate.

I'm not sure I have a solution. I know we need one. I guess we're looking for one, really, in this Committee. And that's the purpose of this hearing and others like it to try and develop the facts that

we need in order to, I guess, ascertain how serious the problem is, how extensive it is, and what we're going to do about it.

Ms. McCormack mentioned that the water from the pipeline was a bargain compared to what they paid to treat the water and deal with it there. I mean, I would pay three or four—maybe more than that—times our present water bill if I had that to deal with. I don't know if three or four or five or six times, even if you paid that, would be enough to develop what you'd have to do in order to get the better water.

But I would be interested in the economics. I mean certainly all the people raising cattle, or anybody involved in industry, or anything like that, is this Red River Valley area where this computer industry, Gateway, and all that, isn't that where that is?

Mr. POMEROY. Gateway is South Dakota, Mr. Chairman, although we have some——

Mr. DOOLITTLE. Oh, that's South Dakota——

Mr. POMEROY. Well, actually—I grew up very close to Fargo. And what we've seen Fargo do is actually enter a new plateau of economic development where it's really taking off. It's becoming a regional powerhouse, and we do have a significant software company in Fargo and a number of other—it's just gangbusters as a regional economic trade center.

But to sum up where North Dakota is coming from on this, it isn't as though we got into a room and said, "Hey, I've got an idea. Let's have the Federal Government fund our State water needs."

What happened way back was we agreed to host a flood forever in exchange for a million acres of irrigation. We never got the million acres of irrigation. And what's more, we can even agree that right now there's more important—if you take the dollar value of what it would take to create a million acres of irrigation—we, the State's elected leadership, has agreed that there are ways that that dollar value could be spent in North Dakota that would better meet our water needs into the next century. And we've written that down in a comprehensive fashion, as the Commissioner has noted, and advanced us in this legislation. We have operated within the parameters of what it was our understanding the Federal Government was going to return to us in exchange for us hosting this flood reflected in the reservoir on the Missouri River.

Mr. DOOLITTLE. I must say having a reservoir, I've never thought of that argument; that's interesting. I have to see if I can put that to good use in my own area there.

[Laughter.]

Hosting a flood, therefore, we're owed some compensation of some sort.

Mr. POMEROY. For your support of——

[Laughter.]

[continuing] our project, we will waive all copyright——

[Laughter.]

[continuing] interests in that line argument.

[Laughter.]

Mr. DOOLITTLE. I mean in the case of our flood, we've always thought those afforded rather considerable advantages, through recreation and water supply and power generation, all kinds of things.

Mr. POMEROY. The issue with us is that we have the water, but for recreation we really have not been able to use it. So you've got the—and this is why, as Representative Dorso said, we will stay at it.

You have a State with tremendous water needs hosting a tremendous water resource, and yet we're not applying that resource to our water needs. And that's created a situation where we just have to keep at this until we can, at some point, have a reasonable access or reasonable application of that resource to our needs.

Mr. DOOLITTLE. Let me—maybe you're the one to ask, Mr. Pomeroy, being the only North Dakota official, I think—well, Mr. Mason, but you're the elected official—let me ask you, in California, you know, we would sell bonds to build some of these vast water projects—conveying water, say, from the San Joaquin Delta down to southern California, things like that. Has that been contemplated? Is it a possible source of revenue in maybe getting this water to the east like you wanted?

Mr. POMEROY. I've seen—I will answer your question more generally than that. We have spent a lot of State dollars developing the resources developed to date. There have been MR&I expenditures, and we've paid generally 35 percent of the cost share. Is that correct? Up to 35 percent.

The bonding capacity of a State of $600,000 is much less than a State of $33 million. And so we've got vast distances, sparse population, tremendous water needs, and real finite limits on the amount of local costs we can carry.

Mr. DOOLITTLE. And I understand that, but I guess I'd like to explore, you know, taking into account with the comments of Ms. McCormack who, while I'm sure expressed the sentiment of most people who would deal with that.

And the Committee will try and work with you and see if we identify a solution. Obviously, it would be some sort of a partnership. But still even if it is a partnership, that's getting the Federal Government into something that's traditionally not been its area of concern at a time when the budgets are shrinking, and we have a huge, long list of authorized projects already with the Bureau of Reclamation.

Mr. POMEROY. The feature of the project, getting the water to the east, that is the reimbursable, and the economics do make that a——

Mr. DOOLITTLE. OK.

Mr. POMEROY. [continuing] real reimbursable component.

Mr. DOOLITTLE. Well, maybe we should entertain the idea of maybe it will have to be done piece by piece. Maybe it can't be done in a comprehensive package, or maybe it can; I don't know. But has it been designed so that you could isolate several of these and eat the elephant piece by piece, not in one fell swoop?

Mr. POMEROY. Well, the project—not really. And they are in certain respects severable, but this is a package that has been built with an awful lot of give and take. And the compromise and the consensus that has evolved is because everybody has given something for that which they've received. So it's a deal that is not—it doesn't neatly come apart. It's kind of a—it's all tied together, Mr. Chairman.

Mr. DOOLITTLE. Well, I understand that that is your position, and I'm sure it needs to be your position because it's quite a consensus you've developed.

I'd like to thank the members of our panel. I'm sure we'll have extra questions to ask you as we sort through the testimony, and we'll ask you to respond expeditiously.

And with that we will excuse you, and I'm going to declare a 10-minute recess, and we'll come back for panel two.

[Recess.]

Mr. DOOLITTLE. The Subcommittee will reconvene.

We have panel two already assembled. Let me ask you gentlemen to please rise and raise your right hands.

[Witnesses sworn.]

Mr. DOOLITTLE. Thank you.

Let the record reflect each answered in the affirmative.

We are very pleased to have you here gentlemen. We'll try not to drag this out too long, but the information being developed is very useful.

We'll begin with Mr. Norman Haak, chairman of the Garrison Diversion Conservancy District of North Dakota.

Mr. Haak.

STATEMENT OF NORMAN HAAK, CHAIRMAN, GARRISON DIVERSION CONSERVANCY DISTRICT, NORTH DAKOTA

Mr. HAAK. Thank you, Mr. Chairman.

My name is Norman Haak; I am the chairman of the district and also farm in the Oakes Test area. I'm an irrigator. And I have three main topics that I would like to cover with you.

The first one being irrigation. We feel that irrigation would have been the best way to repay North Dakota for the loss we had from Lake Sakakawea. There were many people who thought that that would be a great economic development for North Dakota. One million acres irrigated today would have made it easier for power revenues to pay for this project, but as we see today, the 1944 dream did not come true.

In 1986, there also was a dream of 130,000 acres, which was also a dream. But there was a block grant program with it which has helped, and as we look at the 1997 Dakota Water Resource Act, the acreage is reduced to 70,000 acres. No money is provided for the development of these acres from the Federal Government. The function of irrigation is retained as a purpose of the project enabling the existing facilities to be used for irrigation. However, this will not cost the Federal Government any money.

The second point I'd like to make is on water supply problems and how they are addressed in this Act. The Bureau and the Indian tribes have identified the water supply needs on the reservation to be significantly higher than the $200 million first thought. The tribes agreed to a formula to distribute these funds. The $40 million bridge replacement is also there. The bridge was installed in the 1930's. It's not very good; I've been over it. I'd hate to drive a truck over it and try to meet someone. It's very risky.

The water supply needs in the non-Indian rural area could exceed a billion dollars. The Act calls for a $300 million extension to the 1986 grant program. Adjusted for inflation, this amount

matches the program originally envisioned by the Commission report in 1986, with the 75–25 percent cost share authorized in 1986. The cost share is typical of projects in the region.

According to the Bureau of Reclamation report, the water supply needs for the Red River Valley are currently estimated to be as much as 300,000 acre feet annually. All previous legislative authorities have specially provided for delivery of Missouri River water to the Red River Valley in order to meet these needs.

This legislation does not presume that Missouri River water is the only solution, or the best solution. The Act calls for $200 million to be authorized for a yet to be determined solution. The process for determining the best solution is an evaluation of all the reasonable alternatives and their environmental impacts through a cooperative effort between the State and the Bureau of Reclamation. The moneys allocated for delivery of municipal water to the Red River Valley will be repaid with interest.

One of the alternatives will be to use the existing facilities—as Congressman Pomeroy pointed out, to deliver municipal water to the Red River Valley. If this alternative is chosen, the cost assigned to deliver Missouri River water to the Valley for municipal purposes will be repaid in accordance with existing and longstanding reclamation law.

The third point is justification. I would like to emphasize the economic justification for the Dakota Water Resource Act. To justify this expenditure, we must first examine the alternatives.

The first alternative, and often the favorite, is to do nothing and hope it will go away. And thinking that would be the cheapest. It isn't and it won't happen. The cheapest is not always the best. In this case, it fails on both counts. If nothing is done, the expense of the existing works, which currently brings no money to the U.S. Treasury, will continue. The minimal level of operation and maintenance costs is about $2 million a year. It's not likely to go down.

The unmet needs of the Indian reservation are considered a longstanding responsibility. Whether these needs are funded in this bill or not, they are not going to go away. As a practical matter, we probably can agree the Federal Government will someday pay that bill. Similarly, if we do nothing, the water needs in the rural areas will not go away. If we ignore them, the economics and the rich heritage of these areas will continue to erode. The needs I've identified will need to be met in one form or another.

The current program that we know is cost effective, workable for rural communities, and is the best approach that we have been able to identify.

Some have proposed that the existing 120 miles of canals and pumping plants be abandoned. Meeting our current water needs by putting these facilities to use and getting repayment on the investment makes a lot more sense to me than spending $200 million to cover them up. It appears to be a lot of money when we talk about it at first, but upon deeper examination, it really is a responsible package that brings a reasonable return to the Federal Government.

Mr. Chairman, this legislation is the result of a lot of hard, bipartisan work to incorporate the concerns and interests that are normally competing or at odds with each other. We believe it is fair

and reasonable. A better alternative has not been identified, and we hope you will support this package, putting an end to the historic problems of Garrison Diversion.

Thank you. If you have any questions, I'd like to try to answer them.

[The prepared statement of Mr. Haak may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Our next witness will be Mr. Scott Peterson, president of the North Dakota Chapter of the Wildlife Society.

Mr. Peterson.

STATEMENT OF SCOTT PETERSON, PRESIDENT, NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY

Mr. PETERSON. Thank you, Mr. Chairman. Good afternoon.

My name is Scott Peterson; I am the president of North Dakota Chapter of the Wildlife Society, and I am here today to present a brief statement regarding the Dakota Water Resources Act on behalf of the North Dakota Chapter of the Wildlife Society.

The North Dakota Chapter of the Wildlife Society is a professional organization of fish and wildlife biologists, educators, and students. The chapter has been actively involved with issues concerning the Garrison Diversion Unit since the project was originally authorized by Congress in 1965. In 1986, the chapter helped to forge an agreement that led to the passage of the Garrison Diversion Unit Reformulation Act. The chapter has submitted statements for the record at previous hearings in Washington and North Dakota in support of this legislation before us now, and we stand by those earlier statements.

During the past 2 years, the Chapter has participated in discussions that led to the introduction of the Dakota Water Resources Act. Throughout this process, the chapter has focused its attention on three main objectives.

No. 1, clearly defining the provisions of the Dakota Water Resources Act.

No. 2, ensuring that the contemporary water needs of North Dakota include the conservation of fish and wildlife resources and their habitats.

And three, modifying the legislation to eliminate provision that will adversely affect the environment.

The Dakota Water Resources Act is primarily a municipal and rural water supply plan which will benefit North Dakotans by providing a dependable supply of safe drinking water to communities throughout the State. We believe this work can be completed without significant environmental impacts. The current version of the legislation strengthens the process for making environmentally sound, cost-effective decisions concerning the future water needs of Fargo, Grand Forks, and other communities in the Red River Valley. The Environmental Impact Statement will evaluate a range of practicable alternatives to meet the projected water needs and assess the environmental impacts associated with each option.

Today, I would like to address and offer our further support for two specific provisions of the Dakota Water Resources Act, namely the expansion of the North Dakota Wetlands Trust and the oper-

ation and maintenance needs of the project wildlife mitigation and enhancement features.

The Dakota Water Resources Act recognizes the conservation of fish and wildlife resources as an essential project feature to meet the contemporary water needs of North Dakota. The chapter wholeheartedly supports expanding the mission and funding base of the North Dakota Wetlands Trust to include riparian and grassland conservation initiatives. The chapter further endorses the trust's wetland education initiatives and supports the complimentary funding that is earmarked for the North American Prairie Wetland Interpretive Center.

The trust serves as an important bridge between landowners and the conservation community as clearly demonstrated by the trust's lists of accomplishment during the past 10 years. These impressive accomplishments include involving 37 organizations and over 200 landowners in trust-funded projects and programs; 170 landowners signed wetlands protection, restoration and enhancement agreements; 578 farmers and land managers participated in field tours on conservation practices; and over $1.7 million have been provided as either direct payments or incentive payments to landowners for various conservation practices.

I have also attached a one-page summary of the Wetland Trust's activities during the past 10 years to highlight their accomplishments.

Voluntary projects such as these are just some of the reasons that the various North Dakota Wetlands Trust programs have become so popular with landowners and conservationists alike. The trust is continually looking for cooperative ventures that benefit both the agricultural producer and our State's natural resources. Expanding opportunities to cooperatively work with landowners throughout North Dakota benefits both our natural resources and the State's economy. Further evidence of the trust's popularity can be found in one Ramsey County landowner's comments regarding a trust project when he stated, and I quote, "I feel that we've worked well together as a group. It's a win, win situation for producers and wildlife."

The primary provisions of the Dakota Water Resources Act are designed to meet North Dakota's existing and projected water supply needs. Along similar lines, we believe that establishing an account to operate and maintain the project's fish and wildlife mitigation and enhancement features is an important step in meeting the project's conservation objectives.

The operations and maintenance account will benefit wildlife resources, neighboring landowners, and the people using those public lands. The account is essential to ensure the stated conservation commitments of the project are met in the future. We recommend that the authority to establish the operations and maintenance account be timed to coincide with the record of decision concerning the Red River Valley water supply features. With a secure mechanism to fund the wildlife development areas, we are confident that the projects losses associated with identified irrigation development can be adequately mitigated.

In closing, we believe that substantial progress has been made since the first draft of the Dakota Water Resources Act was cir-

culated. The North Dakota Congressional Delegation, Senator Conrad in particular, and North Dakota's State political leaders are to be given credit for their leadership abilities in keeping a diverse group representing many interests, moving forward.

We wish to thank you for the opportunity to express our opinions here today, and we respectfully request the opportunity to continue negotiations directed toward developing legislation that meets the contemporary water needs of North Dakota and conserves the State's natural resources.

Thank you.

[The prepared statement of Mr. Peterson may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Our next witness will be Mr. Ronald Nargang, deputy commissioner of the Minnesota Department of Natural Resources.

Mr. Nargang.

STATEMENT OF RONALD NARGANG, DEPUTY COMMISSIONER, MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Mr. NARGANG. Thank you, Mr. Chairman.

For the record, I am Ron Nargang; I'm the deputy commissioner for the Minnesota DNR, and I'm here representing Minnesota Governor Arne Carlson.

I want to thank you for the opportunity. We do have a number of concerns to present. I have submitted written testimony to the Committee and would ask that it be included as part of the record, and then I'll simply summarize in my oral comments.

Mr. DOOLITTLE. That will be just fine; thank you.

Mr. NARGANG. As one of the eight States bordering the Great Lakes, Minnesota is no stranger to ambitious water development projects. We've seen any number of proposals over the years to move water from Lake Superior, Lake Michigan, and other lakes to the arid southwest. And the concern that those eight States had over those kinds of proposals led us to form a Great Lakes compact, among the eight States and the one province involved, and in that compact to provide for review and consultation among all affected parties on any diversion of water from the Great Lakes.

In committing to that compact, we also committed to going into State law and building a body of legislation to prevent the diversion of water from the Great Lakes and from, in our case, the State of Minnesota. And further, those States got together and approached Congress and succeeded in 1986 in including section 1109 in the 1986 WRDA (Water Resource Development Act) that provided, in effect, a veto authority for each of the eight States for any diversion of water out of the Great Lakes basin.

And I think, Mr. Chairman, that you've heard frustrations from Governor Schafer here on why his neighbors won't agree to this. And, frankly, I think I've just described for you the reason. We have a fundamental, philosophical difference about the interbasin diversion of water. Our State is not only opposed to diversions out of our State, we are opposed to diversion into our State. And we believe, philosophically, that what we ought to do is live within the limits of the water resources available to us. And that, frankly, is the approach we take in Minnesota. We are blessed with a plentiful

water resource across much of our State, but in a great area of the northwest and a large area of the southwest part of our State, we also face water shortages, the same water shortages you've heard described here for North Dakota on our side of the Red River, and very similar problems in the southwestern corner of Minnesota.

And that really leads me to my next objection—is that we, frankly, don't consider the Garrison supply to be a reliable source of water. The Red River represents the break between eastern and western water law. There is a radical difference in the way Minnesota treats water rights from the way North Dakota treats water rights. And North Dakota is only one player in the water rights battle on the Missouri River. And that battle is heated right now. And frankly, we're not confident at all of where a Garrison appropriation would come out in the prior appropriation hierarchy in times of drought.

We are aware that the tribal interests along the Missouri River are claiming their water rights from the Missouri. I've heard it mentioned earlier that the Corps of Engineers has been asked for a statement about the impact of this diversion on downstream interests and has indicated that there is no impact. I wonder if the response from the Corps would be the same if, in fact, the tribal claims are perfected. Our information indicates that their initial claims would reduce the base flows in the Missouri at the confluence with Mississippi by 40 percent.

Now you begin to pile that in with the increased diversion here for the Garrison Diversion and any other appropriations that may be proposed from the Missouri River, and we have a major concern about depletion of flows downstream.

Because of the question about the reliability of the claim involved here, we certainly don't believe that the project should be considered for construction until the tribal claims issue is resolved because of the major impact that will have on the total water resource of the Missouri. And we don't want Minnesota's growth to be dependent on an unreliable water supply. The last thing that we want in an area of our State that has a water shortage is to have a supply developed around which we develop industrial, municipal, residential demand and then find that the supply will not be supportive during times of drought because we, frankly, have no options to support that kind of increased growth.

Our response to this problem is then to work with communities in the area on water conservation measures, to develop what limited areas of groundwater are available, and to fold that in with a combination of surface water supplies in the Red River so that we use groundwaters as an emergency back up when we have low flow conditions in the river.

So to summarize, our two main concerns are consistent opposition to interbasin diversions and, frankly, living within the limits of the resource that we have available. Our written testimony also itemizes concerns about water quality, exotic species, and I've touched briefly on the navigation flow issue.

I do want to make the point with the Committee that Congress is dealing with the Garrison as a separate and distinct project from Devil's Lake, and we understand that. And we have heard North Dakota's plea that we look at it the same way. But we have and

will continue to evaluate the Devil's Lake outlet as part and parcel of a Garrison Diversion project, and I think we need to do that as we evaluate the impacts on our State.

I thank you for the opportunity to comment to the Committee and will be happy to stand for any questions you may have.

[The prepared statement of Mr. Nargang may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

I want to mention at this point, we had a witness scheduled, and because of a death he had to attend a funeral. That's Mr. David Conrad with the National Wildlife Federation. So our final witness will be Mr. Dave Koland, executive director of the North Dakota Rural Water Systems Association.

STATEMENT OF DAVID KOLAND, EXECUTIVE DIRECTOR, NORTH DAKOTA RURAL WATER SYSTEMS ASSOCIATION

Mr. KOLAND. Thank you, Mr. Chairman.

Mr. Chairman, members of the Committee, my name is Dave Koland. I serve as the executive director of North Dakota Rural Water Systems Association. Our association has 31 rural water systems and 225 municipal water systems as members.

The sons and grandsons of the pioneers that settled North Dakota founded our association. They had experienced the "dirty 30's" and sought a solution to the unreliable and uncertain water supplies they depended on for a domestic water supply.

Since the earliest days of our State, the people who settled here were driven by the need for water. The first settlements were located along streams or lakes. The homesteaders who came later dug shallow wells or endured by hauling water from a nearby creek or slough. Many had to move on when the dry years withered their crops and left them without the precious water needed to survive.

In the late 1970's, many rural areas began constructing a water distribution system to serve rural areas. Farmers without water or with an unreliable source joined together and with the help of the Federal Government, built rural water systems to meet their needs. But at the insistence of the Federal Government, they were not allowed to build beyond their own current domestic needs.

The Safe Drinking Water Act Amendments of 1986 with stringent testing requirements and mandated maximum contaminant levels brought North Dakota face to face with the reality that the groundwater being used in many smaller communities for drinking water would not meet the MCL for fluoride or arsenic mandated by the Safe Drinking Water Act.

The answer for many communities was to work out a solution with the rural water system that served a rural area close to their city. Rural water systems now provide clean, safe water to 187 communities in North Dakota, but many still wait for the water they so desperately need. Communities like Mohall, 931 people; Munich, 310; and Bisbee, 227; have few other alternatives to provide their citizens with clean, safe water.

The key to providing water to small communities and rural areas of North Dakota has been the Grant and Loan program of Rural Development and the Municipal, Rural, and Industrial, MR&I program, of the Garrison Conservancy District. Without the assistance

of these two grant programs, the exodus from the rural areas would have been a stampede.

The desperate need for clean, safe water is evidenced by the willingness of North Dakota's rural resident to pay water rates well above the rates the Environmental Protection Agency consider to be affordable. The highest general guidelines sets an affordability threshold at 2 percent of the median household income. Rates beyond that threshold are considered to be unaffordable.

In North Dakota that translates into a monthly cost of $38.69 per month. The average monthly cost on a rural water system for 6,000 gallons is currently $48.97. Only one system in the State has a monthly cost below the maximum affordable cost set out in the EPA study, and that system charges $37.60 a month for 6,000 gallons of water. Twelve systems must charge their consumers $50 or more, with one system charging 170 percent of the affordable rate, or $66 a month for 6,000 gallons of water.

The water rates in rural North Dakota would soar to astronomical levels without the 75 percent grant dollars in the MR&I program. For instance, our current rates would average a truly unaffordable $134.19 per month, or a whopping 7 percent of the median household income. They could have ranged as high as $198.80 or a prohibitive 9.9 percent of the median household income.

The people waiting for water in our rural communities are willing to pay far more than what many consider would be an affordable price for clean, safe water. Across North Dakota we have seen the impact of providing good water to rural areas and witnessed the dramatic change in small communities.

We must continue to support the growth of our existing rural systems into regional water delivery systems and provide water to those areas that are not now being served.

Water alone will not solve the problems of rural North Dakota, but without water, there is little hope that any proposed solution will work.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Koland may be found at end of hearing.]

Mr. DOOLITTLE. Thank you.

Mr. Nargang, you mentioned that your side of the Red River is similar to the North Dakota side. And I think you described you're using groundwater there on an emergency basis, but when you've got surface water, then you'll use it from the Red River; is that right?

Mr. NARGANG. Mr. Chairman, that's correct.

Mr. DOOLITTLE. Is your groundwater as bad as their groundwater?

Mr. NARGANG. Mr. Chairman, we have stuff that looks a lot like this——

Mr. DOOLITTLE. OK.

Mr. NARGANG. [continuing] in much of the area. We do have some isolated buried drift aquifers, little containers of sand and gravel that contain pretty high quality water. What we've tried to do to respond to water needs for the city of Moorhead, for instance, is we've done an extensive geologic mapping program in that area

to isolate those pockets. And then to help the city distribute their well fields, so that out of those limited aquifers, they don't draw them down irregularly during times of emergency. But they use it only to supplement their use of river water.

Mr. DOOLITTLE. Mr. Haak, do you have those little isolated pockets? I don't know, is your area—well maybe your area—does it include the Red River Valley or not?

Mr. HAAK. No.

Mr. DOOLITTLE. It doesn't.

Do you know, Mr. Nargang? Do they have those on their side of the river?

Mr. NARGANG. Mr. Chairman, I would really hesitate to respond on North Dakota's groundwater situation.

[Laughter.]

Mr. DOOLITTLE. Well, I mean it would be logical they probably do, but we'll have to—maybe that will be one of our written questions.

Is it your impression that geologic mapping has gone on in North Dakota like it has in the Minnesota-side of the Red River?

Mr. NARGANG. Well, Mr. Chairman, I think that's certainly true. Despite our disagreement on this, we cooperate on an awful lot of things, and one of the things we've tried to do is to match up the geologic mapping we've done on the two sides of the river. We have some very interesting connections that crossed under the Red River. And how we use groundwater, how North Dakota uses groundwater, will affect the other communities.

Mr. DOOLITTLE. Sure.

Mr. NARGANG. We have saline upwelling that occurs in some of those systems if one community pumps too hard on their groundwater system.

Mr. DOOLITTLE. So you cooperate in that respect now?

Mr. NARGANG. Certainly.

Mr. DOOLITTLE. Mr. Koland, was it your testimony that the Federal MR&I money you used to reduce what would otherwise be the water rates that people pay?

Mr. KOLAND. Mr. Chairman, that's correct. The grant program is used to lower the cost of building the system to a point where it's deemed affordable to the people. I've attached two charts to my testimony, and one chart was passed around that gave an illustration of I think the willingness of people to pay——

Mr. DOOLITTLE. Yes.

Mr. KOLAND. [continuing] above that affordability.

Mr. DOOLITTLE. Is 6,000—I don't know—is 6,000 gallons about what a household of 4 is expected to use in a month?

Mr. KOLAND. I think you would consider that an average. In North Dakota, it's actually a little bit below the average. On a rural water system, we averaged about 13,000 gallons a month per connection, but that also involves some bulk water usage——

Mr. DOOLITTLE. All right.

Mr. KOLAND. [continuing] in some communities.

Mr. DOOLITTLE. Mr. Pomeroy.

Mr. POMEROY. Thank you, Mr. Chairman.

Mr. Chairman, you might be interested in noting that Dave Koland and I were in the State legislature together many years

ago—him on the Republican side of the aisle and me on the Democratic side of the aisle—that we have worked well together then; we've worked well together since.

A couple of questions for Mr. Nargang.

First of all, I'd like to submit for the record a letter submitted—this will be part of the transcript coming in from the Fargo hearing. But it is a letter from Morris Laning, the mayor of Moorhead, Minnesota, specifically endorsing the Act in front of us and talking about the significant need of water for the Fargo-Moorhead communities. They are sister cities sitting across the Red River, Moorhead in Minnesota, and their support for this project and their concern about their future water need.

Mr. DOOLITTLE. We'll enter this in.

[The information referred to may be found at end of hearing.]

Mr. POMEROY. Mr. Nargang, honest to God, the testimony that you presented irritates me in a significant way. And that isn't because I'm not prepared to take debate on this issue. I just want the debate to be on the real issues, not to be on bogus issues just floated for purposes of stopping this initiative. And you have raised a couple of utterly bogus issues.

And while you say you're reluctant to talk about what might be the situation of groundwater in North Dakota, you certainly weren't reluctant to talk about the downstream States' interest in the Missouri River.

Now does Minnesota begin to have an interest in Missouri River water?

Mr. NARGANG. Mr. Chairman and Congressman Pomeroy, since all of our grain goes down the Mississippi, absolutely. And given the fact that in the 1988 drought and the 1976 drought, we had barges stacked up all up and down the river because we didn't have enough flow in the Missouri to support the Mississippi River flows. We have a keen interest in what comes out of the mouth of the Missouri.

Mr. POMEROY. And you're suggesting—and this is where you blow your creditability apart in the testimony this afternoon. You're suggesting that a 200 cfs pipe linking the supply works with the reservoir on the Missouri River is sufficient to threaten barge traffic downstream on the Missouri?

To put it in perspective, you go down to like Saint Louis for the confluent. The Missouri River is so wide that Mark McGuire couldn't hit a home run over it.

[Laughter.]

You come up to North Dakota and come to the 200 cfs pipe, Mark McGwire can jump across it. Don't tell me that that threatens capacity down there. But you don't have to take it from my argument; you're the expert, not me. But I do have already introduced into the record a letter from the Corps of Engineers that indicates that this would impact flows by a factor of less than one one-thousandth. Now that doesn't float barges; that doesn't materially, visually, or any other way impact flowage capacity downstream. That is, in my opinion, a bogus argument, Mr. Nargang.

Mr. NARGANG. Well, Mr. Chairman, Congressman Pomeroy, in all due respect, that's the same argument that has led to things like a depletion of flows on the Colorado River, on the Arkansas River.

And if you want to use your example, you can look at the wonderful story that's out there about the Aural Sea in Russia that makes our Great Lakes look like puddles. And they argued in each case that this small appropriation will not deplete the flows. The problem is, when you take a number of small appropriations and look at the cumulative impact of them, they do deplete the flows. And you bleed the water off at multiple points in the system, and pretty soon there is nothing left.

Mr. POMEROY. And North——

Mr. NARGANG. Now, I put that in the context of the claims by the tribal interests up and down the Missouri. And if you've been studying the Missouri River issues, you know that those tribal claims may well prove to be valid. We've been to court with tribal interests in Minnesota on several occasions. I don't think you stand a very good chance of prevailing on those, which is going to turn your prior appropriation system on the Missouri upside down. Where is Garrison going to come out now?

Mr. POMEROY. You know, what we have before us is a proposal. Now you can argue world precedence, but what we're talking about is a 200 cfs pipe, and that doesn't have the capacity to do that which you suggest, and the Corps of Engineers indicates it doesn't.

Another issue that you raise which is utterly bogus——

Mr. NARGANG. Well, Mr.——

Mr. POMEROY. [continuing] we got to get to this other point before my time runs out—and that's this Devil's Lake issue. Now you've got to direct your testimony and your objection if you're going to be a good neighbor and appropriate a deal with this issue substantively to the bill before us, not the old bill, not some bill that you think may be out there, but the bill before you. And there is not a feature in any way, shape, or form for a Devil's Lake inlet in this reauthorization proposal. And I want the record to reflect that very, very clearly.

In the past, it was considered about ultimately getting water into the Devil's Lake, a closed basin that fluctuates dramatically. One of the significant concessions, but made without qualification or wiggle room, is that North Dakota is not providing for any kind of inlet into Devil's Lake in this reauthorization bill. And so the Devil's Lake issues—the flooding in Devil's Lake issues are not related to this. And you can say you object to it because it's got an inlet in Devil's Lake. The bill specifically does not have an inlet—very specifically does not have an inlet.

So we've addressed that concern, I think, that Minnesota has previously raised in this regard.

Mr. NARGANG. Well, Mr. Chairman and Congressman Pomeroy, two issues on the table. First, just quickly to dispose of the issue of the right that would exist for the Garrison, we've asked in writing for someone to show us documentation that that right will be there, and we have not had any assurance from North Dakota. All I get is a statement that it will be OK.

With regard to your final issue, I have heard exactly the argument that you just made. I've heard it repeatedly. And then I pick up by clipping service, and I go through and I read articles out of the Fargo Forum or the Bismarck paper, and the next delegation is heading down here to Washington, DC, and the first priority is

the Devil's Lake outlet, and the second priority is the Devil's Lake inlet. And unless I'm mistaken, you don't have any other source of water for Devil's Lake inlet than the Garrison Diversion.

Frankly, the argument that these are not connected projects is no longer creditable to me, because that keeps happening. The people coming down to lobby this Congress make it clear that they have two key priorities on Devil's Lake. One is an outlet; one is an inlet.

Mr. POMEROY. Just to conclude, Mr. Chairman, I'm the elected Congressman for North Dakota, the only one. In that respect, I'm one of the State's elected leaders. We do not have the intention to seek an inlet into Devil's Lake. It is not provided for in the legislation before us. You could pass the Dakota Water Resources Act as presently proposed and it wouldn't have an inlet feature, nor would it have the mechanism that would provide for an inlet. It would take an entirely different legislative act to achieve it. I would not be part of trying to seek that act. But if someone did, you'd have the opportunity at that point in time to raise your objection to that proposal. It simply is not before us.

And, you know, I did not take much exception to the testimony of the Audubon Society this afternoon. I disagreed with it roundly. But we've got issues that we'll continue to work on. At least they were on point, but what I resent about Minnesota's testimony today, as you have made it, is that it addresses issues not before us and issues that simply don't really exist as presented by this project.

Mr. NARGANG. Well, Mr. Chairman and Congressman Pomeroy, if I may, I think I made clear in my comments that we acknowledge that Congress has separated the issues, but it's our intention to continue to review the potential impacts of these projects as being connected. And I think we're entitled to that.

Mr. POMEROY. My time has expired. We could go on, but the chairman has been indulgent with his time.

Mr. DOOLITTLE. I'd like to thank the members of this panel for their testimony. I have a feeling we've just scratched the surface on this issue, but we've brought a number of important facts to light. It certainly has been beneficial to me to better understand what we're dealing with here.

We will have, no doubt, further questions and would ask for your timely responses and hold the record open until we've received them.

And with that, we'll excuse the panel and conclude this oversight hearing on this subject and commence with the South Dakota subject.

Mr. POMEROY. As the North Dakotans get up to leave, Mr. Chairman, I know I speak for them in expressing to you our heartfelt thanks. I mean this is an afternoon that you didn't have to be here. You promised me you'd hold this hearing this session, and you made good on your word, and we are all deeply appreciative that you conducted the hearing this afternoon.

Mr. DOOLITTLE. Thank you, and I'll look forward to continuing to work with you.

And with that, this hearing is adjourned.

[Whereupon, at 5:45 p.m., the Subcommittee adjourned subject to the call of the Chair.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. JOHN DORSO, MAJORITY LEADER, STATE REPRESENTATIVE, NORTH DAKOTA

Mr. Chairman and Members of the Subcommittee, my name is John Dorso, North Dakota House of Representative Majority Leader.

I appreciate greatly the opportunity to testify today in support of the Dakota Water Resources Act. As part of the leadership of the North Dakota Legislature, I am here to speak on behalf of the State Legislature. Also with me today, is State Senate Majority Leader Gary Nelson. Unfortunately, neither State Senate Minority Leader Tim Mathern nor State House of Representatives Minority Leader Merle Boucher could be here, although both, as well as Senator Nelson, asked me to stress the importance of the Dakota Water Resources Act to the State of North Dakota, the total bipartisan support of the State Legislature, and the past and present willingness of the state to contribute to the implementation of the Garrison Diversion Project.

You have heard from our Congressional Delegation, as well as from the Governor, on the importance of this Act to the State of North Dakota. Senator Nelson, Senator Boucher, and I all live in the Red River Valley in eastern North Dakota. Our principal water supply, the Red River, has gone dry several times in the past. Also the population of the Red River Valley has increased substantially to the point where today more than 25 percent of our state's population resides within 15 miles of our eastern border with Minnesota. It is obvious that we need to develop the future water supply for that area. The Red River Valley is a significant and critical economic engine for North Dakota, without a water supply for it, as would be re-authorized by the Dakota Water Resources Act, our whole state will suffer.

Every state legislative assembly since 1944 has gone on record by resolution supporting the Garrison Project, and most recently in 1997, the framework for the Dakota Water Resources Act. That resolution, which has complete bi-partisan support, urges the completion of the Garrison Project recognizing the critical priority of the project for water management and development in North Dakota. Be it for municipal, rural, industrial, tribal, recreation, or fish and wildlife needs, the Dakota Water Resources Act is essential for economic sustainment and development for our state.

Because of the importance to North Dakota, the State Legislature has provided funding to show its commitment to the Garrison Project. In the past, we have appropriated general funds for water projects, including the Garrison Diversion Project, and we have also dedicated, by constitutional measure, a Resources Trust Fund for water development. Most recently in 1997, we provided an authority for bonding for the Garrison Project as part of our comprehensive statewide water development program. The State Legislature stands ready to address ways to meet future needs for funding the non-Federal share of the Dakota Water Resources Act as proposed.

In closing, there is no question of the support for the Dakota Water Resources Act in North Dakota. As you go back in history, even before the project was first authorized in 1944, our state strived for a means to meet our water needs. In 1889, the year our state was created, the Constitutional Convention delegates recognized the importance of managing our share of the Missouri River for our people. Even then, they knew we would have to provide a water supply for the whole state, especially eastern North Dakota. We ask that you help us to realize this more than 100 year old vision by passage of the Dakota Water Resources Act.

Thank you.

STATEMENT OF HON. BRUCE W. FURNESS, MAYOR, FARGO, NORTH DAKOTA

Mr. Chairman and Honorable Members of the Subcommittee on Water and Power, I am Bruce Furness, Mayor of the City of Fargo, North Dakota. Thank you for this opportunity to testify before the Committee in support of S. 1515—The Dakota Water Resources Act of 1997.

Benjamin Franklin once said, "When the well is dry, we know the worth of water." North Dakotans want to be proactive in managing our "well"; we can't wait until it is dry. We have become unified behind this Act through the North Dakota Water Coalition, a group of widely diverse interests which has come together to advance water development in our State. We are unified in developing a consensus piece of legislation that will assure future water supply for all our citizens.

Fargo is located on the eastern edge of North Dakota, separated by the Red River of the North from Moorhead, Minnesota. Together the Fargo-Moorhead area is the largest U.S. population center in the Red River Valley with approximately 165,000 people. Fargo has enjoyed an annual growth rate of about 2 percent for the last 20 years and is actually accelerating in growth at this time. The requirement for more

water is a direct result of this growth. From a statewide perspective, nearly 40 percent of our population resides in the six border counties adjacent to the Red River.

Our area does not have an overabundance of water supply resources. Extended dry conditions and droughts have shown us that current resources cannot alone meet the water supply needs of this growing region. Development of a dependable water supply, along with careful management of the resources currently utilized, will allow the region to meet its changing water needs.

Our concern is best summarized by the introductory paragraph of a report by Black & Veatch, the design consultant for our new water purification plant:

> "The City of Fargo has rights to two water sources for treatment and subsequent supply to its citizens for potable use: the Red River of the North and the Sheyenne River. Unfortunately, both sources are of poor quality and, even taken together, they do not offer a reliable quantity of water to meet Fargo's present and certainly future water needs. The diversion of Missouri River water to Fargo by way of Garrison Dam would provide a long-term lifeline for the community."

QUANTITY

A good supply of water is key to our City's continued growth and development. Although record-setting floods have recently occurred, history shows that low water in this river has occurred more often and caused more problems for our residents than has flooding. For example, during the 1930's the Red River had stream flows at Fargo below 10 cubic feet per second (cfs) for seven straight years. This same phenomena has occurred in the late 1970's and once in the 1980's. A flow of ten cfs of water in the Red River represents less than one foot of water in the streambed at any given point.

Listen to a recollection by former Governor William Guy of Fargo.

> "If you were to look at the Red River near the water plant in the 1930's, you would wonder how they ever made the water fit to drink. The searing hot drought hung heavily over the Upper Midwest through the entire decade of the 1930's. The Geological Survey records say that the murky Red River ceased to flow at Fargo for a period in every year of that decade. The driest year was 1936 when the Red River stopped flowing for 166 continuous days. Cars were not washed. Lawns went unsprinkled. There was talk of returning the Fargo Sewage Plant discharge to the river above the city water intake. Moorhead was drawing all of its water from wells east of the city and their tap water tasted good. With a population of around 25,000, Fargo's water situation was desperate . . . . . Today both Fargo and Moorhead draw their water from the Red River while their combined population has increased five fold from the dry 1930's. Industries not even dreamed of 65 years ago now use copious amounts of Red River water. It is easy to understand why the Garrison Diversion Project to bring Missouri River water east to the Red River Valley has been on the minds of thinking people for more than 50 years."

Though difficult to project, future regional water requirements will be determined by several factors:

- Population growth and economic expansion in Fargo will continue into the next century at the same 2 percent annual growth rate. The entire region is expected to grow correspondingly.
- Per capita usage is currently below national and regional averages but could increase without stringent use of conservation measures.
-
- In 1995, a large corn-processing plant went on-line in the Red River Valley. It is projected that a minimum of three additional plants will be constructed in the basin over the next forty years. Water usage for each of these plants may well equal what the City of Fargo uses in an average day. Thus, any needs analysis must include future economic growth resulting from increased value-added agricultural processing.

Another consideration relating to water quantity is that of minimum stream flows. As indicated earlier, there have been times of extremely low flows. One analysis suggests that 7 cfs as a minimum flow in the Red River is sufficient. That is totally unacceptable.

An examination of historical seven-day-duration flows shows many periods of inadequate flows for our current usage and increasingly more severe problems as our usage grows to new plant capacities. Fifty cfs is a bare minimum to be considered, 75 cfs is desirable.

The use of Missouri River water is an obvious solution to this availability problem. Ninety six percent of the usable surface water in North Dakota is in the Mis-

souri River. It represents the best source of highly available water and has an extremely small impact on downtstream sites. Analysis shows that the potential allocation of 100 cfs for Eastem North Dakota is less than ½ of 1 percent of Missouri water flowing through our state. A graphic description of this minimal impact is to think of the entire flow as a gallon of water. The proposed allocation is then represented by a thimbleful of water (½ fluid ounce).

QUALITY

When water is not available in adequate amounts, the quality of water also declines. This fact has a high impact on processing costs. Relying on the Red River as its main source of water requires cities from Fargo to Pembina to take extraordinary measures to treat raw water. Both Fargo and Moorhead have recently built new water treatment facilities which use ozone (an electrically charged liquid oxygen), the latest available technology to disinfect the water. Ozone is a treatment process which has become the favored disinfectant for raw water having high organic characteristics.

Ozone can do in 3 seconds what it takes chlorine 3 minutes and chloramine (chlorine and ammonia) 12 minutes to accomplish. However, this highly efficient treatment comes with a price—the cost of producing the ozone. To electrically charge liquid oxygen, the power costs for Fargo's treatment plant will double to $600,000 per year.

Another advantage of treating better quality water can be shown by comparing the cost of treating Missouri River water at Bismarck with Red River water. Our staff analyzed the chemical costs to treat a gallon of water and discovered that Fargo's cost is about 22 cents per 1,000 gallons while Bismarck's costs are 9 cents per thousand. As water quantity and quality decrease, the cost of its treatment increases.

Each of these examples demonstrates the preference for treating higher quality water such as that found in the Missouri. As with quantity, water of better quality is a vital need for our community and region.

CONSERVATION

Water conservation strategies employed by the City of Fargo include the adoption of odd/even lawn watering restrictions beginning in 1989 and continuing through today. In 1997, a demonstration xeriscaping program was implemented with over 100 homes participating. We intend for this program to grow. A 15-year project to replace deteriorating water mains has begun. The result will be a significant reduction in water loss. Using all these tactics, water management will remain a high priority item in our City.

TIME-FRAME

Although impossible to predict with any certainty, it is believed the Red River Valley has adequate water supply for the next 10 to 15 years. Should drought conditions occur, however, that estimate may be reduced to 3-5 years. Consequently, little time remains to resolve these concerns. Activity must begin now to address the many issues relating to water quantity and quality. I urge your positive consideration of this critical legislation.

I will be pleased to respond to any questions you may have. Thank you once again for the opportunity to testify in support of S. 1515.

When I Was a Kid...

WATER WAS SCARCE!

by William L. Guy, former Governor of North Dakota

The jerking screeching sounds of steel wheels against curving steel rails as the big yellow street cars slowly turned the corner are childhood memories of Fargo that can't be repeated.

My four-month introduction to first grade in Fargo's Roosevelt School in 1925, was cut short when my folks moved 30 miles northwest to Amenia. Fargo was still our shopping center, reached over the pot-holed State Highway 18 to Casselton and then on the loose gravel and dust of US Highway 10. The trips to Fargo in the 1920's and 1930's were community affairs that were carefully planned in the Model A Fords, Hudson Essex, or Studebakers of the day. Usually all seats were occupied by neighbors to save every penny of transportation cost. The Great Depression of the 1930's hit everyone hard, and a penny saved was truly a penny earned.

The Metropole Hotel lobby was our preferred Fargo gathering place to plan our day and time of departure for home. The Blue Bird Café could be entered from the hotel lobby. In the rear of the cafe was a large dining area with several special booths with heavy plush draw curtains for privacy. It made us kids feel regal just to sit in one. The Blue Bird was famous for its 10¢ hamburger, "Top Knot." It was a gourmet's delight for it was made of ground beef and a liberal addition of pork. That was before state law limited the tasty fat content in a hamburger and they became our present-day bland all-beef hamburgers. If you wanted a real treat instead of lunch, you could buy a full quart of hard packed ice cream at the Dutch Maid on Eighth Street South for 19¢. Halbeisen Drug's malted milks were made with genuine ice cream in tall stainless steel canisters. They were so delightfully delicious and thick that they barely poured. When your two straws had drained the first glass, there was nearly a refill yet to be poured from the frosty canister.

Fargo's city water varied from chlorinated to heavily chlorinated. If you were to look at the Red River near the water plant in the 1930's, you would wonder how they ever made the water fit to drink. The searing hot drought hung heavily over the Upper Midwest through the entire decade of the 1930's. The Geological Survey records say that the murky Red River ceased to flow at Fargo for a period in every year of that decade. The driest year was 1936 when the Red River stopped flowing for 166 continuous days. Cars were not washed. Lawns went unsprinkled. There was talk of returning the Fargo Sewage Plant discharge to the river above the city water intake. Moorhead was drawing all of its water from wells east of the city and their tap water tasted good. With a population of around 25,000, Fargo's water situation was desperate. As youngsters showing our 4-H Club livestock at the sweltering July fair, and in the evenings returning to the super-heated college YMCA dormitory, we boys were allowed only a few seconds under the fine mist of the shower to wash the day's sweat and grime from our bodies – only to go to our cots in the warm still night air to begin to perspire again. Air conditioning was unheard of.

When I think back to those drought days, I wonder how many Fargoans know how precarious our water supply is – even in the face of the disastrous floods we've had in recent years. Today both Fargo and Moorhead draw their water from the Red River while their combined population has increased five fold from the dry 1930's. Industries not even dreamed of 65 years ago now use copious amounts of Red River water. About 2 1/2 percent of North Dakota's flowing surface water flows south past Bismarck in the Missouri River. It is easy to understand why the Garrison Diversion Project to bring Missouri River water east to the Red River Valley has been on the minds of thinking people for more than 50 years.

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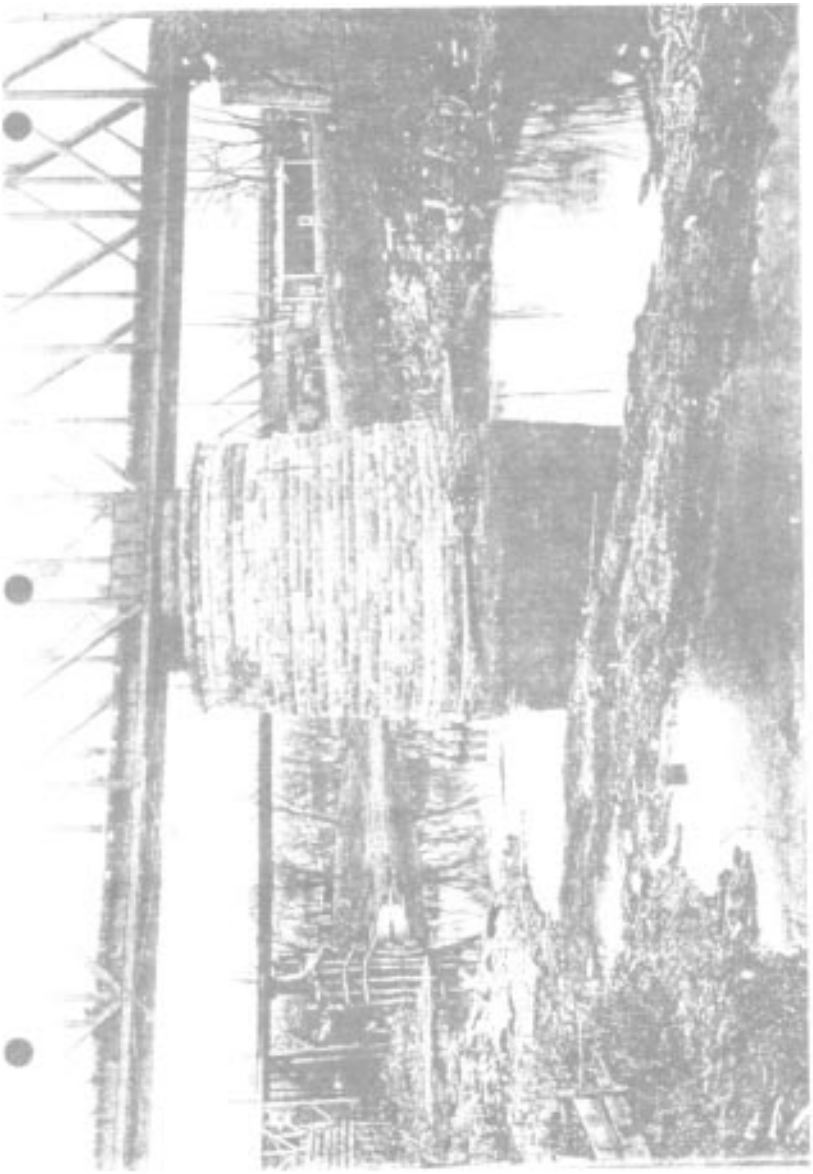

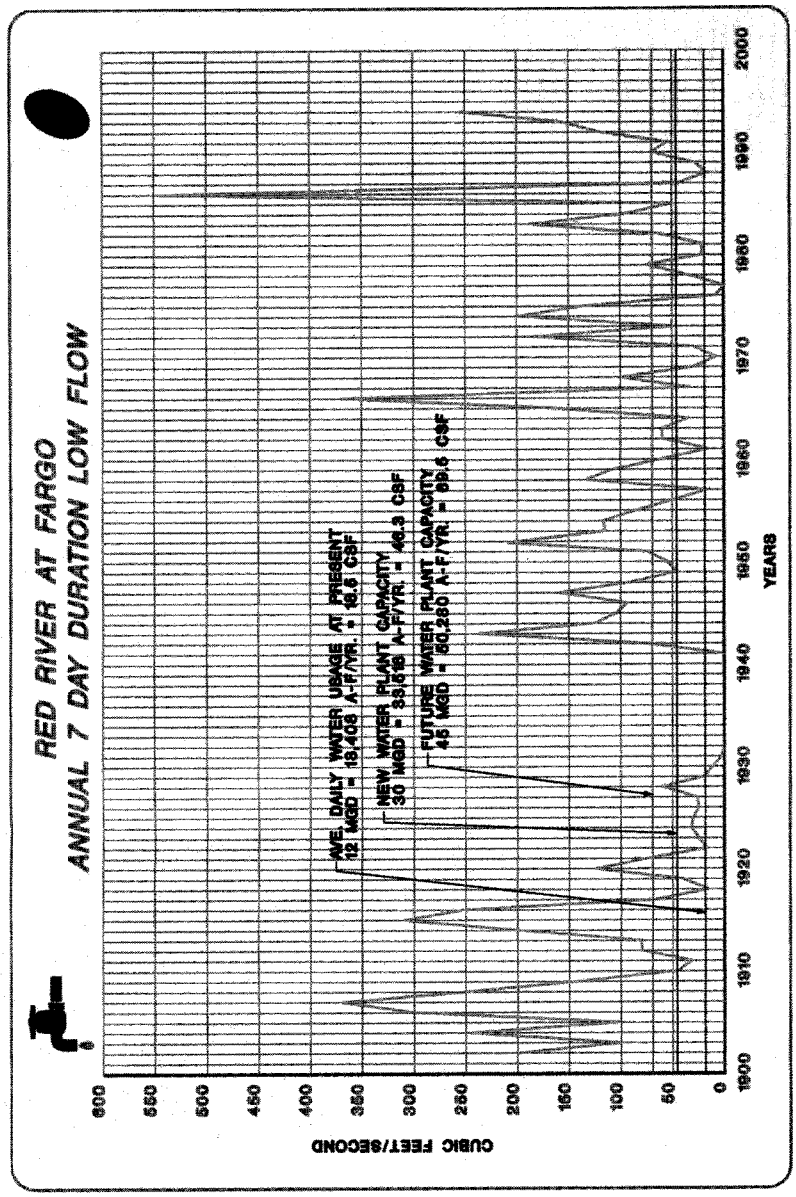
RED RIVER AT FARGO
ANNUAL 7 DAY DURATION LOW FLOW
AVE. DAILY WATER USAGE AT PRESENT
12 MGD = 18,408 A-F/YR. = 16.6 CSF
NEW WATER PLANT CAPACITY
30 MGD = 33,616 A-F/YR. = 46.3 CSF
FUTURE WATER PLANT CAPACITY
45 MGD = 50,280 A-F/YR. = 69.6 CSF
CUBIC FEET/SECOND
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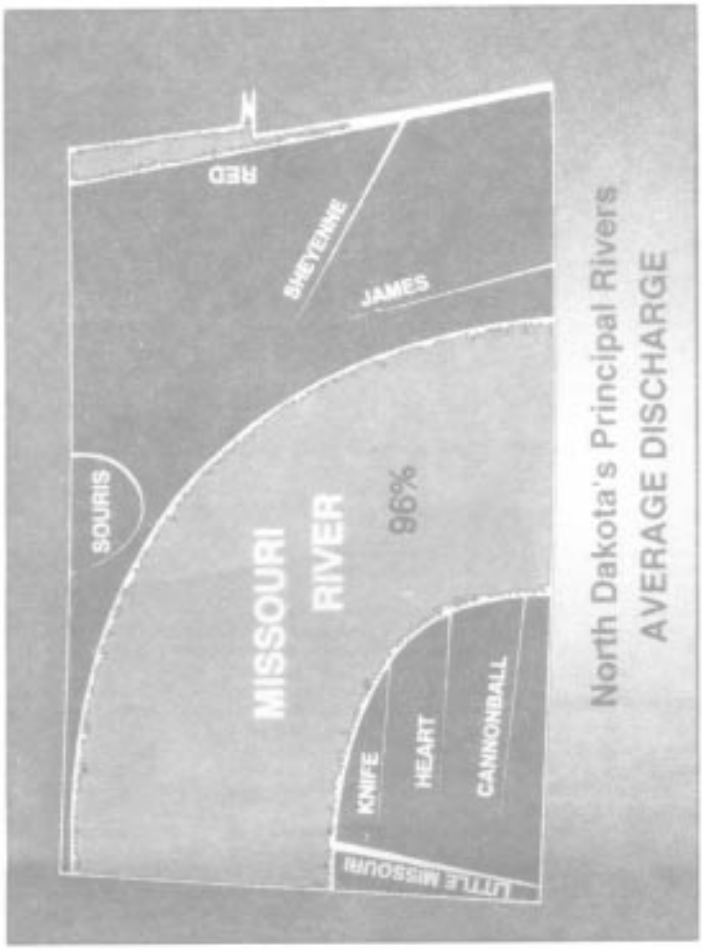
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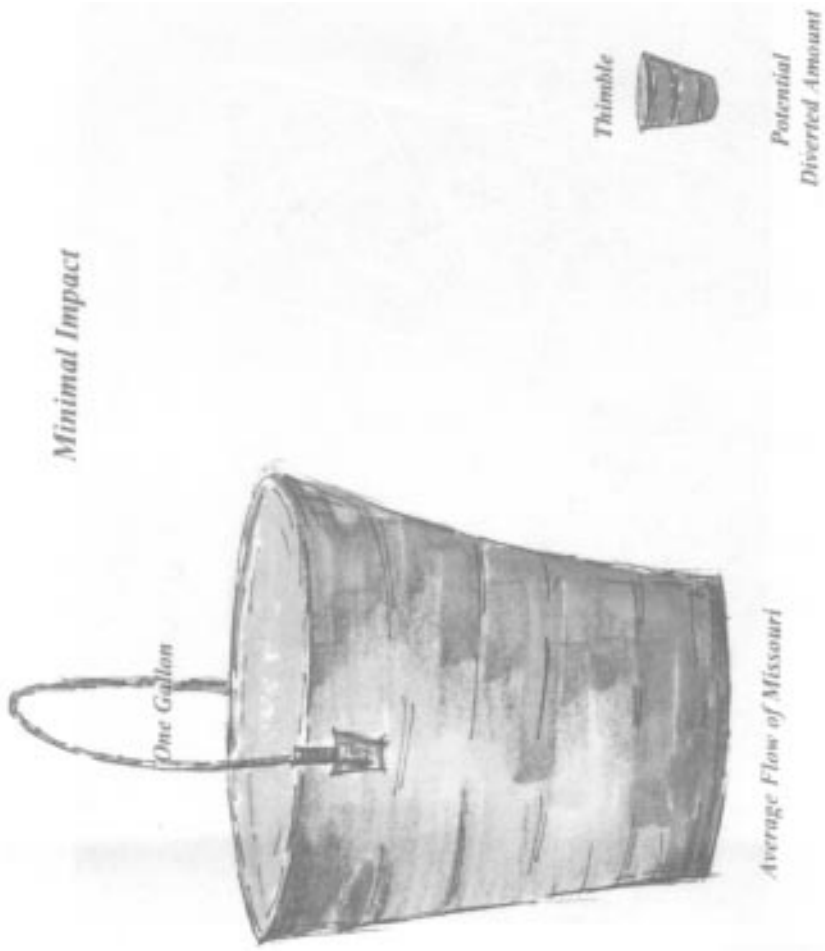
North Dakota's Principal Rivers
AVERAGE DISCHARGE


Minimal Impact
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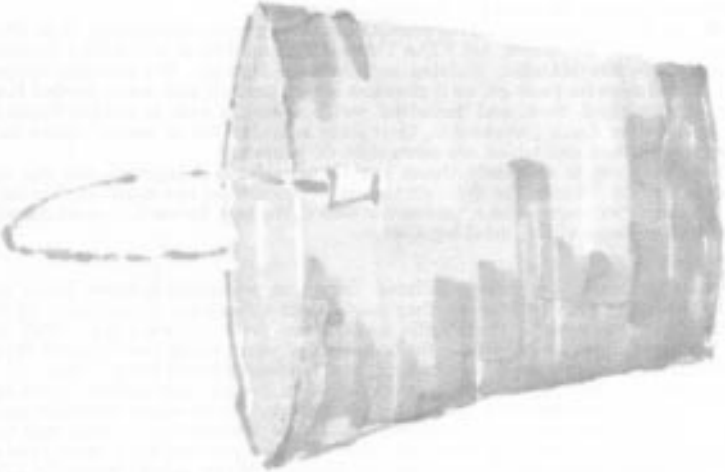


STATEMENT OF RUSSELL D. MASON, SR., CHAIRMAN, THREE AFFILIATED TRIBES, CHAIRMAN, UNITED TRIBES OF NORTH DAKOTA

Chairman Doolittle, Members of the Subcommittee:

Thank you for the opportunity to present testimony today concerning H.R. 3012, the "Dakota Water Resources Act." The Three Affiliated Tribes of the Fort Berthold Reservation are the Mandan, Hidatsa and Arikara Nations. We strongly support H.R. 3012 and urge its passage, as it provides long promised and much needed funding for our municipal, rural and industrial water needs, as well as needed funds for a new bridge over Lake Sakakawea, to replace a bridge whose center spans have not been maintained and which are more than 60 years old.

Further, we want to expressly thank our Congressional delegation and our current Governor, Ed Schafer, for their continued recognition of our needs in this legislation, and their willingness to consider our views. We look forward to working with them to seek passage of this vital legislation.

Background

As you may recall, the Three Affiliated Tribes named above greeted Lewis and Clark in the early 19th century as they made their expedition of discovery up the Missouri River and over to the Pacific coast. Even prior to Lewis and Clark our Tribes had lived together peacefully for hundreds of years along the Missouri River. The Mandan particularly were agricultural, and tended corn and other crops.

As we, like all other Indian people, were forced to live on reservations in the late 1800's, we were able to retain a spot along the Missouri River where we could maintain to a considerable degree a self-sufficient life style, tending to our crops and livestock on the rich bottomlands along the river. Few of our members were ever on welfare. Our reservation, which straddles the Missouri River, is approximately 1,500 square miles in size, although almost one-half of the reservation is owned by non-Indians and more than 15 percent of the area is covered by the water of the reservoir behind Garrison Dam.

Despite our protests, our council resolutions, our delegations to Washington and our tears, our lives were turned upside down when the Garrison Dam was completed in the early 1950's. Over 156,000 acres of our best agricultural lands were taken from us for the creation of the reservoir behind the dam, and represented 69 percent of the land needed. By October 1, 1952, we were almost all forced from our homes because of the "great flood," as many of our elders call the formation of the reservoir, now known as Lake Sakakawea. I was one of the last students at Elbowwoods High School, which was also the home of the Bureau of Indian Affairs Agency and a small Indian Health Service hospital. Our once close-knit communities, separated only by a river, which was then connected near Elbowwoods by a bridge, were now split apart and separated by as much as 120 miles. Our rich farmland and self-sufficient lifestyle were gone forever.

Before the dam was completed, in addition to the inadequate compensation we received for our lands, we were promised many things by the U.S. Army Corps of Engineers, whose generals came and listened to our protests and our needs. Among other things, we were promised a lot of new infrastructure to allow us to rebuild our communities, including a new hospital, which was never built; community buildings, only now being completed, partly with Tribal funds; and a rural water system, using some of the water from the lake for which we had sacrificed our way of life.

That water system, fifty years later, is even now only partly constructed. In just the past three years, several of our communities, which are generally a few miles from the lake, have been provided with adequate water from Lake Sakakawea. But the current system does not yet begin to serve our real needs, as specified below in more detail.

In 1985, after nearly 33 years, and much lobbying in Washington and in our state capital, the U.S. Secretary of Interior established a committee to make recommendations for just compensation to the Three Affiliated Tribes and the Standing Rock Sioux Tribe for their losses. The Standing Rock Sioux Tribe had suffered also, like the Three Affiliated Tribes, following the construction of the Oahe Dam near Ft. Pierre, South Dakota. This committee was called the Garrison Unit Joint Tribal Advisory Committee (GUJTAC), which issued its final report on May 23, 1986. A copy of this Committee Report, which we commonly refer to as the "JTAC" report, is attached to my original written testimony, and I would ask that the Report be made a part of the record of this hearing, as it provides substantive justification for some of the components of H.R. 3012 that directly affect us.

Partly as a consequence of the JTAC report, some of the needs for rural infrastructure of the Three Affiliated Tribes and the Standing Rock Sioux Tribe were included in the Garrison Unit Reformulation Act of 1986, Public Law 99-294. These

included partial funds for a municipal, rural and industrial water system (MRI), shared between the Standing Rock Sioux Tribe and the Three Affiliated Tribes, and authorization for irrigation projects. The understanding of Congress when the Garrison Unit Reformulation Act was passed is that Congress knew the funds were insufficient, and expected a full report of the actual needs of the Fort Berthold Reservation at some later date. That later date has arrived.

While the irrigation projects authorized for the Three Affiliated Tribes were never funded, we did receive a part of the $20 million which was eventually appropriated over the next 11 years, which have allowed some of our MRI water system needs to be satisfied. A summary of our current water needs is included in this written testimony.

Principal Benefits of H.R. 3012 for the Three Affiliated Tribes and northwest North Dakota

Now, in 1998, the State of North Dakota is back before Congress seeking further authority to complete what has been known as the Garrison Diversion Project. The state rightfully states that it has been waiting more than 50 years for the completion of this project. We too, have been waiting for more than 50 years for the infrastructure promised to us as a result of the completion of the Garrison Dam, and are asking for what was promised us before our homes were flooded and our land taken.

This bill has three features which are of tremendous importance to the Three Affiliated Tribes and for all of northwest North Dakota, including our MRI water system needs, continued authorization for approximately 15,000 acres of irrigation projects (which were meant to replace lost agricultural lands), and funds for a new Four Bears Bridge across the Missouri River near New Town, North Dakota (now the site of the Tribal Administration offices and the Bureau of Indian Affairs Agency). These are discussed in more detail below.

1. Municipal, rural and industrial water needs (MRI)

H.R. 3012 provides that the four tribes in North Dakota share in a total authorization for MRI water needs of $200 million. The amounts needed by each tribe, and as agreed to by the Tribal chairs, are specifically stated in the bill, so that there need be no guess work afterwards about how much each tribe should receive. The share for the Three Affiliated Tribes is $70 million, contained in Section 9 of the bill.

As required by the Committee Report on the Garrison Unit Reformulation Act, Public Law 99-294, we have documented our water needs to Congress and have provided detailed studies of these needs to our Congressional delegation. We would ask that the Committee recognize those reports in its final Committee report language concerning the bill.

We believe that the figure of $70 million will be sufficient for our water system needs, if provided over time and indexed for inflation as currently allowed by law. The funds authorized, once appropriated, will provide, among other things, much needed usable drinking water that will contribute greatly to the health, economic and environmental needs of approximately 10,000 residents of the reservation, including non-Indian and Indians alike. The system, as designed, will be able to become part of a larger regional water system that will have an impact far beyond the Fort Berthold Reservation.

At present, our ground water supply over most of the reservation is very poor. Dissolved solids, salts and other minerals often makes available water unusable for cooking, washing, drinking, and even home gardening. As an example of the danger of the poor water, sodium concentrations of more than double normal standards, often present in reservation well water, can aggravate hypertension, a common affliction on the Reservation.

Even more of a problem are homes that have no local water source at all. Close to the end of the 20th century, we still have many families who must haul in their water from some outside source, often many miles away. In addition to the obvious inconvenience, this causes an undue risk of water borne diseases. Also, the many private wells on the reservation are simply undependable, often with low flows, and generally provide poor quality water, as well.

Further documentation of the problems we face was just published in the September, 1998 issue of the magazine North Dakota Water, a publication produced for North Dakota water users. The sub-title of the article is called "Reservations lack access to quality water systems." The article says, among other things: "There is a tremendous need for rural water lines," which applies to both the Fort Berthold Reservation and the Standing Rock Sioux Reservation, and it documents the plight of a young family on our reservation which has to constantly haul water, as well as

the sorry condition of our New Town water treatment plant. New Town is the largest town on the reservation, with both a large Indian and non-Indian population. A copy of this article is attached to my testimony, and I would request that this article be made a part of the record in this matter.

As we all can appreciate with the Garrison Diversion Project, the lack of good water systems at present blocks effective economic development in most of our reservation districts, which we call "segments." Unemployment is still a large problem on our reservation, even with the modest success of our casino, Mandaree Electronics, the Northrup Grumman plant in New Town, and other Tribal enterprises. The 1990 census pegged our average per capita income at $4,849, one-third of the national average.

Now, we are faced with welfare reform requirements of meeting national goals for work partition rates within a specified timetable over several years. This means that economic development must become an even higher priority for our reservation. And, as we all know, economic development requires good water. Projects that are possible users of good water include a feed lot, meat processing plant, fiber board plant and ethanol plant, as well as further development of recreational areas along the shore of Lake Sakakawea, new housing development, expansion of various tribal facilities, and so forth.

At the same time as water systems are developed and water use is increased on the reservation, we must also be mindful of environmental concerns, such as wastewater disposal. We know that a successful MRI program will not only address water distribution needs, but also wastewater disposal needs.

The major components of the needed MRI projects are as follows, segment by segment:

- **1. Mandaree:** (west side of reservation, west of lake) In Mandaree, the water distribution system needs to be expanded and the existing system improved. Mandaree already has an adequate water treatment plant and water intake.
- **2. White Shield:** (southeast corner of reservation, north of lake) In White Shield, again, the water distribution system needs to be expanded. A new water treatment plant is just being completed, but the water intake was completed in 1991.
- **3. Twin Buttes:** (south side of reservation, south of lake) While Twin Buttes already has a water intake and water treatment plant, both facilities need to be completely replaced. Further, the water distribution system needs to be expanded. For reference, Twin Buttes is 120 miles from New Town.
- **4. Four Bears:** (northwest corner of reservation, west of lake) The Four Bears area has a water intake, but no water treatment plant and no distribution system. This area needs a water treatment plant and a distribution system.
- **5. New Town:** (also northwest part of reservation, east of lake) New Town, the largest community on the reservation, has no water intake system from the lake, less than a mile from the center of town, the best and closest supply of fresh water. While the aquifer under New Town supplying the city's wells is a relatively good source of water, when the lake is low, the aquifer is low and water quality declines. Thus, New Town needs a water intake system and improvements to its water treatment plant, as well as an expanded distribution system.
- **6. Parshall:** (northeast part of reservation, east of lake) Parshall, also called Lucky Mound, has a water intake from the lake, which isn't always working. Further, the water intake is not deep enough in the lake, and doesn't function at all when the lake is low. Parshall needs a new water intake, improved water treatment plant and an expanded distribution system.

I want to emphasize that we need prompt action on supplying our needs, because our MRI funds are exhausted at the end of this fiscal year. It is also important to note that each of the newly expanded distribution systems will allow for future expansion, both within and outside of the reservation areas. These are just a few of the principal elements of the MRI projects we were promised more than 40 years ago.

2. Four Bears Bridge.

When the Garrison Dam was built, the bridge at the old town of Elbowwoods was removed and its center spans, then already more than 20 years old, were placed near New Town in the northwest part of the Reservation, to cross the lake at its narrowest point. The bridge was inadequate when constructed because the center spans were too narrow, making the rest of the bridge equally narrow. Now, with a much increased traffic load, it is increasingly dangerous. In a few years will be in need of massive repair.

The Four Bears Bridge is the only bridge on a stretch of the Missouri River more than 150 miles in length. It is on a road which is part of the National Defense Highway System, and serves as part of an essential farm-to-market road connecting two U.S. highways, Nos. 83 and 85. If the bridge were to be closed for an extensive period of time for any reason, or if it structurally became too weak to carry traffic, the state has no funds to repair it and massive disruption of the local economies would occur.

The Four Bears Bridge was part of the Garrison project when the dam was built, and replacement of the Bridge ought to be part of the overall Garrison Diversion project now. The State of North Dakota doesn't have any money to replace the bridge, and even with the new highway bill will not have funds. The 1996 estimated cost of the bridge is approximately $40 million, and the authorization for that amount is provided for in the bill. It is understood that the state will be assisting with the final cost of the bridge; the Tribe is contributing land to the site of the new bridge.

3. Irrigation:

Finally, I want to urge this Committee to retain the authorization for irrigation on the Fort Berthold reservation contained in H.R. 3012. As noted above, we lost 156,000 acres of land, much of it prime bottom land as a result of Garrison Dam, and the $63 million irrigation dollars authorized in the Garrison Unit Reformulation Act of 1986 were to be used to help us recover some of that good farm land. Our studies show that irrigation is feasible in the Lucky Mound-White Shield areas.

We do have several remaining concerns about the legislation:

Reserved water rights. We would ask that language be included in the final Committee report on this legislation that would recognize the reserved water rights of the Three Affiliated Tribes to water from the Missouri River and its tributaries that are within the Fort Berthold Reservation, known as *Winters* doctrine rights, and that it be made clear in the final Committee report that this legislation, including the part of it which allows for diversion of water from the Missouri River, does not in any way diminish or compromise those rights. This was a fundamental consideration of the JTAC Report, attached. Our water rights as a Tribe are no less important than those expressed as a stated purpose of H.R. 3012: "to preserve any existing rights of the State of North Dakota to use water from the Missouri River."

Irrigation. We would also request that consideration be given to expand our authority for irrigation acres, should such additional acres prove feasible. As mentioned above, our best agricultural lands were taken from us. We are hopeful that in the future, some additional lands can be successfully irrigated and added back to our agricultural land base.

JTAC Report. Finally, we would ask that in the final Committee report accompanying the bill, language be included that states that this legislation fulfills some of the goals set forth in the Garrison Unit Joint Tribal Advisory Committee Report, dated May 23, 1986, as attached. Such language simply recognizes what the bill actually does, and helps explain why portions of this legislation are dealing with the needs of the North Dakota tribes.

In summary, we believe we, the Three Affiliated Tribes, and indeed, all of the residents of the Fort Berthold reservation have waited long enough for our fundamental water needs to be met. To have people on our reservation still carrying water to their homesites is unacceptable in the late 20th century. For us, the passage of H.R. 3012 cannot come soon enough. We cannot accept any alternative.

Thank you for the opportunity to testify before this Committee.

Garrison Diversion's Missouri River Vision

Reservations lack access to quality water systems

Part three of a three-part *Waiting for Water* series

by Rebecca Gardner

People living on the four North Dakota reservations have profound needs for simple water systems. Many families spend hours hauling thousands of gallons of water every week. Others spend extraordinary sums digging wells looking for water. Still others must regularly replace plumbing fixtures corroded by hard well water. And many people buy their drinking water at the grocery store.

Three Affiliated Tribes

The water needs are especially glaring on the Fort Berthold reservation. There are three main aquifers on the reservation, all of which are high in iron, manganese, sulfate and sodium. Manganese gives the water an unpleasant odor. More problematic than the smell is the fact that the hard water corrodes washing machines, water heaters, and plumbing fixtures of all kinds, causing expensive replacement.

Bonny and Hollis Blake make 10-12 trips a month to haul water. They then filter water from their cistern.

There are also health effects of the current water system. Indian Health Services in Fort Berthold is investigating a possible link between the water and heart disease, high blood pressure and diabetes. Patients with high blood pressure are advised not to drink the water, because of the high sodium content. There is a dialysis clinic in New Town because there is a high rate of diabetes among tribal members, as among all Native Americans. The clinic has to maintain its own water supply, using a reverse osmosis system, because the town's treated water is so high in sodium.

There is a tremendous need for rural water lines. About 25 percent of the entire reservation population

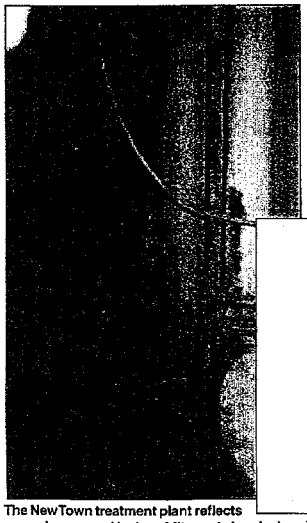
hauls water, which requires an average of a 20-mile round trip between the treated water source and the family's cistern. Maintaining cisterns also costs money and time.

Bonny and Hollis Blake and their six children are members of the Three Affiliated Tribes, and live on the Fort Berthold reservation. Like many of their neighbors and family members, the Blakes schedule their lives based on the water they need and what they must do to get it.

The Blakes use cisterns to store treated water that is hauled from town. At its simplest, using cisterns means that every 15 days Bonny or Hollis haul 3,000 gallons of water from the treatment plant in town to their house. The trip is 15 miles one way, and they have to make the trip five or six times because their tank for hauling holds only 500 gallons.

If people don't have the vehicle or tanks required for hauling these vast amounts of water, sometimes they hire a person to do it for them. This is common among the elderly and others with limited resources or physical mobility. Once when Bonny inquired, she learned that a load of 500 gallons of water would cost $45, and she couldn't be sure that it would be done using a sanitary tank. For a family like the Blake's, this would cost $270 – every 15 days.

Hauling water can be a special problem in bad weather. When Bonny and Hollis see a storm coming in the winter, they go to town for at least 500 gallons.



The NewTown treatment plant reflects corrosion caused by humidity and chemicals.

Water high in manganese and iron leaves rust stains and deposits on bathroom fixtures.

Maintaining cisterns is another problem. Once the Blakes get the water from town, they pour it into two 1,500 gallon cisterns buried five to seven feet underground outside their house. These cisterns can cave in due to the weight of dirt and gravel on top of the tanks. They then have to be dug up, cleaned with bleach, and the covers replaced.

Hollis tells the story of how he used to haul water when he was a kid. His family hauled water from a nearby artesian spring using wooden barrels, a wagon and a team of horses. Hollis stated the artesian spring was destroyed by the use of dynamite nearby; people were conducting seismic activity looking for oil. "The water is so close, but we can't use it," he said.

More devastating than dynamite, in the 1950's the Garrison Dam flooded 155,000 acres of critical land and displaced 500 families from the Three Affiliated Tribes. Prior to the dam, there was a thriving ranching and farming industry on the reservation. Though the people had been forced to settle there, they had created an economy using the resources available to them. The river was clean and watered cattle, as well as irrigated farmland used to grow feed. In the winter, cattle took shelter in trees by the river, and ranchers chopped holes in the ice to water them.

The Garrison Dam changed all that. Whole communities were

Dakota Water Resources Act

With increased municipal, rural and industrial (MR&I) funding, the tribes could build additional treatment plants and install more water lines. People in rural areas could connect their homes to that water system, and eliminate the need for hauling water.

broken up and relocated. Fertile land was covered with water. Artesian wells and springs were covered over. The water supply was no longer clean. And since then, people have had trouble getting a reliable supply of clean water.

The well water that is found is high in minerals, especially iron, manganese and sodium. The Blakes' neighbors have a well, but they can't even bathe in its water. They have to dilute their well water 50 percent with treated well water hauled from town just to take a bath. Otherwise, their skin itches from the drying effect of hard water.

The Dakota Water Resources Act will make a huge difference to people like the Blakes living on the Fort Berthold reservation. With increased municipal, rural and industrial (MR&I) funding, the tribes can build additional treatment plants and install more water lines. People in rural areas could connect their homes to that water system, and eliminate the need for hauling water. Having their home connected to a water line would free up both time and money for the Blakes.

The Dakota Water Resources Act will enable the Three Affiliated Tribes to meet the needs of its members not only in their individual homes, but in the area of economic development. The tribes have a labor force, and a land base. They do not, however, have the infrastructure that would attract businesses to the area, including a reliable, plentiful, inexpensive water supply. The tribes would like to entice more businesses to the reservation, in hopes more enrolled members would return.

Standing Rock Sioux Nation

The Standing Rock, Spirit Lake and Turtle Mountain reservations will benefit from the Dakota Water Resources Act in similar ways. Ralph Walker, MR&I Director of Standing Rock reservation stated the tribe used to have shallow aquifers and wells near the Missouri River. Because of the flooding of the river to form Lake Oahe, those water sources no longer exist. It is hard to get water if you are located one to five miles near the river, so people live further back. The water quality on the surface is worse than the ground water; it's high in iron and sodium.

Long range plans for an acceptable water system that serves the whole reservation require $80 million. The first priority is to hook up tribal members who live just off the main lines. This will supply them with treated, good quality surface water. Without the Dakota Water Resources Act, many Standing Rock residents will only have access to well water.

In Wakpala, without the passage of the Dakota Water Resources Act, they will continue to risk health problems every spring. Wakpala has an outdated surface water treatment plant that becomes overwhelmed by runoff water every year, and the water department has to issue notices to everyone to boil water. The water gets a high rate of turbidity, which means it has large mineral particles and organisms, which harmful bacteria tend to cling to. High turbidity water is regularly tested for bacteria, and so far residents have been lucky–the results have been negative. However, the city issues warnings that water must be boiled every spring, just in case.

Installation of cisterns is not supported by Indian Health Services on Standing Rock because of issues of time, effort and sanitation. The winter weather creates another problem. Many of the older homes are heated with wood stoves, which causes inconsistent heat during the frigid North Dakota winters and can cause the water pipes to freeze. Residents could run water regularly to

avoid frozen pipes, but cisterns have a limited supply of water, and it may be difficult, expensive, or even impossible during storms to maintain an adequate supply.

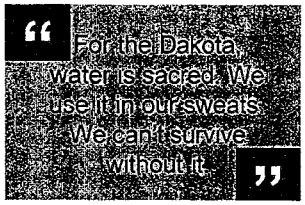
Spirit Lake Nation

"For the Dakota, water is sacred. We use it in our sweats. We can't survive without it. Even in church, there's holy water," Curtis Young Bear from Spirit Lake reservation said. Spirit Lake uses water from the Devils Lake aquifer, which is high in iron and manganese. People can wash clothes and dishes, although it tends to "turn everything yellow," but they don't drink it. They buy their drinking water from the grocery store.

Families' homes were moved because of high water problems in the area, and often the new locations posed water problems. Indian Health Services have helped some families dig wells in the new locations, but funding is limited. High water in the area also causes contamination of well water. Families that rely on wells have to pour bleach into the well every 6 months to a year. Children and the elderly tend to have very bad teeth because of the water, which is not fluoridated.

KL&J ad

Families in rural areas look forward to higher quality water, which is both soft and fluoridated. On the Spirit Lake reservation, the four major districts are hooked up, including Wood Lake, St. Michaels, Fort Totten, and Crow Hill. With the passage of the Dakota Water Resources Act, the plan is to get individuals in the rural sites hooked up, which includes 150-200 additional houses in the future.



Turtle Mountain Chippewa Nation

There are 2,100 water users on the Turtle Mountain reservation water system. The number of users connected to the system has tripled over the last 15 years, but in all that time, the system has not been updated. As the tribe has learned, an overloaded water system can cause problems when tragedy strikes.

In December of 1996 a lightening storm hit, and the treatment plant went out. This emergency reduced the reserve of water, and plant operators had to reduce the water flow, essentially shutting down St. John's for a short period of time.

The Turtle Mountain Band of Chippewa needs $25 million to make changes to their water infrastructure. The Dakota Water Resources Act will make it possible for the tribe to pay for the system they need to stay out of trouble the next time a storm hits.

The Lakota, Dakota, Chippewa, Mandan, Hidatsa and Arikara people who live on the reservations in North Dakota are waiting for reliable sources of clean water. It was promised to their ancestors when they were ordered onto the reservation. It was promised in the 1950's, to Hollis Blake's parents and grandparents. Now, Hollis and Bonny Blake are parents, still hauling water to take care of their children's needs. Yet water is better late than never. With the changes coming from the Dakota Water Resources Act, Native American families in North Dakota will finally have the access they need.■

STATEMENT OF MICHELLE MCCORMACK, SOUTHWEST WATER AUTHORITY, NORTH DAKOTA

Mr. Chairman, Members of the Committee:

My name is Michelle McCormack, and I have been a resident of southwest North Dakota for the past 17 years. I am one of the many people in North Dakota that has benefited from the partially completed Southwest Pipeline Project. I support the completion of Garrison Diversion because I know first-hand the social, economic, and personal hardships of having poor water.

My first home had clear water that was "hard enough to walk on" according to the water tester. It was high in sodium, and high in iron. It left rust stains on clothes that were washed in the water, and it left stains and deposits on fixtures. It was so corrosive that lifetime faucets had to be replaced every seven years. Water pipes and shower heads filled up with hard lime deposits so that water pressure was reduced, and eventually, plumbing would leak, and have to be replaced.

My husband and I built a house 10 years ago on a building site with an existing well. The well water was light brown, the color of tea, and was soft, but very limited. When the cattle were drinking, there was no water in the house.

That well failed after a few years. Because of the soils in our area, wells often fail, filling in with a light silt. We added filters, attempted to clear the water through use of settling tanks, and finally we had to accept the fact that we needed a new well. At a cost of $12 a foot, we dug until we had spent over $6,000. And we found water—abundant, soft, potable, safe for cattle, but dark brown. We had the choice of digging deeper, hoping to find better water, however; there was no guarantee that it would be there. Or we could live with the brown water we had, and wait for the pipeline to come.

The brown water stained everything. One washing would turn a white dishtowel grey. Even dark clothes were dulled and dingy. My children learned to dry their hair after a shower—if they did not, their damp, long hair would stain the collar of their white t-shirts.

The picture you saw of the baby in the bathtub is my son. When he was five, he asked me if there was a rule that only motels and grandmas got to have white sheets and towels. We bought dark towels, dark sheets, and very little white clothing. We had to haul all white laundry to the nearest laundromat—a 30 mile trip one way.

It took full strength toilet bowl cleaner to remove dried stains from sinks, showers and fixtures. We distilled all the water we used for cooking and drinking. The water had tested safe for human use, but boiling pasta or potatoes in that water was unappetizing at best. Our distiller ran 24 hours a day.

It wasn't pretty, and we endured it because we had to. Our family and friends hated to visit or stay overnight, and the kids friends didn't like to see it. So there was a cost—socially, and a high economic cost to distill, haul laundry, and long term costs to the house plumbing and fixtures.

Friends, neighbors—all have stories like this. They tell stories of faucets that erode away every five years; garbage disposal blades eaten by the water; stains, costs, frustrations and hard work over a resource most Americans take as a given part of their life.

I've been lucky—I am one of those people who benefited greatly from the Southwest Pipeline Project. There are others:

Don and Sarah Froehlich from Belfield, were about to sell their dairy cattle operation before the pipeline arrived at their farm. High levels of sulfate contaminated their water, causing Don to be sick with flu-like symptoms for over a month; and a bad taste in the milk and cheese their cattle produced.

Douglas Candee from Dickinson, has expanded his buffalo herd to over 200 head, which he attributes to the abundant, dependable water he receives from the Southwest Pipeline Project.

Joe and Mag Kathrein, New England, have struggled constantly with water in the past—hauling water twice per day to their cattle herd, 20 miles round trip. Now they enjoy quality water in abundance.

Bernice Jahner, Hettinger, appreciates the health benefits she receives from Southwest Pipeline water. For the past five years, she has been doctoring for ulcers on her legs, taking whirlpool baths twice a day for treatment. After using pipeline water for just one month, her doctors were amazed at her improvement.

The North Dakota State Water Commission has currently identified 524 projects that are necessary for water development in the state with an approximate cost of $1.8 billion. One hundred twenty-four of these projects are targeted specifically for the next biennium, at a total cost of $362 million. Several large projects, such as

flood control for Grand Forks and Devils Lake, and the Maple River Dam are included in this cost.

I say the cost of a pipeline water bill every month is a bargain, compared to what we paid to make our water usable. Pipeline water is better for our health, affordable, less work, and a real blessing to all of us in an area where wells are not reliable.

STATEMENT OF DANIEL P. BEARD, SENIOR VICE PRESIDENT—PUBLIC POLICY, NATIONAL AUDUBON SOCIETY

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee to present this testimony on H.R. 3012, the "Dakota Water Resources Act of 1997," as amended by the amendment in the nature of a substitute introduced by Mr. Pomeroy.

I'm here today to present the views of the National Audubon Society on H.R. 3012. The Society has nearly one million members and supporters in the Americas, and it is dedicated to the preservation and protection of birds, other wildlife and their habitat.

To our members, protection and enhancement of the Prairie Pothole wetlands of North Dakota and other portions of the Central Flyway is a critical issue. For over 30 years we have worked hard to protect these internationally significant resources, and we are prepared to continue this effort.

The purpose of today's hearing is to take testimony on the "Dakota Water Resources Act of 1997" introduced by Congressman Pomeroy. For reasons I will detail below, we strongly oppose enactment of this legislation and we urge the Committee to take no further action on the bill. Should the Committee report the bill, we will work diligently to oppose its enactment by the Congress.

We appreciate all the time and hard work Congressman Pomeroy has put into this proposal. We also recognize that it reflects consensus among a variety of interests in North Dakota. While we appreciate their hard work, we still oppose the legislation.

Mr. Chairman, the Garrison Diversion Unit water project has been the subject of controversy for over 50 years. It has generated countless lawsuits, legislative battles, diplomatic negotiations, interstate controversies, and environmental confrontations. Even worse, the taxpayers have spent more than $600 million on project facilities, many of which don't fulfill their intended purpose. In our view, H.R. 3012 would not end the controversies surrounding the Garrison project and water development in North Dakota; this legislation would just continue old controversies, and create new ones.

Mr. Chairman, rather than go through the bill line-by-line and detail our objections, I would prefer to focus on several important reasons why we believe this legislation is deficient. We hope these comments will lead you and other members of the Committee to the conclusion that this legislation should be rejected.

The legislation is based on a faulty premise.

We believe this proposal is premised on a faulty assumption. The major premise of the legislation seems to be that a "debt" is owed North Dakota as a result of the construction of the mainstem Pick-Sloan reservoirs. The *quid pro quo* for these facilities is the often-cited "commitment" that North Dakota would receive 1 million acres of irrigation.

Rather than revisit the historical accuracy of this supposed "commitment," let me point out that the Congress in 1986 expressly said that whatever commitment may have existed was fulfilled by the 1986 legislation. Subsequent Congresses and Administrations—both Democratic and Republican, with the support of the environmental community—have met this commitment by making available over $400 million to the State of North Dakota for the construction of rural water systems, Indian water projects and other project facilities. Over 80,000 North Dakotans have directly benefited from these expenditures. In addition, according to data developed by the Corps of Engineers, the State also receives approximately $130 million *each year* in benefits from mainstem Missouri River facilities.

Thus, the state has already received well over a billion dollars in benefits and direct Federal appropriations since 1986. In our view, H.R. 3012 fails to present a forceful and compelling case why the taxpayers should make available an additional $900 million in Federal funds and debt forgiveness.

The Congress should know the specific facilities and features it is authorizing.

Given the long history of controversy surrounding water development in North Dakota, we believe it is absolutely essential the Congress only authorize construc-

tion of facilities that have been thoroughly considered and planned. As currently drafted, the legislation directs the Secretary to build facilities that are not clearly described or known, may not be needed, and perhaps cannot be used. In the past, there has been considerable controversy about what facilities ought to be built, why and how they should be operated. The legislation would continue this controversy.

The Federal Government should take the lead for implemenfing any legislation.

As noted earlier, the reason we are here today is because the Garrison project has a long and controversial history. There are interstate and international issues, and a host of environmental challenges surrounding this project. We don't believe it is appropriate for the Federal Government to cede authority for addressing these issues to the State of North Dakota. Several sections of the bill give the State unusual authority to influence planning processes and to be involved in the construction of facilities. The State's role in this effort should be curtailed, not expanded as proposed in H.R. 3012.

The debt forgiveness portions of the bill should be deleted.

There are several sections of the bill that provide for forgiveness or changing the rules for reimbursable expenditures made in the past. We don't believe inclusion of these provisions is appropriate. Since 1965, nearly $600 million dollars has been spent on Garrison-related facilities and programs; we feel the taxpayers deserve the maximum repayment possible for these expenditures.

The State of North Dakota should not have a role in environmental compliance.

The legislation provides that the State will play an integral role in the planning and design of facilities, and in the preparation of the environmental impact statement on Red River Valley water supply facilities. Given the interstate and international problems surrounding this issue, we believe it is inappropriate to give the State this authority. The problems involved in delivering Missouri River water to eastern North Dakota are interstate and international in nature, and they are very controversial. Given the gravity of these issues, the Secretary should have the sole responsibility for undertaking the analysis to review and recommend appropriate solutions.

We should honor our treaty commitments to Canada.

The final problem we would like to raise is the opposition of the Government of Canada to importing water from the Missouri River into the Red River drainage. In 1977, the International Joint Commission recommended that construction of those portions of the Garrison project delivering Missouri River water to streams ultimately draining into Canada *not be* built, due to the potential for violation of the Boundary Waters Treaty of 1909. Twenty-one years later, there is still no assurance that project facilities that would be completed and operated by the Dakota Water Resources Act would not violate the Boundary Waters Treaty.

The United States has an obligation to honor this treaty and develop solutions to its water resource problems that won't result in exporting our problems to Canada. As presently drafted, H.R. 3012 provides no assurances that the United States will meet these commitments.

Mr. Chairman. I appreciate the opportunity to detail for you some of the problems we see with this legislation. Let me outline for you a suggested list of elements the National Audubon Society believes could lead to positive resolution of the issues surrounding the Garrison controversy.

1. We oppose legislation to complete the Garrison Diversion Unit, such as the "Dakota Water Resources Act," because the project does not represent responsible, economically sound or environmentally acceptable water resource development.
2. If a legitimate need is demonstrated for importing Missouri River water to the Red River Valley for MR&I use, we support formal consultations with Canada and discussions with Minnesota to determine if an acceptable means can be developed to deliver treated Missouri River water by pipeline directly to the target cities.
3. We support projects to meet tribal MR&I water needs using cost-effective delivery systems.
4. We support irrigation development on tribal lands adjacent to the Missouri River using water directly from the river.
5. We support other MR&I water projects in North Dakota utilizing local water supplies or pipelines where they are economically feasible and environmentally acceptable.
6. We oppose the expenditure of additional Federal funds for construction, operation or maintenance of the Garrison Diversion Unit principal supply works.

7. The Garrison Diversion Conservancy District is the entity primarily responsible for insisting that construction proceed on the principal supply works. They have done so before major problems associated with the project were resolved despite the objections of landowners, conservation organizations, taxpayer organizations, numerous Federal agencies, the State of Minnesota, and the Governments of Manitoba and Canada. Therefore, costs associated with abandonment of the principal supply works should be borne by the C-District rather than by American taxpayers.

Mr. Chairman, once again I want to thank you for giving me this opportunity to be here with you today. I'd be happy to answer any questions you might have.

STATEMENT OF SCOTT PETERSON, PRESIDENT, NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY

Good afternoon, my name is Scott Peterson and I am the President of the North Dakota Chapter of The Wildlife Society. I am here today to present a brief statement regarding the Dakota Water Resources Act on behalf of the North Dakota Chapter of the Wildlife Society.

The North Dakota Chapter of The Wildlife Society is a professional organization of fish and wildlife biologists, educators, and students. The Chapter has been actively involved with issues concerning the Garrison Diversion Unit since the project was originally authorized by Congress in 1965. In 1986, the Chapter helped to forge an agreement that led to the passage of the Garrison Diversion Unit Reformulation Act. The Chapter has submitted statements for the record at previous hearings in Washington and North Dakota in support of the Legislation before us now and we stand by those earlier statements.

During the past two years, the Chapter has participated in discussions that led to the introduction of the Dakota Water Resources Act. Throughout this process, the Chapter has focused its attention on three main objectives:

1. Clearly defining the provisions of the Dakota Water Resources Act;
2. Ensuring that the contemporary water needs of North Dakota include the conservation of fish and wildlife resources and their habitats; and,
3. Modifying the legislation to eliminate provisions that will adversely affect the environment.

The Dakota Water Resources Act is primarily a municipal and rural water supply plan which will benefit North Dakotans by providing a dependable supply of safe drinking water to communities throughout the State. We believe this work can be completed without significant environmental impacts. The current version of the legislation strengthens the process for making environmentally sound, cost-effective decisions concerning the future water needs of Fargo, Grand Forks, and other communities in the Red River Valley. The Environmental Impact Statement will evaluate a range of practicable alternatives to meet the projected water needs and assess the environmental impacts associated with each option.

Today I would like to address, and offer our further support for two specific provisions of the Dakota Water Resources Act, namely the expansion of the North Dakota Wetlands Trust and the operation and maintenance needs of the project wildlife mitigation and enhancement features.

The Dakota Water Resources Act recognizes the conservation of fish and wildlife resources as an essential project feature to meet the contemporary water needs of North Dakota. The Chapter wholeheartedly supports expanding the mission and funding base of the North Dakota Wetlands Trust to include riparian and grassland conservation initiatives. The Chapter further endorses the Trust's wetland education initiatives and supports the complimentary funding that is earmarked for the North American Prairie Wetland Interpretive Center. The Trust serves as an important bridge between landowners and the conservation community as clearly demonstrated by the Trust's list of accomplishments during the past ten years. These impressive accomplishments include involving 37 organizations and over 200 landowners in Trust funded projects and programs; 170 landowners signed wetlands protection, restoration and enhancement agreements; 578 farmers and land managers participated in field tours on conservation practices; and over $1.7 million have been provided as either direct payments or incentive payments to landowners for various conservation practices. I have also attached a one page summary of the Wetland Trust's activities during the past ten years to highlight their accomplishments.

Voluntary projects such as these are just some of the reasons that the various ND Wetlands Trust programs have become so popular with landowners and conservationists alike. The Trust is continually looking for cooperative ventures that benefit both the agricultural producer and our state's natural resources. Expanding oppor-

tunities to cooperatively work with landowners throughout North Dakota benefits both our natural resources and the state's economy. Further evidence of the Trust's popularity can be found in one Ramsey County landowner's comments regarding a Trust project when he stated, "I feel that we've worked well together as a group . . . it's a win:win situation for producers and wildlife."

The primary provisions of the Dakota Water Resources Act are designed to meet North Dakota's existing and projected water supply needs. Along similar lines, we believe that establishing an account to operate and maintain the project's fish and wildlife mitigation and enhancement features is an important step in meeting the project's conservation objectives. The operations and maintenance account will benefit wildlife resources, neighboring landowners, and the people using these public lands. The account is essential to ensure the stated conservation commitments of the project are met in the future. We recommend that the authority to establish the operations and maintenance account be timed to coincide with the record of decision concerning the Red River Valley water supply features. With a secure mechanism to fund the wildlife development areas, we are confident that the projected losses associated with identified irrigation development can be adequately mitigated.

In closing, we believe that substantial progress has been made since the first draft of the Dakota Water Resources Act was circulated. The North Dakota Congressional Delegation, Senator Conrad in particular, and North Dakota's state political leaders are to be given credit for their leadership abilities in keeping a diverse group, representing many interests, moving forward.

We wish to thank you for the opportunity to express our opinions here today and we respectfully request the opportunity to continue negotiations directed toward developing legislation that meets the contemporary water needs of North Dakota and conserves the State's natural resources.

Thank you.

NORTH DAKOTA WETLANDS TRUST, SUMMARY OF PROJECTS

1997-1997

The North Dakota Wetlands Trust, a non-profit corporation, has been involved in 62 wetland conservation projects since its inception in 1986.

- $4,907,980 have been committed to projects and $2,067,102 have been spent to date.
- This $4,907,980 is leveraged with $18,185,766 through partnership agreements with organizations and agencies.
- Projects completed conserve wetlands on 53,663 acres:

13,336 wetland acres
40,327 upland acres.

- Acquired 4,154 acres.
- Engaged private landowners and the public in wetlands conservation:

37 organizations and over 200 landowners are involved in Trust funded projects and programs.
170 landowners signed wetlands protection, restoration and enhancement agreements
578 farmers and land managers participated in field tours on conservation practices
22,900 adults are estimated to have participated in wetlands education programs
64,135 children are estimated to have participated in classroom and field trip opportunities to learn about wetland habitats.

- Provided economic benefits to landowners and communities:

Expended 22 percent of the Trust's cumulative budget over the last four years on landowner incentive projects with long-term educational and demonstration value
$776,737 in direct payments to landowners for conservation practices, incentives and cost shares
$935,000 is committed for wetland restoration and native grass incentives to landowners for Conservation Reserve Program lands
Helped fund no-till drills in nine counties, providing conservation tillage options for over 110 landowners
Paid $36,330 in property taxes to local political subdivisions (counties, townships, school districts).
Improved 20,194 acres of privately owned agricultural land through incentives for no-till drilling, conservation tillage, soil moisture enhancement

through temporary wetlands, upland habitat restoration, and grazing system improvements.

Removed agricultural uses on 10,950 acres through wetlands restoration and enhancement and associated upland habitat restoration. Provided payments for removing agricultural land.

STATEMENT OF RONALD NARGANG, DEPUTY COMMISSIONER, MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MDNR)

Mr. Chairman, on behalf of Governor Carlson, thank you for the opportunity to brief the Subcommittee on Water and Power on Minnesota's concerns regarding the "Garrison Diversion" project. I am Ronald Nargang, Deputy Commissioner of the Minnesota Department of Natural Resources (MDNR) and I have been asked by Governor Carlson to provide testimony for the State of Minnesota on this matter. Historically, the states of Minnesota and North Dakota have a long-standing tradition of working together cooperatively on interstate natural resource issues, such as the great floods of 1997. However, the State of Minnesota remains very concerned about the proposed Garrison Diversion project and appreciates the opportunity to provide comments.

Issues of concern are:

Consistency—The eight states and one province surrounding the Great Lakes have a compact that provides for prior notice and consultation of transfers of water out of the basin. Given the high value of the Great Lakes as a resource and the concerns of the eight Great Lakes states, no transfers are allowed out of the basin without unanimous approval of all parties. Federal law (Section 1109 of the WRDA of 1986) requires the approval of all eight great lakes governors before an out of basin transfer could occur. Congress has set a standard in law that protects specific basins (e.g., the Great Lakes) from losing water to other areas. All Missouri River states should be expected to concur in a diversion of Missouri River water outside the natural watershed boundaries. The State of Minnesota has grave concerns about the precedent that would be established if water from the Garrison Diversion project were directed out of its natural basin to the Red River. The State of Minnesota has no intention of jeopardizing our ability to stop the transfer of water out of the state by accepting the water from the Garrison Diversion and establishing a precedent for interbasin diversion.

Sustainable Use—Minnesota uses the principles of sustainable use when forming natural resource policy and in decision making as regards the use of natural resources. All communities within Minnesota are encouraged to make decisions based on sustainable use of existing resources. Within this framework, the residents of the Red River Valley should be looking at ways to reduce consumption of water and live within their means in terms of naturally available water supplies. It is our belief that we must begin to live within the confines of our natural resources and not be as willing to import solutions to our resource problems. Bringing water to the arid areas of the southwest has been in the short-term an economic boon to that part of the country. It remains to be seen whether we will continue to look at it as a boon in the years to come as the population and water demand continue to increase and the sources of supply are exhausted.

Water supply (both groundwater and surface water) in this region is limited. Demands may surpass supply at certain times of the year. Minnesota incorporates the principles of sustainable use in environmental policies and decision making. This principle would mean that we should first focus on lower cost demand management measures and not be considering higher cost alternatives for developing new sources of supply. This region of Minnesota and North Dakota should not be encouraging water intensive uses and should be pursuing vigorous conservation measures. Water conservation measures that reduce demands by improving water use efficiencies can extend water supplies in the region. The December 1990, Red River Valley Municipal Supply Study completed for the North Dakota State Engineer and Garrison Diversion Unit Conservancy District states that per capita water use rates can be reduced by measures such as installing water saving devices, providing general education about water conservation, industrial recycling, reducing lawn water use and increasing water rates. This report also states that it is the Mayor of Fargo's belief that the city can extend its surface water supplies to meet future needs with higher water rates and by reducing demands for low valued uses. Water use projections should reflect reduced demands achievable through conservation programs and

water conservation measures should be implemented prior to authorization of this project. We must question whether transporting water across a watershed divide would be sustainable for either watershed.

Doctrine of Prior Appropriation—The Red River is the dividing line between riparian water law or "equal right to use of water" and the doctrine of prior appropriation or "first in time, first in right" for the use of water. In addition, there is a climatic shift from a wet-humid climate to a dry-arid climate in western Minnesota. The State of Minnesota has reservations about the availability of water in dry periods as North Dakota operates under the Doctrine of Prior Appropriation. Prior water interests on the Missouri River would first have to be met before any water could leave the Missouri River Basin for the Red River Basin. We question the expenditure of hundreds of millions of dollars on a water diversion project that might not have any water available for the end users in periods of drought when the need for water is the greatest. Does the water right clearly exist, has it been perfected, and/or could there be any challenge to this water right? The State of Minnesota has concerns that the source of water may not be legally valid. The State of North Dakota will need to address the unresolved issues of water supply to the various Indian bands as well as other interests. In a letter dated March 20, 1998, we raised this concern to Governor Schafer and have not received a response. If these rights are not perfected and additional demand is created based on the Garrison water supply, we have few options to meet this increased demand for water.

Water supply (both groundwater and surface water), overall, in this region is limited. Flows on the Red River at Fargo/Moorhead were less than 100 cfs for approximately 22 percent of the period of record (1901 to 1989) and were less than 50 cfs for approximately 13 percent of the period of record. The average use in 1990 at Fargo/Moorhead is 68 cfs. The additional growth in this region that would be spurred by additional water supply would place severe demands on surface water supplies in this region, which already are often low and insufficient to meet demand. There is potential for significant changes in flows during periods of low flow that would critically stress the ecological system of the Red River. Studies have shown that the Red River contains an internationally recognized trophy fishery for channel catfish; the changes in flow regime have the potential to damage this fishery resource.

It is likely that existing ground water supplies would be looked to during periods of low flow in the Red River to augment and even replace surface water supplies.

Ground water supply in this region is also very limited. Ground water levels are likely to be low during times when surface water flows in the Red River are low and municipal water demands are likely to be high; therefore, it is doubtful that ground water will be available during periods of low flow to meet all demands. Past water level declines and water quality problems indicate that any new development of ground water supplies should be approached with caution. The MDNR believes that the recharge potential of the regions aquifers is not likely to be substantially greater than the current levels of appropriation. Additionally, we are concerned that a reduction in ground water head levels caused by increased appropriation could result in upward movement of deeper saline water from Cretaceous rock formations that underlie some of the regions aquifers. This would adversely affect ground water quality and further exacerbate an existing shortage of quality water for potable use.

There are interstate, hydrologic connections of the regions underlying aquifers. At the Wahpeton, North Dakota sugar beet plant, sugar beet waste leaking from a lagoon contaminated Wahpeton municipal water supply wells. During ground water pumping to clean up this contamination, the yield of the Breckenridge, Minnesota municipal water supply wells was reduced by approximately 50 gallons per minute per well as a result of the water level declines due to pumping. This clearly demonstrates the hydrologic connection across the state line. There is the potential for interstate conflicts in water use during periods of low surface water levels when the regions aquifers will be looked to for increased water supply.

Navigation Impacts—We are concerned about the cumulative effects that the diversion would have on navigation in the lower Mississippi River. There were barges stranded during the droughts of 1976 and 1988 because of inadequate flows in the Mississippi River below the confluence with the Missouri River. When the needs for water for navigation and commerce are highest, so too will be the demand for pumping water out of the Missouri River basin, which will jeopardize navigation and commerce on the Mississippi River.

Relationship to the Devil's Lake project—We acknowledge that Congress is handling the Garrison Diversion and the Devil's Lake Outlet as separate projects. Despite this fact and the State of North Dakota's repeated statements that the projects are in fact separate, Minnesota must consider these projects to be linked for the purposes of our evaluation. It is important that any planned connection between the two projects be fully explained up front. Governor Carlson requested clarification of this issue from Governor Schafer in a letter dated March 20, 1998 (copy attached). We have not received a response.

It has been proposed that this project could provide an inlet to Devil's Lake during periods of drought. The Upper Mississippi River Basin Association passed a resolution on September 24, 1997, in opposition to any construction on Devil's Lake inlets and/or outlets until an Environmental Impact Statement has been completed. No one can say with any degree of certainty what impacts this project would have on the Missouri and Mississippi River Basins as a result of this project. The Devil's Lake inlet significantly complicates the issues surrounding the Garrison Project.

While the total impact to public water supplies of a decision to bring Devil's Lake water by artificial means into the Red River of the North may not be known for years, there exists at this time a preponderance of evidence that such a move would be poor public policy. Discussions surrounding mitigation to downstream water supplies have centered around existing surface water supplies. It is important that this mitigation level be extended to future water supplies and for future water parameters for which such an outlet would necessitate additional treatment over existing water quality. According to the Minnesota Department of Health, the effect of Devil's Lake outlet water on public water suppliers ability to comply with more than 100 water quality parameters mandated for public water supplies through the Safe Drinking Water Act has not been adequately evaluated at this time.

Biota Transfer and Water Quality—A connection of the Missouri River to the Red River is a clear cause for a high level of concern with respect to exotic species. Water transferred directly from the Missouri River or leaving via Devil's Lake outlet increases the likelihood of transfer of exotic species into the Red River Basin. Such a discharge of water from Devil's Lake would also result in an increase in total suspended solids (TSS) in the Red River Basin. Coupled with the operations of the Pro-Gold corn processing plant in Fargo and its resultant increase in TSS, there is a good chance that municipal water suppliers will have great difficulty in treating water to the standards of the Safe Drinking Water Act.

There are examples of past connections between watersheds that have caused severe regional and international problems because of biota transfer. The introduction of sea lamprey into the Great Lakes because of canals is a multi-million dollar problem for the United States and Canada. Also, the man-made connection between Lake Michigan and the Mississippi River watershed, via the Illinois waterways, has allowed the spread of zebra mussels to dozens of states. This water is now the route used by round gobies, an exotic species that is displacing perch in Lake Michigan, to invade the Mississippi River and Missouri River watersheds.

Finding technical solutions to the biota transfer issue is not easy. There are considerable amounts of local, state and Federal funding going into this area of research because there is little known and so few technologies available (ie. the U.S. Army Corps of Engineers dispersal barrier study for the Illinois waterways and a ballast water demonstration project). While the level of knowledge is increasing, it is far from complete. Even the best technologies are unlikely to remove fish pathogens from the water, and thereby could threaten fish populations and angling opportunities in the receiving watersheds. Just this type of problem is currently being played out with the introduction of "Whirling Disease" in western trout populations.

The U.S. Army Corps of Engineers is a member of the Federal Aquatic Nuisance Species Task Force established by Congress. An issue of this scale should be reviewed by the Task Force and the Western Panel on Aquatic Nuisance Species, which includes states west of Minnesota and was also mandated by Congress to determine if adequate technology is available to ensure that biota transfer can be avoided or whether we can afford the consequences of transfer.

Proponents of the Garrison Diversion concede that adverse blots transfer is a problem, but they say that technology can overcome any issues through water treatment and screening of the discharge. Any treatment plan must meet a very high standard of proof for fail-safe reliability before there is authorization to

fund this project. The State of Minnesota would ask to see detailed plans of any proposed method of treatment.

The State of Minnesota would request that any appropriation include monies for the continued review of the biota transfer issue. Minnesota's exotic species control program is one of the best in the country, however, the level of review that is required for this project requires both technical competency and the appropriate level of funding to ensure that the project meets the standards of Minnesota's exotic species control program.

I ask the Committee to review these issues very carefully as it deliberates authorizing this project. We have consistently voiced our opposition to the Garrison Diversion and to the outlet project at Devil's Lake. The State of Minnesota will continue to view these as one project. As the impact of this project on Minnesota could be substantial, I also ask that our state be included in deliberations to the greatest extent possible. To that end, please call on me for any further information you may require regarding Minnesota's position on the Garrison Diversion project.

Thank you.

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
130 STATE CAPITOL
SAINT PAUL 55155

ARNE H. CARLSON
GOVERNOR

MAR 1998
Received
DNR-Waters

March 20, 1998

The Honorable Edward T. Schafer
Governor of North Dakota
600 E. Boulevard, Ground Floor
Bismarck, North Dakota 58505-0001

Dear Governor Schafer:

Thank you for your letter regarding coordination of border issues between our states. There has been coordination at the agency level. However, communication can always be improved and my administration, through the Minnesota Department of Natural Resources, would be willing to host a meeting in St. Paul.

A brief response to the issues you raised follows:

- We agree that land use and dike construction can impact flooding and we have concerns about the Walsh County proposal to construct new dikes. More analysis is needed to provide assurance that the proposal is consistent with the corrective plan for dikes.

- Without knowing which drainage projects you are referencing it is difficult to respond; however, the major drainage projects for Watershed Ditches #5 and #6 and the repair of Judicial Ditch #75 all received concurrence from the North Dakota State Water Commission. I assure you that any other projects were also done in compliance with applicable laws.

- The cities of East Grand Forks/Grand Forks have now agreed that a levee-only alternative is the preferred choice. We do need to collectively work towards obtaining the federal funding for this project to assure there are no more delays in providing these cities the protection they need. Minnesota will be providing for a portion of the non-federal share. The final details will be worked out in this legislative session. What is the current status of North Dakota's contribution of its share?

- We would appreciate the opportunity to have a discussion on the best approach to solve the Devil's Lake flooding problem. Any solution must be cost-effective and solve the problems.

- We would like to know whether the Devil's Lake outlet project and the Garrison Diversion's inlet to Devil's Lake are connected or not. We continue to hear conflicting messages from North Dakota and your January 15, 1998 letter appears to link them together. An official written position from you would be very helpful.

Again, my administration would host a meeting with your appropriate key staff to discuss these issues. You may contact Mr. Rod Sando, Commissioner of the Minnesota Department of Natural Resources, to arrange for a meeting time and date. Commissioner Sando can be reached at (612) 296-2549.

Warmest regards,

ARNE H. CARLSON
Governor

cc: MN Washington Office
Rodney W. Sando, DNR Commissioner

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WATER DIVERSION AND APPROPRIATION

103G.261 WATER ALLOCATION PRIORITIES

(a) The commissioner shall adopt rules for allocation of waters based on the following priorities for the consumptive appropriation and use of water:

(1) first priority, domestic water supply, excluding industrial and commercial uses of municipal water supply, and use for power production that meets the contingency planning provisions of section 103G.285, subdivision 6;

(2) second priority, a use of water that involves consumption of less than 10,000 gallons of water per day;

(3) third priority, agricultural irrigation, and processing of agricultural products involving consumption in excess of 10,000 gallons per day;

(4) fourth priority, power production in excess of the use provided for in the contingency plan developed under section 103G.285, subdivision 6;

(5) fifth priority, uses, other than agricultural irrigation, processing of agricultural products, and power production, involving consumption in excess of 10,000 gallons per day; and

(6) sixth priority, nonessential uses.

(b) For the purposes of this section, "consumption" means water withdrawn from a supply that is lost for immediate further use in the area.

STATEMENT OF DAVID J. KOLAND, EXECUTIVE DIRECTOR, NORTH DAKOTA RURAL WATER SYSTEMS ASSOCIATION

Mr. Chaimman and members of the Committee. My name is Dave Koland. I serve as the Executive Director of North Dakota Rural Water Systems Association. Our association has 31 rural water systems and 225 municipal water systems as members.

The sons and grandsons of the pioneers that settled North Dakota founded our association. They had experienced the dirty 30's and sought a solution to the unreliable and uncertain water supplies they depended on for a domestic water supply.

Since the earliest days of our state the people who settled here were driven by the need for water. The first settlements were located along streams or lakes. The homesteaders who came later dug shallow wells or endured by hauling water from a nearby creek or slough. Many had to move on when the dry years withered their crops and left them without the precious water needed to survive.

In the late 1970's many rural areas began constructing a water distribution system to serve rural areas. Farmers without water or with an unreliable source joined together and with the help of the Federal Government built rural water systems to meet their needs. But at the insistence of the Federal Government they were not allowed to build beyond their own current domestic needs.

The Safe Drinking Water Act (SDWA) Amendments of 1986 with stringent testing requirements and mandated Maximum Contaminant Levels brought North Dakota face to face with the reality that the groundwater being used in many smaller communities for drinking water could not meet the MCL for fluoride or arsenic mandated by the SDWA.

The answer for many communities was to work out a solution with the rural water system that served a rural area close to their city. Rural water systems now provide clean safe water to 187 communities in North Dakota. But many still wait for the water they so desperately need. Communities like Mohall (931 people), Munich (310 people), and Bisbee (227 people) have few other alternatives to provide their citizens with clean safe water.

The key to providing water to the small communities and rural areas of North Dakota has been the Grant and Loan program of Rural Development and the Municipal, Rural, and Industrial (MR&I) program of the Garrison Conservancy District. Without the assistance of these two grant programs the exodus from the rural areas would have been a stampede.

The desperate need for clean safe water is evidenced by the willingness of North Dakota's rural residents to pay water rates well above the rates the Environmental Protection Agency (EPA) consider to be affordable. The highest general guideline sets an affordability threshold at 2.0 percent of the median household income. Rates beyond the threshold are considered to be unaffordable.

In North Dakota that translates into a monthly cost of $38.69 (ND MHI=$23,213). The average monthly cost on a rural water system for 6000 gallons is currently $48.97. Only one system in the state has a monthly cost below the "maximum affordable cost" set out in the EPA study and that system charges $37.60/month for 6000 gallons. Twelve systems must charge their consumers $50 or more with one system charging 170 percent of the "affordable rate" or $66/month for 6000 gallons.

The water rates in rural North Dakota would soar to astronomical levels without the 75 percent grant dollars in the MR&I program. For instance our current rates would average a truly unaffordable $134.19/month or a whopping 7.0 percent of the Median Household Income. They could have ranged as high as $190.80/month or a prohibitive 9.9 percent of MHI.

The people waiting for water in our rural communities are willing to pay far more than what many consider an affordable price for clean safe water. Across North Dakota we have seen the impact of providing good water to rural areas and witnessed the dramatic change in small communities.

We must continue to support the growth of our existing rural systems into regional water delivery systems and provide water to those areas that are not now being served.

Water alone will not solve the problems of rural North Dakota but without water there is little hope that any proposed solution will work.

1. NAME: David J. Koland

2. BUSINESS ADDRESS: North Dakota Rural Water Systems Association
1120 College Drive-Suite 100
Bismarck, North Dakota 58501

3. BUSINESS PHONE NUMBER: 701-258-9249

4. ORGANIZATION REPRESENTED: North Dakota Rural Water Systems Association

5. TRAINING OR EDUCATION: B.S. Business Administration
University of North Dakota
Grand Forks, North Dakota

6. PROFESSIONAL CERTIFICATIONS: None

7. WORK RELATED EXPERIENCES:

Executive Director ND Rural Water Systems Association	1991-Present
Bureau of the Census	1989-1991
Koland Construction Co.	1973-1989

8. REPRESENTATIONAL CAPACITY: Executive Director

9. GRANTS OR CONTRACTS I HAVE RECEIVED: None

10. GRANTS OR CONTRACTS RECEIVED BY NDRWSA:

Department of the Interior	$42,272.72
Environmental Protection Agency	$436,837.54
Department of Agriculture	$623,876.76

11. OTHER INFORMATION:

State Representative 1981-82, 1985-86, 1987-89
District 5, Minot

Statement of Eluid L. Martinez
Commissioner, U.S. Bureau of Reclamation
Department of the Interior
before the
Subcommittee on Water and Power
Committee on Resources
U. S. House of Representative

September 29, 1998

My name is Eluid Martinez, I am Commissioner of the Bureau of Reclamation. I am pleased to provide the Administration's testimony on Garrison Unit reformulation. In particular, I would like to provide the Administration's views on H.R. 3012, the Dakota Water Resources Act of 1997. It is my understanding that the sponsors of this legislation have introduced an amendment in the nature of a substitute. With that in mind, it is the amendment in the nature of a substitute which the Administration has reviewed in preparation for this hearing and it is that amendment in the nature of a substitute which I am providing testimony on today.

H.R. 3012, as substituted would alter the Garrison Diversion Unit of the Pick Sloan Missouri Basin Program as currently authorized to increase the funding authorization levels for State and Indian, municipal, rural and industrial water supplies; to meet current and future water quantity and quality needs of the Red River Valley; to deauthorize certain project features; to reduce the authorized irrigation acreage; to provide for stream flow augmentation and groundwater recharge as an authorized purpose; to enhance natural resources and fish and wildlife habitat and for other purposes.

I express my appreciation to the North Dakota delegation for their continued willingness to work with Reclamation on this issue. H.R. 3012, as originally introduced raised a number of serious issues, which the delegation, as well as the North Dakota Governor's office, State legislative leaders, the State Engineer, the Conservancy District and others have been working with Reclamation to address. H.R. 3012 as amended has clarified a number of areas and is, from our perspective, improved from the previous version. The Administration supports many elements of

this bill, however, there are still issues that need to be adequately addressed and the Administration cannot fully support H.R. 3012 in its current form.

Background

Mr. Chairman, the Garrison Diversion Unit (GDU) has had a long history. I will not go into great detail, but there are several things that are important to note in order to provide context for consideration of this legislation and for the issues associated with it.

The Garrison Diversion Unit in North Dakota, is part of the Pick Sloan Missouri Basin Program (PSMBP) which was originally authorized as part of the Flood Control Act of 1944. Originally known as the Missouri-Souris project, the authorization envisioned irrigation development of 1,275,000 acres in the state of North Dakota.

In 1957, the Bureau of Reclamation completed the feasibility report on the Garrison Unit of the PSMBP. In that report, submitted to Congress, Reclamation recommended the development of 1,007,000 acres of irrigation and in 1965, P.L. 98-108 authorized construction of 250,000 acres as the initial stage of the project.

Over the next several years, it became increasingly evident that the level of development envisioned in the 1965 Act raised environmental and economic concerns. Concerns were also raised that the Act might result in violations of the International Boundary Water Treaty of 1909 with Canada. Consequently, in 1984, P.L. 98-360 directed the Secretary of the Interior to appoint a commission to examine the water supply needs in North Dakota and to make recommendations on how to reformulate the project.

In December 1984, the Commission issued its final report which included the following major recommendations: (1) Reduce irrigation development to 130,940 acres of which none would be located in the Hudsons Bay Drainage and 17,580 of which would be developed on two Indian Reservations that were most impacted by the initial development; (2) Develop Municipal, Rural

and Industrial (MR&I) water service for as many as 130 towns and rural areas, and three Reservations in the State; (3) Develop a water treatment facility to provide MR&I water to Fargo and Grand Forks; (4) Mitigate impacts to fish and wildlife, and (5) Develop recreational sites.

In 1986, Congress passed the Garrison Diversion Unit Reformulation Act of 1986 (P.L. 99-294) which generally authorized the recommendations of the GDU Commission's final report.

In 1990, The Department of the Interior's Office of the Inspector General completed a review (OIG Report 90-49) of the financial issues associated with the project. The report stated that the "operating costs assigned to irrigators will exceed their ability to pay because the project as reformulated does not appear to be financially feasible." In other words, it concluded that the farmers would be unable to pay their estimated operations, maintenance and replacement (OM&R) costs as is required under Reclamation law. This fact led to the Inspector General's conclusion that the irrigation component of the Garrison Diversion Unit was economically infeasible.

In response to the OIG Report, Secretary Lujan appointed a GDU Task Group to evaluate and make recommendations on how to proceed with this project, given the findings of the OIG report. In October 1990, the GDU Task Group Report recommended termination of Federal funding for the development and construction of non-Indian irrigation facilities and for the main supply works, but recommended continuation of the MR&I program. Since that time, the recommendations of this Task Group have been the basis for the policies of both the Bush and Clinton Administrations with respect to this Project, and has guided subsequent budget requests.

In 1993, in an attempt to develop a consensus solution to meeting the contemporary water needs of the State, the North Dakota Water Management Collaborative Process was initiated whereby all interested stakeholders were convened.

In 1995, after the initiation of several studies, and a great deal of hard work by the parties, the Collaborative Process was terminated without reaching a consensus on how GDU should be

completed to best meet the contemporary water resource needs of the State. However, Reclamation continued to work towards completion of the studies it had agreed to undertake.

In summary, Mr. Chairman, the Pick Sloan Missouri Basin Program when conceived foresaw a comprehensive system of flood control, navigation improvement, irrigation, municipal and industrial (M&I) water supplies, and hydroelectric power generation for ten states. That plan envisioned 213 multi-purpose projects providing over 1.1 million kilowatts of power and irrigation of more than 5 million acres.

Since that time, changes in both the national economy and priorities, combined with the development of refined analytical tools and criteria have resulted in a significantly different project than was originally planned. Six dams have been constructed on the mainstem of the Missouri River, and numerous multi-purpose projects on the tributaries have been completed. Flood control and navigation benefits are greater than anticipated with navigation benefits estimated to be about $17.7 million per year. Power development has exceeded expectations with an installed plant capacity of 220 percent of original estimates and hydropower sales averaging $200 million annually. Benefits from recreational development have also exceeded the original plan. Irrigation development, on the other hand, has fallen well short of original goals with less than 600,000 (11%) of the planned 5.3 million acres having been developed.

Benefits of Garrison Development

Mr. Chairman, it is important to recognize that the citizens of the State of North Dakota, and the Great Plains region in general, have received significant economic, environmental, recreational, flood control and MR&I water supply benefits from PSMBP development and related activities that have been undertaken in the State of North Dakota. The Corps of Engineers' 1994 Missouri River Master Manual shows direct National Economic Development (NED) benefits from the mainstem Missouri River system of $130 million annually. Regional benefits were estimated to be $197 million annually:

Activity	Annual NED Benefits	Annual Regional Benefits
Flood control	$ 1,400,000	$ 1,400,000
Water supply	$28,500,000	$28,500,000
Hydropower	$80,300,000	$80,300,000
Recreation	$20,000,000	$68,000,000
Employment	----------	$18,700,000
Total ND Benefits	$130,200,000	$196,900,000

The Manual estimated that approximately 1,400,000 recreation visitor days occur annually at mainstem Missouri River facilities. Garrison Dam powerplant generates an average of 2.4 billion kilowatt hours of electricity, providing low cost electric power to the State. The Garrison Diversion Unit has been responsible for over $600 million worth of flood protection for residential and related buildings. And finally, over 100,000 people take their water supply from the mainstem facilities.

In North Dakota alone, the minimum annual direct benefits from Federal appropriations for GDU are estimated at $13 million (70% of average appropriation). Average flood control benefits from the Jamestown and Pipestem dams is over $1.2 million annually. An average of 200 direct jobs and an equal number of indirect jobs are generated as a result of GDU operations and development.

Other direct Federal investments to North Dakota from GDU include:

- Over $350 million in appropriations for the project since 1987.
- About $135 million in Federal grants for rural water projects throughout North Dakota..
- Approximately $25 million in Federal grants for construction of domestic water systems on three Reservations.

- $12 million in Federal contribution to the Wetland Trust authorized in 1986..

- Over $4 million in Federal grants to the State for recreation development and enhancement.

Improvements to H.R. 3012 as Introduced

As I stated earlier, H.R. 3012, as originally introduced, presented a number of difficult issues for the Administration. Over the past several months, we have worked diligently with the delegation staff. the Governor's office, State legislative leaders, the State Engineer and the Conservancy District to try to address these issues. We have made progress.

First, Section 7(4)(c) required that the State of North Dakota select the "preferred alternative" which is to be identified as part of the Environmental Impact Statement and the Alternatives study required by this legislation. This created a conflict with the appointments clause of the Constitution. In recognition of this problem, Section 8(d)(1) of the H.R. 3012 substitute amendment, has been satisfactorily modified such that it is the Secretary of the Interior who would signs the Record of Decision.

Second, Section 1(f) of H.R. 3012 proposed to make all features constructed prior to enactment of H.R. 3012 non-reimbursable, thereby forgiving more than $350 million in sunk costs through FY 1997-- making these sunk costs the sole responsibility of the United States. This language has been removed in the amendment in the nature of a substitute. In its place, language has been included that would provide for repayment of these costs based on a prorata share of the used capacity. Further, the remaining reimbursable costs associated with the unused capacity would be deferred until such time as the remaining capacity is put into service. While we find the concept envisioned in this language in the substitute workable, we remain concerned about the details and definitions of it.

Third, H.R. 3012 as introduced, was unclear about whether the additional $200 million

authorized for the Red River Valley water supply system would be reimbursable or non reimbursable. The amendment in the nature of a substitute makes it clear that the Red River Valley Water Supply Project is reimbursable.

Fourth, Section 10(e) of H.R. 3012 as originally introduced proposed to index almost all construction costs associated with the development of the project to allow for the ordinary fluctuation of construction costs incurred back to October 1986. While indexing construction costs is common practice for Reclamation projects, it is not common to retroactively index all costs back to an earlier date of authorization. It is our conservative estimate that this provision would increase the cost of the legislation by at least $900 million. However, the substitute amendment to H.R. 3012 now proposes to limit the indexing to those construction costs related to the modified MR&I program, the Red River Valley water supply, and the Sheyenne River Release. It also limits the term of the indexes to the date of enactment of this legislation rather than from 1986.

Fifth, H.R. 3012, as originally introduced would have lowered the non-Federal cost share of non-Indian MR&I from 25 percent as it stands under current law, to 15 percent. The substitute retains the 25 percent non-Federal cost share. While this is an improvement, the Administration still has serious concerns about this provision which is addressed below.

Sixth, H.R. 3012, as introduced, included a requirement for Reclamation to undertake a streambank stabilization study of the Missouri River in North Dakota. This is not appropriately a Bureau of Reclamation activity and could duplicate similar efforts underway by the Corps of Engineers. The amendment in the nature of a substitute removed this provision.

Concerns with Substitute Amendment for H.R. 3012

Despite the progress that has been made, the Administration has a number of serious concerns about the proposal before the Subcommittee today which I would like to outline:

1) Total Project Cost: While some of the costs in the amendment in the nature of a substitute have been significantly reduced, it is our estimate that the total costs to complete this project in 1998 dollars, not including indexing, will be $1.6 billion, with about $1 billion remaining after FY 1998. The $1.6 billion includes $200 million of currently authorized expenditures and $800 million that would be authorized by H.R. 3012. Therefore, funding H.R. 3012 will be difficult because Reclamation cannot adequately support its existing water resources development obligations.

It should be noted that the Section 6 eliminates the requirement, included in the 1986 Act, for power assistance payments to be made in 40 equal installments. This provision, while not accounted for in the above cost estimate, further limits the Federal recovery of irrigation costs to be paid by PSMBP power revenues.

2) MR&I Facility Funding: It is a long standing policy of the Bureau of Reclamation, relative to non-Indian rural water supply system development that non-Federal interests should repay 100 percent of allocated project construction costs at current interest rates and that they should pay 100 percent of operation and maintenance costs. Section 10 of the substitute amendment would authorize an additional $300 million, in addition to the $200 million already authorized, for non-Indian MR&I as a 100% non-reimbursable grant to the State. The Administration is committed to completing the existing MR&I grant program with its twenty-five percent local cost share, but believes that any new MR&I program should be 100 percent reimbursable in accordance with Reclamation law applicable to water supply projects.

There is also a need for clarification in Section 7 of the substitute amendment. This provision would allow the State of North Dakota to disperse the $300 million of non-Indian MR&I funds to communities and water systems in the form of loans to be repaid to the State -- as well as grants as has been done since 1986. In essence, this allows the State to use Federal appropriations to establish a revolving fund for the purpose of constructing MR&I projects throughout the state. While we support the idea of maximizing benefits from the Federal investment, the proposal raises several concerns. For example, if Federal funds are used to make

a loan to a community, when the funds are repaid to the State and placed in an account, are they still Federal funds? If interest is gained on these funds while they are held in an account, is the interest considered to be Federal funds and should it be applied against the $300 million appropriations ceiling? If a loan is repaid and the funds are then used to support another project, would Federal laws such as the National Environmental Policy Act and the National Historic Preservation Act still be applicable? Under the current statewide MR&I program, the local sponsors, who are receiving the Federal MR&I grant funds through the State, must comply with NEPA and other applicable Federal laws. In summary, uncertainty about how this program would be administered needs to be clarified. At minimum, it should be consistent with the Environmental Protection Agency's State Safe Drinking Water Revolving Fund.

3) Operation and Maintenance: The substitute amendment for H.R. 3012, would significantly increase the long-term Federal financial obligation for OM&R -- long past the completion of the construction of the facilities envisioned in this legislation. The substitute amendment would greatly expand the Federal operation, maintenance, and replacement responsibilities for Indian MR&I projects, and all water treatment and related facilities needed to comply with the Boundary Waters Treaty of 1909. In addition, the United States would be responsible for the OM&R of all unused capacity of facilities that are already built. Our conservative estimate is that increasing the Federal OM&R as proposed in this bill, would result in ongoing annual Reclamation expenditures of more than $10 million. Given the fact that Reclamation's operations and maintenance budget is not increasing and that Reclamation's overall appropriations is declining, this increase in OM&R responsibility will be unsustainable and could adversely affect other activities in North Dakota and throughout the Reclamation states.

4) Irrigation Development: Section 5 of the substitute amendment would authorize the development of 28,000 acres of undesignated irrigation "not located in the Hudson's Bay, Devils Lake or James River drainage basins." While it requires a report to Congress, the report is limited to the engineering and financial feasibility and deems the units authorized if the construction is found to be feasible. By limiting this report to engineering feasibility and local financial feasibility, it does not require the project to pass the test for economic feasibility, with respect

national economic development (NED) benefits as is required under the Principles and Guidelines for developing Federal water resources development projects -- thereby holding this project to a lesser standard than other Federal other projects. Therefore the language should be changed to make clear that such facilities must be economically feasible.

5) International Treaty Compliance: As the Committee is aware, there has been concern on the part of the Canadian Government and the Provincial Government in Winnipeg about potential interbasin transfers of water from the Missouri River Basin to the Hudsons Bay Drainage as a result of Garrison development. While there are provisions in the legislation related to ensuring that there is water treatment adequate to meet the requirements of the Boundary Waters Treaty of 1909, we must be certain that nothing in this legislation results in violations of this important treaty.

6) Four Bears Bridge: H.R. 3012 as amended would authorize $40 million and would require that the Bureau of Reclamation construct the Four Bears Bridge across Lake Sakakwea, a U.S. Army Corps of Engineers reservoir within the Fort Berthold Indian Reservation. Reclamation is not the appropriate agency for such an activity and inclusion of this construction in this legislation is inappropriate. In addition, the legislation is not clear about whether the capital costs of the bridge or the associated OM&R costs are reimbursable or non-reimbursable and whose responsibility they should be.

7) Natural Resources Trust: While we support expanding the Wetlands Trust, which was originally authorized in 1986, to include other natural resources as well as wetlands, the Administration is concerned about several other changes to this Section of the Act. First, the substitute amendment increases the Federal contribution to the Trust by $25 million, but proposes to eliminate the state and local contribution that was required in the 1986 reformulation, thereby giving the State no financial stake in the Fund. Second, the substitute amendment restricts annual Federal appropriations to the Trust Fund to no more than 5 percent of appropriations made for the Red River Valley Water Supply Project. Third, it also prohibits both the appropriation of $15 million of the total amount authorized for the Trust Fund and the

establishment of an OM&R account for the mitigation and enhancement lands associated with the Project until the Red River Valley Supply Project is operational.

The Administration does not support, or agree with, this linkage and believe that each activity should be weighed on its own merits during the budget and appropriations process.

8) Provide "Finality": Mr. Chairman, one of the significant benefits that we see to completing legislation is to provide some finality or "closure" to the long standing resolution that has been associated with this Project. As such, we would be pleased to work with the sponsors to find a means to legislatively "settle" the issues associated with the Garrison Diversion Unit. We understand that this Act cannot bind future Congresses, but there is a significant value to settling the issues and making a strong statement that completion of this Act will "close the books" on this Project.

9) PAYGO Implications: We should note that H.R. 3012 as currently drafter may affect revenues and therefore, may have PAYGO implications.

Mr. Chairman, I would like to reiterate my appreciation to the North Dakota delegation and others for working with Reclamation to improve this legislation. A great deal of hard work has taken place and progress has been made. I would like to continue that effort to try to work with the project sponsors and supporters as well as opponents to try to find an appropriate solution to what has become a long standing and difficult issue.

That concludes my testimony, I would be happy to answer any questions.

RATIONALE FOR THE DAKOTA WATER RESOURCES ACT

IF WE DO NOTHING, North Dakota's critical water shortages will continue to plague its citizens. The 120 miles of canal and large pumping plants already in place will provide little benefit to the State and return none of the investment to the federal treasury. Rural communities with their rich heritage of high values and an outstanding work ethic will continue to be faced with limited options for survival.

THE federal government has provided plans for water supply development dating back to 1944, but has yet to complete any of them despite three Congressional authorizations and a series of continuing appropriations. A partnership with the State political leadership and the responsible State entities is the logical solution.

We have worked extensively to incorporate a broad range of interests across the State, including the ND Wildlife Society, the ND Wildlife Federation, the Bureau of Reclamation and the Indian tribes of North Dakota. Legislation on a variety of water projects with similar problems has been reviewed extensively, and the best ideas from each incorporated into the proposal. The essential elements of the historic promise of the Missouri River Basin Program have been critically evaluated in light of current political reality. Ideas for improvement continue to be sought and evaluated to make the proposal more effective and to facilitate its acceptance by Congress.

THE overall cost of the Garrison project, when compared to the estimated cost of the project authorized in 1986, is essentially unchanged. Equally as important, the cost of meeting the needs addressed in the 1986 legislation is considerably reduced. In short, the proposal is cost effective, a major plus for the wildlife resources of the State and fiscally responsible. The State has agreed to cost share to its maximum ability on the rural water systems program and to reimburse, with interest, those costs assigned to municipal service for the more populated Red River Valley.

GARRISON
DIVERSION

DAKOTA WATER RESOURCES ACT OF 1998

The Dakota Water Resources Act (DWRA) of 1998 further amends the Garrison Diversion Reformulation Act of 1986. DWRA outlines a program to meet the water needs of North Dakota including irrigation, Municipal, Rural and Industrial (MR&I), fish and wildlife, recreation, flood control, augmented stream flows, and ground water recharge. A summary of key components of the legislation is as follows:

SECTION 1 *Dakota Water Resources Act of 1998*

Establishes the purpose of the project and adds wildlife enhancement, stream flow augmentation and ground water recharge to the 1986 Reformulation Act. It provides that the project will be a joint effort between the Secretary of Interior and State of North Dakota and that there will be a financial return to the federal government on the existing facilities and full reimbursement of the cost assigned to the Red River Valley municipal water supply facilities. It assures compliance with the 1909 Boundary Waters Treaty. It provides for State responsibility for design, construction, operation and maintenance of the features constructed.

SECTION 2 *Wildlife Mitigation and Enhancement*

Authorizes specific recreation and fish and wildlife enhancement projects and determines responsibility for mitigation and enhancement facilities costs. It states that the Kraft Slough project includes land exchange authority, and the de-authorized Lonetree Dam and Reservoir is permanently designated as a wildlife conservation area.

SECTION 3 *Integration*

States that Garrison Diversion will continue to be part of the Pick-Sloan Missouri Basin Program authorized in 1944.

SECTION 4 *Construction Phase Interest Rate Determined*

Language determines the interest rate for authorized features of the project during construction. Language is included to prevent interest from accruing until a particular project feature is completed.

SECTION 5 *Irrigation*

The Act DWRA further indexes the irrigation acreage to 70,000 acres, none of which will be located in the Hudson Bay or Devils Lake Basins. It guarantees irrigation authorized in the bill is eligible to receive project pumping power, continues Indian irrigation, and defines a process by which future irrigation is to be developed.

SECTION 6 *Power*

Authorizes Pick-Sloan preference power for MR&I systems and irrigation development. It also freezes current sub-allocation costs associated with Pick-Sloan Missouri Basin Program.

SECTION 7 *State Municipal, Rural and Industrial Grant Program*

Language authorizes continued development of MR&I water systems in cooperation with the State of North Dakota, retains a 25 percent non-federal cost share, gives State credit for non-federal contributions exceeding the 25 percent level and authorizes a water conservation program with incentives. It also authorizes continued development of MR&I water systems on the State's four Indian Reservations.

SECTION 8 *Red River Valley Features*

Authorizes a decision making process to determine the best method to meet Red River Valley water supply needs. It identifies this feature as a reimbursable project feature, and provides that the State will repay costs, with interest, for the capacity used to deliver water to municipal and industrial users.

SECTION 9 *Oakes Test Area*

Authorizes the Secretary of Interior to negotiate a mutually acceptable agreement for the transfer of the Oakes Test Area facilities to the State of North Dakota, and if no agreement is reached, the Secretary of Interior is authorized to dispose of the facilities.

SECTION 10 *Appropriations*

Authorizes the appropriations as follows:

- $200 million to complete facilities to meet Red River Valley water supply needs
- $300 million for State MR&I grant program
- $200 million for Indian MR&I program
- $6.5 million for recreation projects, including a wetlands interpretive center
- $25 million for the Natural Resources Trust
- $40 million for demolition and construction of new Four Bears Bridge across Lake Sakakawea

SECTION 11 *Natural Resources Trust*

Authorizes an additional $25 million for the Natural Resources Trust (formerly ND Wetlands Trust), $15 million of which is subject to completion and operation of the Red River Valley water supply project. It also authorizes an account for operation, maintenance and replacement of fish and wildlife mitigation and enhancement, and expands the scope of the trust program.

GARRISON
DIVERSION

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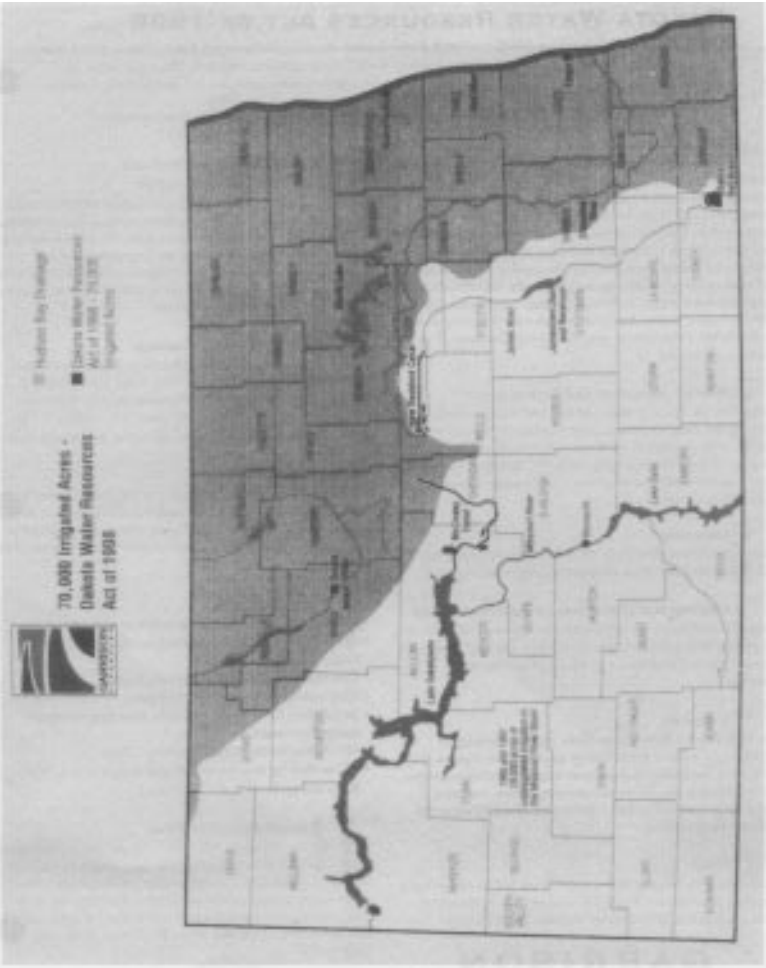
(701) 652-2193 Fax (701) 652-3188 E-mail: gdcd@dakotalink.com or www.garrisondiv.org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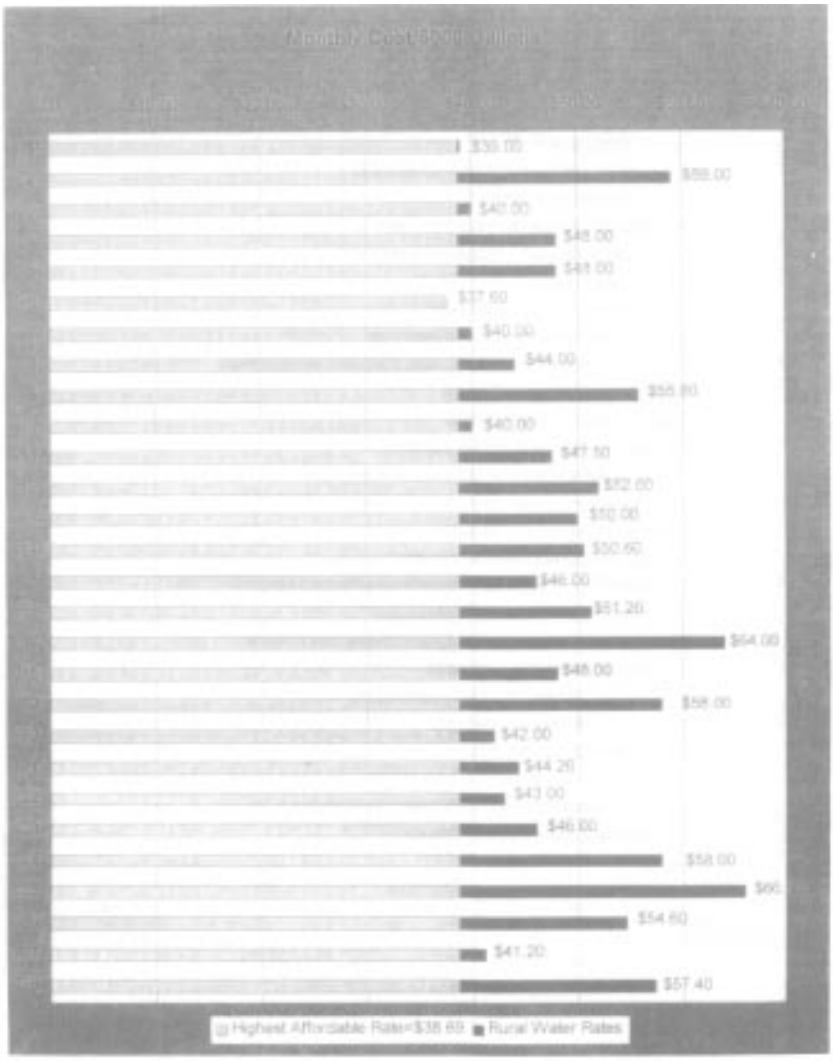
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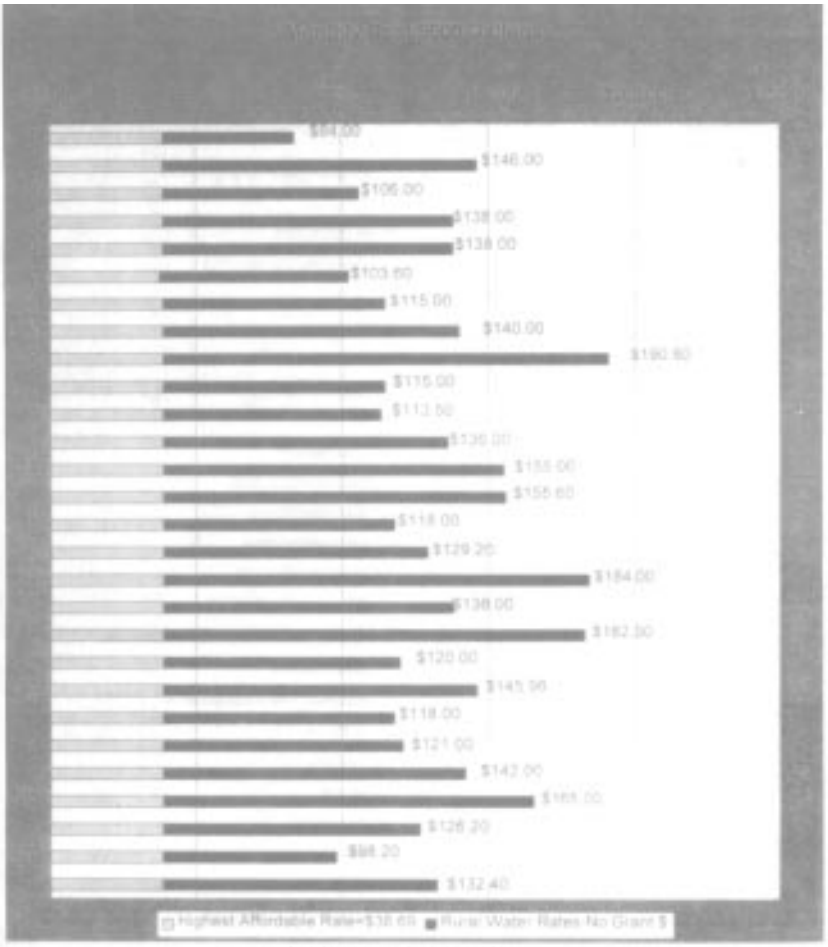
Rural Water Rates



DISCLOSURE REQUIREMNT
Required by House Rule XI, clause 2(g)