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## **WATER TOPICS OVERVIEW COMMITTEE**

Tuesday, December 7, 2021  
Brynhild Haugland Room, State Capitol  
Bismarck, North Dakota

Representative Jim Schmidt, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jim Schmidt, Tracy Boe, Chuck Damschen, Jay Fisher, Bob Martinson, Jon O. Nelson, Marvin E. Nelson, Todd Porter, Denton Zubke; Senators Michael Dwyer, Joan Heckaman, Jordan Kannianen, Ronald Sorvaag, Mark F. Weber

**Members absent:** Representatives Michael Howe, Matthew Ruby; Senators Jason G. Heitkamp, David Hogue, Jim P. Roers

**Others present:** Chris J. Kadrmas, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Representative Jon O. Nelson, seconded by Representative Fisher, and carried on a voice vote that the minutes of the July 12-13, 2021, meeting be approved as distributed.**

Ms. Claire Ness, Senior Counsel and Code Revisor, Legislative Council, presented a summary of each water-related bill passed by the 67<sup>th</sup> Legislative Assembly.

Mr. Chris J. Kadrmas, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled [Resources Trust Fund - 2019-21 and 2021-23 Biennium Update](#). He noted the water projects stabilization fund was created by Senate Bill No. 2345 (2021), which directed the Office of Management and Budget to transfer \$1 million from the resources trust fund to the water stabilization fund and to transfer, at least quarterly, any amounts deposited in the resources trust fund in excess of the legislative forecast to the water projects stabilization fund.

Ms. Andrea Travnicek, Director, Department of Water Resources, presented testimony ([Appendix B](#)) regarding the activities of the Department of Water Resources.

In response to questions from committee members, Ms. Travnicek noted:

- Over 1,400 agriculture producers received assistance from the livestock water program;
- She plans to travel to Missouri to discuss Missouri's legal requirement to challenge the use of Missouri River water by other states;
- The State Water Commission plans to discuss the Federal Emergency Management Agency's levee accreditation requirements as they relate to the State Water Commission's cost-benefit ratio requirements for cost-share projects;
- The Department of Water Resources is transitioning to an online portal for submitting requests for cost-shares;
- The Department of Water Resources is tracking any changes to the federal Waters of the United States legislation and regulations closely; and
- The Budget Section has authority to let the Department of Water Resources access funds from the water projects stabilization fund upon request.

Mr. Gary Thompson, Chairman, Red River Joint Water Resource District; Mr. Zach Herrmann, Project Manager, Houston Engineering, Inc.; and Mr. Kurt Lysne, West Fargo Office Manager, Moore Engineering, Inc., presented

testimony ([Appendix C](#)) regarding a proposal for a Cass County pilot project for basinwide planning and project implementation.

Chairman Schmidt noted the goals of a pilot project are having water resource boards in a common basin work together, reducing the number of requests submitted to the Department of Water Resources, and having funding provided on a basin perspective rather than for each project.

In response to a question from a committee member, Mr. Thompson noted permits still will be required for projects if the pilot project is approved.

Representative Jon O. Nelson, Rugby, presented testimony regarding the All Seasons Water Users District. Representative Nelson noted the Turtle Mountain Band of Chippewa Indians provided an easement necessary for the district's water supply project and thanked Mr. Jamie Azure, Tribal Chairman, Turtle Mountain Band of Chippewa Indians, and Mr. Kenneth Azure, Executive Director, Turtle Mountain Public Utility Commission, for their work on this issue.

In response to questions from committee members, Representative Nelson noted an invitation to bid for the project's construction contract will be issued this winter, and the district should be able to expend funds received from the State Water Commission. He also noted the project will not be able to serve the System 4 area until water from the Missouri River is brought to the area through the Northwest Area Water Supply Project in or about 2024.

Mr. Wade Bachmeier, Chairman, Missouri River Joint Water Board, presented testimony ([Appendix D](#)) regarding a work plan and proposal for utilizing Missouri River water.

Mr. Richard Johnson, Commissioner, State Water Commission; Mr. Ben Varnson, Manager, Nelson County Water Resource District; and Mr. Mandar Nangare, Water Resources Engineer and Office Coordinator, Barr Engineering, presented testimony ([Appendix E](#)) regarding the pilot project for the Upper Sheyenne River Basin.

Mr. Johnson noted the project is a good example of regionalization and saves state funds.

Mr. Nangare noted the State Water Commission approved the pilot project in August 2021, and a list of the proposed projects in the basin should be available by November 2022.

In response to questions from committee members, Mr. Varnson said the water resource districts for Wells County and Foster County sent letters supporting the pilot project but have not paid dues.

Mr. Aaron Carranza, Director, Regulatory Division, Department of Water Resources, presented testimony ([Appendix F](#)) regarding the relationship between the Department of Water Resources and water resource boards, and regarding hydrologic unit codes (HUCs).

In response to questions from a committee member, Mr. Carranza noted the Department of Water Resources does not dictate the size of culverts but may determine the flow rate a culvert should be able to accommodate. He also noted the state does not have enforcement authority over water resource districts that do not install appropriately sized culverts.

Chairman Schmidt noted the State Water Commission may consider HUCs to determine the optimal size of pilot projects.

Ms. Heide Delorme, Director, Administrative Services Division, Department of Water Resources, presented testimony ([Appendix G](#)) regarding the department's project status summary.

Ms. Merri Mooridian, Administrative Officer/Deputy Project Manager for Red River Valley Water Supply Project Administration, Garrison Diversion Conservancy District; and Mr. Duane DeKrey, General Manager, Garrison Diversion Conservancy District, presented testimony ([Appendix H](#)) regarding the status of the Red River Valley Water Supply Project.

In response to questions from committee members and State Water Commissioners, Mr. DeKrey noted:

- For every biennium by which the project timeline is reduced, the cost of the project will decrease by \$20 million to \$30 million in 2021 dollars;

- Supply chain disruptions have affected the project; and
- Steel and labor prices for the project recently have increased significantly.

Mr. Shaun Sipma, Mayor, City of Minot, and Mr. David Ashley, Chairman, Souris River Joint Board, presented testimony ([Appendix I](#)) regarding the status of the Mouse River flood control project.

Mr. Kory Peterson, Mayor, City of Horace, presented testimony ([Appendix J](#)) regarding water supply issues for Horace.

Mr. Kris Bakkegard, Director of Engineering, FM Area Diversion Project, presented testimony ([Appendix K](#)) regarding the status of the FM Diversion Project.

Mr. Jeb Williams, Director, Game and Fish Department, and Mr. Greg Power, Fisheries Division Chief, Game and Fish Department, presented testimony ([Appendix L](#)) regarding aquatic nuisance species.

Mr. David Glatt, Director, Department of Environmental Quality, presented testimony ([Appendix M](#)) regarding the state drinking water program.

In response to questions from committee members, Mr. Glatt noted:

- The Department of Environmental Quality is considering allocating more money to wastewater funding through a state revolving fund or from federal funds;
- Federal funds should become available to help communities replace lead distribution pipes; and
- If a community replaces asbestos-lined sewer pipes, the community will have to dispose of the asbestos, and that might be expensive.

Mr. James Leiman, Commissioner, Department of Commerce, presented testimony ([Appendix N](#)) regarding community development block grants.

Ms. Shannon Fisher, Program Manager, Drinking Water State Revolving Fund Program, Department of Environmental Quality; Ms. Elizabeth Tokach Duran, Program Manager, Clean Water State Revolving Fund Program, Department of Environmental Quality; and Ms. DeAnn Ament, Executive Director, Public Finance Authority, presented testimony ([Appendix O](#)) regarding funding available for water projects.

In response to a question from a State Water Commission member, Ms. Ament noted there is more interest in the cost-shares offered through the State Water Commission than the loans offered through the state.

In response to a question from a committee member, Ms. Tokach Duran noted the state revolving fund programs use the State Water Commission's economic analysis for evaluating projects, and she encourages engineers to use the analysis.

Ms. Ament presented testimony ([Appendix P](#)) regarding the implementation of legislation relating to bonding.

Ms. Ness presented testimony regarding the work of the Water Drainage Committee. She noted the Water Drainage Committee has four study directives from the Legislative Management and began receiving testimony on each directive at the committee's first meeting on July 21, 2021.

Ms. Travnicek and Mr. Tim Freije, Northwest Area Water Supply/Southwest Pipeline Project Section Chief, Department of Water Resources, presented testimony ([Appendix Q](#)) regarding the Northwest Area Water Supply Project.

In response to questions from committee members, Ms. Travnicek and Mr. Freije noted:

- Approximately \$170 million is needed to complete the project, and much of that amount is needed to complete the biota treatment plant near Max;
- Although the federal government is responsible for the costs of the biota treatment plant pursuant to the federal Dakota Water Resources Act, the only federal funding available for the project is through the Municipal, Rural, and Industrial Water Supply Program, which has a cap of \$200 million;

- There are discussions with policymakers in Washington, D.C., regarding lifting the \$200 million cap; and
- The total state investment in the project to date is approximately \$54 million.

Mr. Blake Crosby, Executive Director, North Dakota League of Cities, presented testimony ([Appendix R](#)) regarding municipal water supply and industrial water supply.

No further business appearing, Chairman Schmidt adjourned the meeting at 3:40 p.m.

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Claire Ness  
Senior Counsel and Code Revisor

ATTACH:18