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H.R. 2918, DAKOTA WATER RESOURCES ACT OF 1999

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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H.R. 2918, DAKOTA WATER RESOURCES ACT OF 1999

Thursday, September 30, 1999

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

The Subcommittee met, pursuant to call, at 2 p.m., in Room 1334, Longworth House Office Building, Hon. John Doolittle [chairman of the Subcommittee] presiding.

Mr. DOOLITTLE. The Subcommittee on Water and Power will come to order. We are meeting today to hear testimony concerning H.R. 2918, the Dakota Water Resources Act of 1999.

[The information follows:]

I

106TH CONGRESS
1ST SESSION

H. R. 2918

To amend Public Law 89-108 to increase authorization levels for State and Indian tribal, 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 and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1999

Mr. POMEROY introduced the following bill; which was referred to the Committee on Resources

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A BILL

To amend Public Law 89-108 to increase authorization levels for State and Indian tribal, 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 and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dakota Water Resources Act of 1999".

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89–108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)—

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

1 (C) by striking ``fish and wildlife conserva-
2 tion'' and inserting ``fish, wildlife, and other
3 natural resource conservation'';
4 (D) by inserting ``augmented stream flows,
5 ground water recharge,'' after ``flood control,'';
6 and
7 (E) by inserting ``(as modified by the Da-
8 kota Water Resources Act of 1999)'' before the
9 period at the end;
10 (3) in subsection (e), by striking ``terminated''
11 and all that follows and inserting ``terminated.''; and
12 (4) by striking subsections (f) and (g) and in-
13 serting the following:
14 ``(f) COSTS.Ð
15 ``(1) ESTIMATE.Ð The Secretary shall
16 estimateÐ
17 ``(A) the actual construction costs of the
18 facilities (including mitigation facilities) in ex-
19 istence as of the date of enactment of the Da-
20 kota Water Resources Act of 1999; and
21 ``(B) the annual operation, maintenance,
22 and replacement costs associated with the used
23 and unused capacity of the features in existence
24 as of that date.

1 "(2) REPAYMENT CONTRACT.—An appropriate
2 repayment contract shall be negotiated that provides
3 for the making of a payment for each payment pe-
4 riod in an amount that is commensurate with the
5 percentage of the total capacity of the project that
6 is in actual use during the payment period.
7 "(3) OPERATION AND MAINTENANCE COSTS.—
8 Except as otherwise provided in this Act or Rec-
9 lamation law—
10 "(A) The Secretary shall be responsible for
11 the costs of operation and maintenance of the
12 proportionate share of unit facilities in exist-
13 ence on the date of enactment of the Dakota
14 Water Resources Act of 1999 attributable to
15 the capacity of the facilities (including mitiga-
16 tion facilities) that remain unused.
17 "(B) The State of North Dakota shall be
18 responsible for costs of operation and mainte-
19 nance of the proportionate share of existing
20 unit facilities that are used and shall be respon-
21 sible for the full costs of operation and mainte-
22 nance of any facility constructed after the date
23 of enactment of the Dakota Water Resources
24 Act of 1999.

1 "(C) The State of North Dakota shall be
2 responsible for the cost of providing energy to
3 authorized unit facilities.
4 "(g) AGREEMENT BETWEEN THE SECRETARY AND
5 THE STATE.Đ The Secretary shall enter into 1 or more
6 agreements with the State of North Dakota to carry out
7 this Act, including operation and maintenance of the com-
8 pleted unit facilities and the design and construction of
9 authorized new unit facilities by the State.
10 "(h) BOUNDARY WATERS TREATY OF 1909.Đ
11 "(1) DELIVERY OF WATER INTO THE HUDSON
12 BAY BASIN.Đ Prior to construction of any water sys-
13 tems authorized under this Act to deliver Missouri
14 River water into the Hudson Bay basin, the Sec-
15 retary, in consultation with the Secretary of State
16 and the Administrator of the Environmental Protec-
17 tion Agency, must determine that adequate treat-
18 ment can be provided to meet the requirements of
19 the Treaty between the United States and Great
20 Britain relating to Boundary Water Between the
21 United States and Canada, signed at Washington
22 January 11, 1909 (26 Stat. 2448; TS 548) (com-
23 monly known as the 'Boundary Waters Treaty Act
24 of 1909').

1 "(2) COSTS.Ð All costs of construction, oper-
2 ation, maintenance, and replacement of water treat-
3 ment and related facilities authorized by this Act
4 and attributable to meeting the requirements of the
5 treaty referred to in paragraph (1) shall be non-
6 reimbursable.".

7 **SEC. 3. FISH AND WILDLIFE.**

8 Section 2 of Public Law 89±108 (79 Stat. 433; 100
9 Stat. 419) is amendedÐ

10 (1) by striking subsections (b), (c), and (d) and
11 inserting the following:

12 "(b) FISH AND WILDLIFE COSTS.Ð All fish and wild-
13 life enhancement costs incurred in connection with water-
14 fowl refuges, waterfowl production areas, and wildlife con-
15 servation areas proposed for Federal or State administra-
16 tion shall be nonreimbursable.

17 "(c) RECREATION AREAS.Ð

18 "(1) COSTS.Ð If non-Federal public bodies con-
19 tinue to agree to administer land and water areas
20 approved for recreation and agree to bear not less
21 than 50 percent of the separable costs of the unit al-
22 located to recreation and attributable to those areas
23 and all the costs of operation, maintenance, and re-
24 placement incurred in connection therewith, the re-

1 mainder of the separable capital costs so allocated
2 and attributed shall be nonreimbursable.
3 ``(2) APPROVAL.Ð The recreation areas shall be
4 approved by the Secretary in consultation and co-
5 ordination with the State of North Dakota.
6 ``(d) NON-FEDERAL SHARE.Ð The non-Federal share
7 of the separable capital costs of the unit allocated to recre-
8 ation shall be borne by non-Federal interests, using the
9 following methods, as the Secretary may determine to be
10 appropriate:
11 ``(1) Services in kind.
12 ``(2) Payment, or provision of lands, interests
13 therein, or facilities for the unit.
14 ``(3) Repayment, with interest, within 50 years
15 of first use of unit recreation facilities.'';
16 (2) in subsection (e)Ð
17 (A) by redesignating paragraphs (1) and
18 (2) as paragraphs (2) and (3), respectively;
19 (B) by inserting ``(1)'' after ``(e)'';
20 (C) in paragraph (2) (as redesignated by
21 subparagraph (A))Ð
22 (i) in the first sentenceÐ
23 (I) by striking ``within ten years
24 after initial unit operation to admin-
25 ister for recreation and fish and wild-

1 life enhancement'' and inserting ``to
2 administer for recreation''; and
3 (II) by striking ``which are not
4 included within Federal waterfowl ref-
5 uges and waterfowl production areas'';
6 and
7 (ii) in the second sentence, by striking
8 ``or fish and wildlife enhancement''; and
9 (D) in the first sentence of paragraph (3)
10 (as redesignated by subparagraph (A))Ð
11 (i) by striking ``, within ten years
12 after initial operation of the unit,''; and
13 (ii) by striking ``paragraph (1) of this
14 subsection'' and inserting ``paragraph (2)'';
15 (3) in subsection (f), by striking ``and fish and
16 wildlife enhancement''; and
17 (4) in subsection (j)Ð
18 (A) in paragraph (1), by striking ``prior to
19 the completion of construction of Lonetree Dam
20 and Reservoir''; and
21 (B) by adding at the end the following:
22 ``(4) TAAYER RESERVOIR.Ð Taayer Reservoir is
23 deauthorized as a project feature. The Secretary,
24 acting through the Commissioner of Reclamation,
25 shall acquire (including acquisition through donation

1 or exchange) up to 5,000 acres in the Kraft and
2 Pickell Slough areas and to manage the area as a
3 component of the National Wildlife Refuge System
4 giving consideration to the unique wildlife values of
5 the area. In acquiring the lands which comprise the
6 Kraft and Pickell Slough complex, the Secretary
7 shall acquire wetlands in the immediate vicinity
8 which may be hydrologically related and nearby up-
9 lands as may be necessary to provide for proper
10 management of the complex. The Secretary shall
11 provide for appropriate visitor access and control at
12 the refuge.

13 "(5) DEAUTHORIZATION OF LONETREE DAM
14 AND RESERVOIR.Ð The Lonetree Dam and Reservoir
15 is deauthorized, and the Secretary shall designate
16 the lands acquired for the former reservoir site as a
17 wildlife conservation area. The Secretary shall enter
18 into an agreement with the State of North Dakota
19 providing for the operation and maintenance of the
20 wildlife conservation area as an enhancement fea-
21 ture, the costs of which shall be paid by the Sec-
22 retary. If the features selected under section 8 in-
23 clude a buried pipeline and appurtenances between
24 the McClusky Canal and New Rockford Canal, the
25 use of the wildlife conservation area and Sheyenne

1 Lake National Wildlife Refuge for such route is
2 hereby authorized.".

3 **SEC. 4. INTEREST CALCULATION.**

4 Section 4 of Public Law 89±108 (100 Stat. 435) is
5 amended by adding at the end the following: `Interest
6 during construction shall be calculated only until such
7 date as the Secretary declares any particular feature to
8 be substantially complete, regardless of whether the fea-
9 ture is placed into service.".

10 **SEC. 5. IRRIGATION FACILITIES.**

11 Section 5 of Public Law 89±108 (100 Stat. 419) is
12 amendedÐ

13 (1) by striking `SEC. 5. (a)(1)" and all that
14 follows through subsection (c) and inserting the fol-
15 lowing:

16 **"SEC. 5. IRRIGATION FACILITIES.**

17 `(a) IN GENERAL.Ð

18 `(1) AUTHORIZED DEVELOPMENT.Ð In addition
19 to the 5,000-acre Oakes Test Area in existence on
20 the date of enactment of the Dakota Water Re-
21 sources Act of 1999, the Secretary may develop irri-
22 gation inÐ

23 `(A) the Turtle Lake service area (13,700
24 acres);

1 "(B) the McClusky Canal service area
2 (10,000 acres); and
3 "(C) if the investment costs are fully reim-
4 bursed without aid to irrigation from the Pick-
5 Sloan Missouri Basin Program, the New Rock-
6 ford Canal service area (1,200 acres).
7 "(2) DEVELOPMENT NOT AUTHORIZED.Ð None
8 of the irrigation authorized by this section may be
9 developed in the Hudson Bay/Devils Lake Basin.
10 "(3) NO EXCESS DEVELOPMENT.Ð The Sec-
11 retary shall not develop irrigation in the service
12 areas described in paragraph (1) in excess of the
13 acreage specified in that paragraph, except that the
14 Secretary shall develop up to 28,000 acres of irriga-
15 tion in other areas of North Dakota (such as the
16 Elk/Charbonneau, Mon-Dak, Nesson Valley, Horse-
17 head Flats, and Oliver-Mercer areas) that are not lo-
18 cated in the Hudson Bay/Devils Lake drainage basin
19 or James River drainage basin.
20 "(4) PUMPING POWER.Ð Irrigation development
21 authorized by this section shall be considered au-
22 thorized units of the Pick-Sloan Missouri Basin Pro-
23 gram and eligible to receive project pumping power.
24 "(5) PRINCIPAL SUPPLY WORKS.Ð The Sec-
25 retary shall maintain the Snake Creek Pumping

1 Plant, New Rockford Canal and McClusky Canal
2 features of the principal supply works. As appro-
3 priate, the Secretary shall rehabilitate or complete
4 such features consistent with the purposes of this
5 Act. Subject to the provisions of sections 8(c) and
6 8(d)(1) of this Act, the Secretary shall select a pre-
7 ferred alternative to implement the Dakota Water
8 Resources Act of 1999. In making this selection, one
9 of the alternatives the Secretary shall consider is
10 whether to connect the principal supply works in ex-
11 istence on the date of enactment.".
12 (2) by redesignating subsections (d), (e), and
13 (f) as subsections (b), (c), and (d), respectively;
14 (3) in the first sentence of subsection (b) (as
15 redesignated by paragraph (2)), by striking "(a)(1)"
16 and inserting "(a)";
17 (4) in the first sentence of subsection (c) (as re-
18 designated by paragraph (2)), by striking "Lucky
19 Mound (7,700 acres), Upper Six Mile Creek (7,500
20 acres)" and inserting "Lucky Mound (7,700 acres)
21 and Upper Six Mile Creek (7,500 acres), or such
22 other lands at Fort Berthold of equal acreage as
23 may be selected by the tribe and approved by the
24 Secretary,"; and
25 (5) by adding at the end the following:

1 ``(e) IRRIGATION REPORT TO CONGRESS.Ð

2 ``(1) IN GENERAL.Ð The Secretary shall inves-
3 tigate and prepare a detailed report on the undesig-
4 nated 28,000 acres in subsection (a)(3) as to costs
5 and benefits for any irrigation units to be developed
6 under Reclamation law.

7 ``(2) FINDING.Ð The report shall include a find-
8 ing on the economic, financial, and engineering fea-
9 sibility of the proposed irrigation unit, but shall be
10 limited to the undesignated 28,000 acres.

11 ``(3) AUTHORIZATION.Ð If the Secretary finds
12 that the proposed construction is feasible, such irri-
13 gation units are authorized without further Act of
14 Congress.

15 ``(4) DOCUMENTATION.Ð No expenditure for
16 the construction of facilities authorized under this
17 section shall be made until after the Secretary, in
18 cooperation with the State of North Dakota, has
19 prepared the appropriate documentation in accord-
20 ance with section 1 and pursuant to the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.) analyzing the direct and indirect impacts of
23 implementing the report.''.

1 **SEC. 6. POWER.**

2 Section 6 of Public Law 89±108 (79 Stat. 435; 100
3 Stat. 421) is amendedÐ

4 (1) in subsection (b)Ð

5 (A) by striking ``Notwithstanding the pro-
6 visions of'' and inserting ``Pursuant to the pro-
7 visions of''; and

8 (B) by striking ``revenues,'' and all that
9 follows and inserting ``revenues.''; and

10 (2) by striking subsection (c) and inserting the
11 following:

12 ``(c) NO INCREASE IN RATES OR EFFECT ON REPAY-
13 MENT METHODOLOGY.Ð In accordance with the last sen-
14 tence of section 302(a)(3) of the Department of Energy
15 Organization Act (42 U.S.C. 7152(a)(3), section 1(e) shall
16 not result in any reallocation of project costs and shall
17 not result in increased rates to Pick-Sloan Missouri Basin
18 Program customers. Nothing in the Dakota Water Re-
19 sources Act of 1999 alters or affects in any way the repay-
20 ment methodology in effect as of the date of enactment
21 of that Act for other features of the Pick-Sloan Missouri
22 Basin Program.''.

23 **SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER**
24 **SERVICE.**

25 Section 7 of Public Law 89±108 (100 Stat. 422) is
26 amendedÐ

1 (1) in subsection (a)(3)Ð

2 (A) in the second sentenceÐ

3 (i) by striking ``The non-Federal

4 share'' and inserting ``Unless otherwise

5 provided in this Act, the non-Federal

6 share'';

7 (ii) by striking ``each water system''

8 and inserting ``water systems'';

9 (iii) by inserting after the second sen-

10 tence the following: ``The State may use

11 the Federal and non-Federal funds to pro-

12 vide grants or loans for municipal, rural,

13 and industrial water systems. The State

14 shall use the proceeds of repaid loans for

15 municipal, rural, and industrial water sys-

16 tems. Proceeds from loan repayments and

17 any interest thereon shall be treated as

18 Federal funds.''; and

19 (iv) by striking the last sentence and

20 inserting the following: ``The Southwest

21 Pipeline Project, the Northwest Area

22 Water Supply Project, the Red River Val-

23 ley Water Supply Project, and other mu-

24 nicipal, industrial, and rural water systems

25 in the State of North Dakota shall be eligi-

1 ble for funding under the terms of this sec-
2 tion. Funding provided under this section
3 for the Red River Valley Water Supply
4 Project shall be in addition to funding for
5 that project under section 10(a)(1)(B).
6 The amount of non-Federal contributions
7 made after May 12, 1986, that exceeds the
8 25 percent requirement shall be credited to
9 the State for future use in municipal,
10 rural, and industrial projects under this
11 section."; and
12 (2) by striking subsections (b), (c), and (d) and
13 inserting the following:
14 "(b) WATER CONSERVATION PROGRAM.—The State
15 of North Dakota may use funds provided under sub-
16 sections (a) and (b)(1)(A) of section 10 to develop and
17 implement a water conservation program. The Secretary
18 and the State shall jointly establish water conservation
19 goals to meet the purposes of the State program and to
20 improve the availability of water supplies to meet the pur-
21 poses of this Act. If the State achieves the established
22 water conservation goals, the non-Federal cost share for
23 future projects under subsection (a)(3) shall be reduced
24 to 24.5 percent.

1 "(c) NONREIMBURSABILITY OF COSTS.Ð With re-
2 spect to the Southwest Pipeline Project, the Northwest
3 Area Water Supply Project, the Red River Valley Water
4 Supply Project, and other municipal, industrial, and rural
5 water systems in North Dakota, the costs of the features
6 constructed on the Missouri River by the Secretary of the
7 Army before the date of enactment of the Dakota Water
8 Resources Act of 1999 shall be nonreimbursable.

9 "(d) INDIAN MUNICIPAL, RURAL AND INDUSTRIAL
10 WATER SUPPLY.Ð The Secretary shall construct, operate,
11 and maintain such municipal, rural, and industrial water
12 systems as the Secretary determines to be necessary to
13 meet the economic, public health, and environmental needs
14 of the Fort Berthold, Standing Rock, Turtle Mountain (in-
15 cluding the Trenton Indian Service Area), and Fort
16 Totten Indian Reservations and adjacent areas.".

17 **SEC. 8. SPECIFIC FEATURES.**

18 (a) IN GENERAL.Ð Public Law 89±108 (100 Stat.
19 423) is amended by striking section 8 and inserting the
20 following:

21 **"SEC. 8. SPECIFIC FEATURES.**

22 "(a) RED RIVER VALLEY WATER SUPPLY
23 PROJECT.Ð

24 "(1) IN GENERAL.Ð The Secretary shall con-
25 struct a feature or features to deliver Missouri River

1 water to the Sheyenne River water supply and re-
2 lease facility or such other feature or features as are
3 selected under subsection (d).

4 ``(2) DESIGN AND CONSTRUCTION.Ð The fea-
5 ture shall be designed and constructed to meet only
6 the water delivery requirements of the irrigation
7 areas, municipal, rural, and industrial water supply
8 needs, ground water recharge, and streamflow aug-
9 mentation (as described in subsection (b)(2)) author-
10 ized by this Act.

11 ``(3) COMMENCEMENT OF CONSTRUCTION.Ð
12 The Secretary may not commence construction on
13 the feature until a master repayment contract or
14 water service agreement consistent with this Act be-
15 tween the Secretary and the appropriate non-Fed-
16 eral entity has been executed.

17 ``(b) REPORT ON RED RIVER VALLEY WATER NEEDS
18 AND DELIVERY OPTIONS.Ð

19 ``(1) IN GENERAL.Ð Pursuant to section 1(g),
20 not later than 90 days after the date of enactment
21 of the Dakota Water Resources Act of 1999, the
22 Secretary and the State of North Dakota shall joint-
23 ly submit to Congress a report on the comprehensive
24 water quality and quantity needs of the Red River
25 Valley and the options for meeting those needs, in-

1 cluding the delivery of Missouri River water to the
2 Red River Valley.
3 "(2) NEEDS.Ð The needs addressed in the re-
4 port shall include such needs asÐ
5 "(A) augmenting streamflows;
6 "(B) groundwater recharge; and
7 "(C) enhancingÐ
8 "(i) municipal, rural, and industrial
9 water supplies;
10 "(ii) water quality;
11 "(iii) aquatic environment; and
12 "(iv) recreation.
13 "(3) STUDIES.Ð Existing and ongoing studies
14 by the Bureau of Reclamation on Red River Water
15 Supply needs and options shall be deemed to meet
16 the requirements of this section.
17 "(c) ENVIRONMENTAL IMPACT STATEMENTS.Ð
18 "(1) DRAFT.Ð
19 "(A) DEADLINE.Ð Pursuant to an agree-
20 ment between the Secretary and the State of
21 North Dakota as authorized under section 1(g),
22 not later than 1 year after the date of enact-
23 ment of the Dakota Water Resources Act of
24 1999, the Secretary and the State of North Da-
25 kota shall jointly prepare and complete a draft

1 environmental impact statement concerning all
2 feasible options to meet the comprehensive
3 water quality and quantity needs of the Red
4 River Valley and the options for meeting those
5 needs, including possible alternatives for deliv-
6 ering Missouri River water to the Red River
7 Valley.

8 ``(B) REPORT ON STATUS.Ð If the Sec-
9 retary and State of North Dakota cannot pre-
10 pare and complete the draft environmental im-
11 pact statement within 1 year after the date of
12 enactment of the Dakota Water Resources Act
13 of 1999, the Secretary, in consultation and co-
14 ordination with the State of North Dakota,
15 shall report to Congress on the status of this
16 activity, including an estimate of the date of
17 completion.

18 ``(2) FINAL.Ð

19 ``(A) DEADLINE.Ð Not later than 1 year
20 after filing the draft environmental impact
21 statement, a final environmental impact state-
22 ment shall be prepared and published.

23 ``(B) REPORT ON STATUS.Ð If the Sec-
24 retary and State of North Dakota cannot pre-
25 pare and complete a final environmental impact

1 statement within 1 year of the completion of
2 the draft environmental impact statement, the
3 Secretary, in consultation and coordination with
4 the State of North Dakota, shall report to Con-
5 gress on the status of this activity, including an
6 estimate of the date of completion.
7 "(d) PROCESS FOR SELECTION.Ð
8 "(1) IN GENERAL.Ð After reviewing the final
9 report required by subsection (b)(1) and complying
10 with subsection (c), the Secretary, in consultation
11 and coordination with the State of North Dakota in
12 coordination with affected local communities, shall
13 select 1 or more project features described in sub-
14 section (a) that will meet the comprehensive water
15 quality and quantity needs of the Red River Valley.
16 "(2) AGREEMENTS.Ð Not later than 180 days
17 after the record of decision has been executed, the
18 Secretary shall enter into a cooperative agreement
19 with the State of North Dakota to construct the fea-
20 ture or features selected.
21 "(e) SHEYENNE RIVER WATER SUPPLY AND RE-
22 LEASE OR ALTERNATE FEATURES.Ð The Secretary shall
23 construct, operate, and maintain a Sheyenne River water
24 supply and release feature (including a water treatment
25 plant) capable of delivering 100 cubic feet per second of

1 water or any other amount determined in the reports
2 under this section, for the cities of Fargo and Grand
3 Forks and surrounding communities, or such other feature
4 or features as may be selected under subsection (d).".

5 **SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

6 Public Law 89±108 (100 Stat. 423) is amended by
7 striking section 9 and inserting the following:

8 **"SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

9 "(a) IN GENERAL.Ð Not later than 2 years after exe-
10 cution of a record of decision under section 8(d) on wheth-
11 er to use the New Rockford Canal as a means of delivering
12 water to the Red River Basin as described in section 8,
13 the Secretary shall enter into an agreement with the State
14 of North Dakota, or its designee, to convey title and all
15 or any rights, interests, and obligations of the United
16 States in and to the Oakes Test Area as constructed and
17 operated under Public Law 99±294 (100 Stat. 418) under
18 such terms and conditions as the Secretary believes would
19 fully protect the public interest.

20 "(b) TERMS AND CONDITIONS.Ð The agreement shall
21 define the terms and conditions of the transfer of the fa-
22 cilities, lands, mineral estate, easements, rights-of-way
23 and water rights including the avoidance of costs that the
24 Federal Government would otherwise incur in the case of
25 a failure to agree under subsection (d).

1 "(c) COMPLIANCE.Ð The action of the Secretary
2 under this section shall comply with all applicable require-
3 ments of Federal, State, and local law.
4 "(d) FAILURE TO AGREE.Ð If an agreement is not
5 reached within the time limit specified in subsection (a),
6 the Secretary shall dispose of the Oakes Test Area facili-
7 ties under the Federal Property and Administrative Serv-
8 ices Act of 1949 (40 U.S.C. 471 et seq.).".
9 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**
10 Section 10 of Public Law 89±108 (100 Stat. 424;
11 106 Stat. 4669, 4739) is amendedÐ
12 (1) in subsection (a)Ð
13 (A) by striking "(a)(1) There are author-
14 ized" and inserting the following:
15 "(a) WATER DISTRIBUTION FEATURES.Ð
16 "(1) IN GENERAL.Ð
17 "(A) MAIN STEM SUPPLY WORKS.Ð There
18 is authorized";
19 (B) in paragraph (1)Ð
20 (i) in the first sentence, by striking
21 "$270,395,000 for carrying out the provi-
22 sions of section 5(a) through 5(c) and sec-
23 tion 8(a)(1) of this Act" and inserting
24 "$164,000,000 to carry out section 5(a)";

1 (ii) by inserting after subparagraph
2 (A) (as designated by clause (i)) the fol-
3 lowing:
4 ``(B) RED RIVER VALLEY WATER SUPPLY
5 PROJECT.Ð There is authorized to be appro-
6 priated to carry out section 8(a)(1)
7 $200,000,000.''; and
8 (iii) by striking ``Such sums'' and in-
9 serting the following:
10 ``(C) AVAILABILITY.Ð Such sums''; and
11 (C) in paragraph (2)Ð
12 (i) by striking ``(2) There is'' and in-
13 serting the following:
14 ``(2) INDIAN IRRIGATION.Ð
15 ``(A) IN GENERAL.Ð There is'';
16 (ii) by striking ``for carrying out sec-
17 tion 5(e) of this Act'' and inserting ``to
18 carry out section 5(e)''; and
19 (iii) by striking ``Such sums'' and in-
20 serting the following:
21 ``(B) AVAILABILITY.Ð Such sums'';
22 (2) in subsection (b)Ð
23 (A) by striking ``(b)(1) There is'' and in-
24 serting the following:

1 ``(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER
2 SUPPLY.Đ
3 ``(1) STATEWIDE.Đ
4 ``(A) INITIAL AMOUNT.Đ There is'';
5 (B) in paragraph (1)Đ
6 (i) by inserting before ``Such sums''
7 the following:
8 ``(B) ADDITIONAL AMOUNT.Đ In addition
9 to the amount under subparagraph (A), there is
10 authorized to be appropriated to carry out sec-
11 tion 7(a) $200,000,000.''; and
12 (ii) by striking ``Such sums'' and in-
13 serting the following:
14 ``(C) AVAILABILITY.Đ Such sums''; and
15 (C) in paragraph (2)Đ
16 (i) by striking ``(2) There are author-
17 ized to be appropriated $61,000,000'' and
18 all that follows through ``Act.'' and insert-
19 ing the following:
20 ``(2) INDIAN MUNICIPAL, RURAL, AND INDUS-
21 TRIAL AND OTHER DELIVERY FEATURES.Đ
22 ``(A) INITIAL AMOUNT.Đ There is author-
23 ized to be appropriatedĐ
24 ``(i) to carry out section 8(a)(1),
25 $40,500,000; and

1 "(ii) to carry out section 7(d),
2 $20,500,000.";
3 (ii) by inserting before "Such sums"
4 the following:
5 "(B) ADDITIONAL AMOUNT.Ð
6 "(i) IN GENERAL.Ð In addition to the
7 amount under subparagraph (A), there is
8 authorized to be appropriated to carry out
9 section 7(d) $200,000,000.
10 "(ii) ALLOCATION.Ð The amount
11 under clause (i) shall be allocated as fol-
12 lows:
13 "(I) $30,000,000 to the Fort
14 Totten Indian Reservation.
15 "(II) $70,000,000 to the Fort
16 Berthold Indian Reservation.
17 "(III) $80,000,000 to the Stand-
18 ing Rock Indian Reservation.
19 "(IV) $20,000,000 to the Turtle
20 Mountain Indian Reservation."; and
21 (iii) by striking "Such sums" and in-
22 serting the following:
23 "(C) AVAILABILITY.Ð Such sums";
24 (3) in subsection (c)Ð

1 (A) by striking ``(c) There is'' and insert-
2 ing the following:
3 ``(c) RESOURCES TRUST AND OTHER PROVISIONS.Ð
4 ``(1) INITIAL AMOUNT.Ð There is''; and
5 (B) by striking the second and third sen-
6 tences and inserting the following:
7 ``(2) ADDITIONAL AMOUNT.Ð In addition to
8 amount under paragraph (1), there are authorized
9 to be appropriatedÐ
10 ``(A) $6,500,000 to carry out recreational
11 projects; and
12 ``(B) an additional $25,000,000 to carry
13 out section 11;
14 to remain available until expended.
15 ``(3) RECREATIONAL PROJECTS.Ð Of the funds
16 authorized under paragraph (2) for recreational
17 projects, up to $1,500,000 may be used to fund a
18 wetland interpretive center in the State of North
19 Dakota.
20 ``(4) OPERATION AND MAINTENANCE.Ð
21 ``(A) IN GENERAL.Ð There are authorized
22 to be appropriated such sums as are necessary
23 for operation and maintenance of the unit (in-
24 cluding the mitigation and enhancement fea-
25 tures).

1 ``(B) AUTHORIZATION LIMITS.Ð Expendi-
2 tures for operation and maintenance of features
3 substantially completed and features con-
4 structed before the date of enactment of the
5 Dakota Water Resources Act of 1999, including
6 funds expended for such purposes since the
7 date of enactment of Public Law 99±294, shall
8 not be counted against the authorization limits
9 in this section.
10 ``(5) MITIGATION AND ENHANCEMENT LAND.Ð
11 On or about the date on which the features author-
12 ized by section 8(a) are operational, a separate ac-
13 count in the Natural Resources Trust authorized by
14 section 11 shall be established for operation and
15 maintenance of the mitigation and enhancement
16 land associated with the unit.''; and
17 (4) by striking subsection (e) and inserting
18 the following:
19 ``(e) INDEXING.Ð The $200,000,000 amount under
20 subsection (b)(1)(B), the $200,000,000 amount under
21 subsection (a)(1)(B), and the funds authorized under sub-
22 section (b)(2) shall be indexed as necessary to allow for
23 ordinary fluctuations of construction costs incurred after
24 the date of enactment of the Dakota Water Resources Act
25 of 1999 as indicated by engineering cost indices applicable

1 for the type of construction involved. All other authorized
2 cost ceilings shall remain unchanged.".

3 **SEC. 11. NATURAL RESOURCES TRUST.**

4 Section 11 of Public Law 89±108 (100 Stat. 424)
5 is amended as follows:

6 (1) By striking subsection (a) and inserting the
7 following:

8 "(a) CONTRIBUTION.Ð

9 "(1) INITIAL AUTHORIZATION.Ð

10 "(A) IN GENERAL.Ð From the sums appro-
11 priated under section 10 for the Garrison Di-
12 version Unit, the Secretary shall make an an-
13 nual Federal contribution to a Natural Re-
14 sources Trust established by non-Federal inter-
15 ests in accordance with subsection (b) and oper-
16 ated in accordance with subsection (c).

17 "(B) AMOUNT.Ð The total amount of Fed-
18 eral contributions under subparagraph (A) shall
19 not exceed $12,000,000.

20 "(2) ADDITIONAL AUTHORIZATION.Ð

21 "(A) IN GENERAL.Ð In addition to the
22 amount authorized in paragraph (1), the Sec-
23 retary shall make annual Federal contributions
24 to the Natural Resources Trust until the
25 amount authorized by section 10(c)(2)(B) is

1 reached, in the manner stated in subparagraph
2 (B).
3 "(B) ANNUAL AMOUNT.Ð The amount of
4 the contribution under subparagraph (A) for
5 each fiscal year shall be the amount that is
6 equal to 5 percent of the total amount that is
7 appropriated for the fiscal year under sub-
8 sections (a)(1)(B) and (b)(1)(B) of section
9 10.".
10 (2) In subsection (b), by striking "Wetlands
11 Trust" and inserting "Natural Resources Trust".
12 (3) In subsection (c)Ð
13 (A) by striking "Wetland Trust" and in-
14 serting "Natural Resources Trust";
15 (B) by striking "are met" and inserting
16 "is met";
17 (C) in paragraph (1), by inserting ", grass-
18 land conservation and riparian areas" after
19 "habitat"; and
20 (D) in paragraph (2), by adding at the end
21 the following:
22 "(C) The power to fund incentives for con-
23 servation practices by landowners.".

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Mr. DOOLITTLE. Today's hearing covers this Act, and it is a project that has provoked thousands of hours of debate over the last several decades. It is the most expensive water project this Subcommittee has considered in the last 5 years.

In the past 2 years, while negotiations have been under way in North Dakota, I have remained neutral concerning the specific pro-

visions of the bill. I have consistently indicated that there were some issues we wanted to see addressed, but that I remained sympathetic to the needs of the people of North Dakota.

Today I am glad that we have such a comprehensive turnout, representing the political leadership of the State, for it gives me an opportunity to address an important issue concerning the future of this legislation.

Over the last few months, the sponsors of this project have spent little time, frankly, working with our Subcommittee to address the issues we have raised. Some individuals interested in the advancement of this legislation have dissuaded witnesses who this Subcommittee has sought to testify concerning the legislation before us, and we have heard from several sources that it is the intent of the advocates of this bill to dismiss the concerns of this Subcommittee and have the project placed on some major end-of-the-session legislative package without separate committee and House action.

Let me just be clear and direct about this. Such an approach would be ill-advised and opposed by this Subcommittee, and I would hope that there are members on both sides of the aisle who would join me in actively opposing such a course of action, should it be undertaken.

I will be including for the record a letter from the Canadian Ambassador to the United States and testimony from the Governor of Minnesota strongly opposing the legislation in its current form. Both indicate opposition to the substance of the legislation, as well as to the lack of inclusion in the process that led to the current draft of the bill.

I would have to say, based on my own experience, that they may have some legitimate concerns. I do not feel that the current witness list represents the true range of opinions concerning this project. For instance, with the understanding that there would be other witnesses here that would address the diversity of views, the National Audubon Society agreed to withhold their testifimony to keep the length of the hearing more manageable. Although they will not present oral testimony, they will submit written testimony and do remain strongly opposed to the legislation.

While there are numerous technical details requiring attention, let me mention three major issues that I believe we must address prior to taking action on this legislation.

One, the financing of the project in light of the traditional funding alternatives for Bureau of Reclamation authorizations must be adjusted. While I believe there are some legitimate concerns about how to handle expenditures for unusual portions of the project which have already been constructed, there are major portions of the proposed project that should be either reimbursable or financed through other mechanisms.

Indeed, we specifically held a hearing on this subject 2 months ago to highlight the need for developing a responsible approach, funding approach to these projects. When we look at the reality of the Federal budget, we have to realize we do not have the money there to simply start another new grant program to fund all the projects requested before this Subcommittee. For all you hear in the news about vast Federal surpluses, the reality is that we have

enough money to maintain economic health and pay down a portion of our national debt.

Two, this bill as currently drafted is so complex and poorly structured that it is nearly incomprehensible. We have been provided with a strike-out-and-add version of the underlying legislation that is to be amended by the bill before us today.

Comparing that version, the bill that is before us today and the testimony of the witnesses, there are major discrepancies. For instance, there are provisions which some witnesses contend are reimbursable that are either clearly not reimbursable or that contain exemption clauses that render them likely to be nonreimbursable.

Three, a tremendous amount of the authorization is not tied to any particular development project. Much of it is simply a preauthorization for the expenditure of hundreds of millions of dollars.

With that, I would like to look forward to hearing the testimony, and I am going to recognize Mr. Dooley for his statement.

Mr. DOOLEY. Thank you, Mr. Chairman. I want to thank you for holding this hearing today to review H.R. 2918, the Dakota Water Resources Act of 1999.

I wish to welcome our witnesses today. It is certainly a measure of the importance of this legislation to the people of North Dakota that we have here today with us both of our Senators, as well as the congressional representative from North Dakota.

I am aware that there are serious water supply and water quality needs in North Dakota, and coming from an area in which water is in chronically short supply, I am very sympathetic to these efforts to address such concerns.

Amending the Garrison Diversion Reformulation Act of 1986 to better address these concerns, as H.R. 2918 does, may well be the most appropriate way to approach the problem. I look forward to today's hearing, during which we will hear more about this particular legislative proposal, and I also look forward to working with the chairman and my colleagues from North Dakota to achieve a longer term solution to the water supply needs of the people of North Dakota.

Mr. DOOLITTLE. Thank you.

The Chair will recognize Mr. Pomeroy, who will introduce our guests to begin.

Mr. POMEROY. Thank you very much, Mr. Chairman. Thank you for holding this hearing, and just by way of format, I would make some brief opening remarks and be joined by North Dakota's Governor, Ed Schafer, and our Senators when they get done voting and return, and then we will have a second panel in addition, with further testimony in support.

Mr. Chairman, just to quickly address a couple of the concerns you have raised, we have believed that I negotiated in the past with you the witnesses to attend today from our part, and we agreed that Garrison Diversion Conservative District would not be attending so we might keep the hearing length short and not be redundant.

It certainly has not been my intention to exclude any of you from any perspective, although, further, I did not view it as my responsibility to put on the panel the project's major detractors. Obviously,

I am for the project. What we have assembled for you in support of the project are the various and diverse component parts of this collaborative effort producing this vital project for North Dakota.

Similarly, we have requested that this hearing be held in July. I certainly, and the chairman has been accommodating, so I'm not saying that to carp, but in no event have I tried in any way to exclude the primacy of this Committee in considering this very important matter to North Dakota.

What is more, I have enjoyed working with your staff, Mr. Faber, who has gone over this legislation line by line, in addition to the minority staff, two of which recently came to North Dakota, Mr. Lanich and Mr. Cramer.

While visiting a farmstead in the southwestern part of the State, they were given a test, three bottles: Which is the Pepsi, which is the tap water, which is the coffee. They could not pass the test. I wonder if you can?

Let me make it short, this is the tap water. That is why this project is so very, very important.

The project, as will be explained, is a consensus plan born initially out of North Dakota's participation in the Pick-Sloan project. Per that project, we were hosts to two reservoirs resulting from dams placed on the Missouri River. A flood the size of Rhode Island visited North Dakota, and has not left. We lost over 500,000 acres of bottom land. In exchange for that, we were promised a water project. The initial version of it was a grand irrigation type project. That was obviously something not concluded, and the plan was reformulated in a 1986 Act.

Now, as we look at it, we have agreed across the political spectrum, rather than look back, let us look forward and evaluate whether this design best meets our needs in the 21st century. It does not. We have advanced this plan, which involves greater consensus than we have ever had on this important water project, including very highly credible representatives of the environmental community; in addition, at a total authorized cost of $500 million below the existing authorization.

The bill before you represents cost-effective, treaty-compliant, and environmentally sound water policy, and brings fair and reasonable closure to the commitment by the Federal Government to the State of North Dakota.

Allow me to introduce North Dakota's Governor, Governor Ed Schafer.

Mr. DOOLITTLE. Governor Schafer.

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

Governor SCHAFER. Thank you, Congressman Pomeroy. Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to be here today to once again testify in support of the Dakota Water Resources Act.

I promised I will be brief. I will try not to duplicate the testimony. But I do have a couple of important points on this legislation and what it means to our State of North Dakota.

This Dakota Water Resources Act unlocks North Dakota's future. It is an indispensable element for water supply, for economic devel-

opment, for agriculture, recreation, tourism, and wildlife enhancements in our State.

Why, I suppose you ask, are we looking for this project? I think we can point to the fact that North Dakota suffers from a lack of an adequate water supply of good quality water for drinking, and in many places we have an insufficient quantity of water to meet the needs of our communities.

I think the solution to this challenge is the delivery of water from the Missouri River throughout the State, particularly to the Red River Valley, which is on the easternmost part of North Dakota. In fact, it encompasses the eastern third of our State.

The drafters of the Act have asked everyone with interest in this legislation in our State to participate in developing an acceptable project for all interests involved. In fact, I find it very interesting that in a bipartisan approach, we have the congressional delegation, the Governor's administration, a unanimous resolution in the legislature on both sides, our wildlife, our environmental interests, and everybody is on board in North Dakota for this project.

In that effort, I would also like to introduce our majority leader of the House of Representatives, Representative John Dorso, he is here with us today, who generated this unanimous resolution from our legislature. John is over here. Thanks for being with us, John.

Mr. DOOLITTLE. We welcome you, Mr. Dorso. You and I have met before on an earlier occasion, at last year's hearing, where you voiced strong support for the project.

Governor SCHAFER. Thank you, Mr. Chairman.

We have tried to engineer this project to meet the needs and to address the concerns that people have had with this project. We have scaled down what was originally a multi-billion dollar federally-funded irrigation project, and that has disappeared into a management program for really the municipal, rural, and industrial water needs of our State.

The new approach emphasizes supplying water to small communities, rural residents, Indian reservations, and cities that are in desperate need of quality, affordable, and reliable water supplies.

This bill enhances the wildlife and natural resources. It requires strict compliance with all environmental laws and the Boundary Waters Treaties Act of 1909 between the United States and Canada. Acting responsible and as good neighbors to the peoples of Canada and Minnesota has always been a priority to the supporters of this legislation.

Mr. Chairman, I appreciate your comments about including witnesses and other interested parties in this process, but I can tell you from my conversations with the ambassador in Canada, my conversations with the premier of Manitoba about this issue, whose province, obviously, would be affected, they have mentioned to me directly that they are unalterably opposed to this program. They are not interested in debate. They are not interested in facts or changes or new technology. This is just opposition, pure and simple. They will not move, as much as we have tried.

I also had a chance to read the testimony and comments of Governor Jesse Ventura. I take exception to the things he said. I know he is a new Governor, and I certainly do not want to get into the wrestling ring with him over this, but really, these are pulled out

of an old file from 10 and 15 years ago. They totally disregard the commitments that have been made in this new legislation. They totally disregard the new technologies of biota transfer with a buried pipeline and the opportunity to treat that water within drinking water standards as it moves across the Continental Divide.

I appreciate the comments, but these are old and totally disregard what is going on today.

The opponents of the legislation really have four major concerns. They say we must guarantee and prove beyond any doubt that harm will not occur to another water supply. Of course, that is impossible. Nobody can guarantee beyond a shadow of a doubt. But what we do guarantee is that we will comply with all regulations, all laws that are established by the Boundary Waters Treaties Act. We have two safeguards in the legislation, the compliance to the 1909 Boundary Waters Treaties Act will be determined prior to construction, and the Secretary of Interior, in consultation with the Secretary of State and the Environmental Protection Agency, must certify compliance before construction of any interbasin transfer system.

I think the second concern is biotic transfer. As I mentioned, this is a big issue, but there has been for more than a decade an ongoing potential impact study going on by the interbasin biotic transfer study program. It is a cooperative program by the Universities of Manitoba and North Dakota. No credible scientific evidence has been found to identify specific foreign biota or any threat to these particular water resources. To be thorough, this Act does address those undocumented concerns by agreeing to deliver this by a buried pipeline of treated water that will result in a 99.99 percent removal of any virus. That is an extraordinary and unprecedented precaution.

Third, some believe this is some kind of a back door approach to divert Missouri River water into another problem area that we have there of Devil's Lake. As you are also aware of that project, Devil's Lake has risen 25 feet in the last 6 years. We are trying to desperately decrease that, not increase it with diverting water in there, I can assure you.

The issues of flood control in an inlet intake, which are some peoples' concerns, are totally separated not only physically but by law.

Fourth, there are some concerns about diversion causing harm to downstream Missouri States. I am not sure how that happens, but the diversion of the Missouri River water to the Red River-Red River Valley for this Act is less than 1 percent of the river flow.

Now that I have outlined quickly here what this Act does not do, let me tell you quickly what it does do. It supplies—the total remaining water needs in our State are about $600 million. That was for more than 520,000 people that are affected in 144 water systems.

This gets us moving in that direction. The water supply and water treatment needs also of the Indian reservations within North Dakota are addressed in this bill with $200 million authorized towards those needs.

Finally, the State of North Dakota stands ready to contribute the non-Federal share for the State MR&I program.

I want to ask you quickly to support this legislation for three reasons. The legislation is a bipartisan effort, and has broad-based support across the State of North Dakota. As I mentioned, the congressional delegation, the Governor's administration, the wildlife and environmental groups, and unanimous action by the legislature in our State deems that we move forward with this legislation.

Congressman Pomeroy mentioned it is economically sound, environmentally proper, and it tends to solve some problems of water issues of high-quality affordable water in areas of our State.

This Act I think is a reasonable solution from the Federal perspective. We have reduced the acres of irrigation. We know that is a problem with you. Although our MR&I needs total more than $600 million, we have agreed to provide $100 million to up front projects and also to reimburse $200 million for the delivery of water to the river.

The people of North Dakota are willing to pay our 50 percent share of identified MR&I needs. The Dakota Water Resources Act will deliver the promises made to our citizens in 1944 to bring a final and reasonable conclusion to this long and often controversial history of the Garrison diversion project.

Finally, let me mention one more issue. I am very proud of the opportunity or the issue that we have put together, the partnership we have put together with the Natural Resources Trust Fund. We have established a great working partnership with the Federal Government and State government on this issue.

We have funded, with our State funds, our portion and share. It has gone to restore wildlife and wetlands areas. I am pleased that this trust fund will also continue in the new legislation.

The Dakota Water Resources Act has laid out a plan for continued consultation. Legitimate concerns should be and will be addressed. No one should be allowed to hold up the conclusion of this project simply because they have outdated philosophies on using surplus Missouri River water, or they have some outdated technology mentality; of meeting legitimate needs of the State of North Dakota.

Mr. Chairman, I have submitted more testimony than that in writing. I appreciate the opportunity to be with you today. We would be glad to answer any questions that you may have.

[The prepared statement of Governor Schafer follows:]

STATEMENT OF EDWARD T. SCHAFER

Mr. Chairinan 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.

Much of the day-to-day living that goes on in North Dakota, Minnesota, Manitoba and Saskatchewan takes place without giving much consideration to borders created by governments. The natural resources that move between the borders are the people's to manage, not only for the well being of any one individual or group, but for the well being of everyone living on the prairie, for the land, water and wildlife itself . . . for today and the future.

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 drafters of the Dakota Water Resources Act realize this responsibility, have asked others to participate in the process of finding an acceptable project for all interests involved and have scaled down what was originally a multi-billion dollar, federally funded irrigation project into a management program for municipal, rural and industrial water needs. The new approach emphasizes supplying water to small communities, rural residents, Indian reservations, and cities that are in desperate need of a quality, affordable and reliable water supply. At the same time, the bill enhances wildlife and natural resources and requires strict compliance with environmental laws and the Boundary Waters Treaty of 1909 between the United States and Canada.

Acting responsibly, as good neighbors to the people and governments of Canada and Minnesota has always been a priority among the sponsors of the Garrison Diversion legislation. While attempting to do so in every way possible, we cannot lose sight of our ultimate purpose ... to deliver on the promise of a dependable water supply system that meets the needs of the people who live and work within the Red River Basin. That being the most-important priority, the very real needs of these people should not allow uncontested veto powers by Minnesota or Canada. We can no longer delay project completion because of philosophical differences or unwarranted criticism.

The water supply needs of the Red River Valley are being evaluated for the best available method to solve the Red River Valley water supply problems. This is a co-operative 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. 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.

The argument opponents have raised is that the Act should be able to guarantee or prove beyond any doubt that harm will not occur to another water supply. That is, of course, impossible. What we can guarantee is that we will comply with all the regulations and laws established by the Boundary Waters Treaty. In fact, the Dakota Water Resources Act requires that compliance with the 1909 Boundary Waters Treaty be determined prior to construction. The Act also requires the Secretary of Interior, in consultation with the Secretary of State and the EPA, to certify compliance before construction of any interbasin conveyance system. This recent change in the DWRA language was made to accommodate Canadian concerns, and adopted by the sponsors of the bill.

The issue of trans-basin biota transfer has plagued the project for years. For more than a decade, these potential trans-basin biota transfer impacts have been studied by the Interbasin Biota Transfer Study Program, a co-operative venture of Universities in Manitoba and North Dakota. The series of studies conducted by teams of scientists from both the United States and Canada have attempted to identify foreign biota and the future environmental impact they might have on Red River Basin water. No credible scientific evidence has been found to identify specific foreign biota or any threat to these particular water resources. Although these conclusions do not totally dismiss the chances that such biota does exist, and that it may be potentially harmful, no specific cause for alarm has been documented.

The sponsors of the Dakota Water Resources Act of 1999 have even gone so far as to address the undocumented concerns by agreeing to treat water delivered by a buried pipeline to the Red River Valley in eastern North Dakota. In fact, treatment levels for this water would equal disinfection standards for drinking water and result in a 99.99% removal of viruses—an extraordinary and unprecedented precaution—especially when you consider the fact that a number of interbasin water diversion projects in the Western United States have been completed without disinfection.

Concerns have also been raised about the state's effort at flood control at Devils Lake, which some suggest is a back door approach to divert Missouri River water

to Devils Lake. The proposed Devils Lake outlet cannot be operated to divert Missouri River water into Devils Lake. The lake has risen 25 feet in the last 6 years and the Federal agencies involved in finding a solution, understand that the goal is to decrease rather than increase the water levels in Devils Lake. These issues of flood control and an inlet are totally separated physically, as well as by law. 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. 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.

Further concerns about diversion causing harm to downstream Missouri states is unfounded. Diversion of Missouri River water to the Red River Valley for the Dakota Water Resources Act is less than 1 percent of the river. If 200 cfs is diverted daily for nine months from the Missouri River into the Red River Valley, only 108-thousand acre-feet of the annual total of 95-million acre-feet of water that flows by Herman, Missouri would be diverted. That's less than 0.2 percent of volume.

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 water supply needs are for more than 520,000 people in 144 water systems including community and rural needs. In preparation for passage of this legislation, the State of North Dakota has established the means for contributing the non-Federal share of the state MR&I program.

The water supply and water treatment needs of the Indian reservations within North Dakota are also addressed in the bill with $200 million authorized towards those needs. The North Dakota citizens who are tribal members, deserve to have their exceptional needs addressed. This legislation includes an MR&I component, that makes great strides towards meeting the needs of our Native American citizens.

The Dakota Water Resources Act has laid out a plan for continued consultation, but the limit needs to be realized. Legitimate concerns should and will be addressed, but no one should be allowed to hold up completion of this project simply because they have an outdated philosophy on using surplus Missouri River water to meet the legitimate needs of the State of North Dakota.

This bill is supported by Republicans as well as Democrats across North Dakota. In 1994 we began a process in the state to bring together all interests to forge an agreement regarding Garrison. We have struggled for years until all interests within the state have reached an agreement that is embodied in this legislation. It is supported by the Democrats and Republicans in the North Dakota Legislature, by the Democrats in our congressional delegation, by the Republican in the Governor's office, and by diverse groups of people ranging from farm organizations to education associations. This legislation is truly a bi-partisan effort at finding agreement on an enormously important piece of legislation that has languished for a decade waiting for completion. It is an economically and environmentally sound plan that attempts to solve some of the water issues and help provide high quality, affordable water to areas of need across the state.

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. 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.

The Dakota Water Resources Act will bring to a reasonable and final conclusion, the long and sometimes controversial history of Garrison. 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 and as

well to the growth of the nation. 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.

Thank you.

Mr. DOOLITTLE. Thank you, Governor.

I will recognize Senator Kent Conrad for his testimony. Welcome.

STATEMENT OF HON. KENT CONRAD, SENATOR, NORTH DAKOTA, U.S. SENATE

Senator CONRAD. Thank you, Mr. Chairman.

If I could just start by saying that I respect the jurisdiction of this Committee, Mr. Chairman, and I don't know what the legislative process, how it will unfold, but I have great respect for the jurisdiction of this Committee.

I have great respect for the chairman of this Committee. We are going to do everything we can to be responsive to the concerns of this Committee. I want to say that up front and very clearly.

Mr. Chairman, this bill, as the Governor describes, enjoys incredibly broad support in the State of North Dakota. This is truly bipartisan. Every water group in North Dakota supports this, every affected city supports this. The major business organizations in our State support it. The North Dakota rural electrics support it. Every water users group support it. So I think this has broad support in the State of North Dakota, including, and I want to emphasize this, the major environmental groups of North Dakota.

The reason we have had such a breakthrough since our last hearing, Mr. Chairman and members of the Committee, is because we have altered this project dramatically. This is not the old Garrison project. This is a new project that is taxpayer-friendly, that is environmentally sensitive, and that makes sense for the water needs of North Dakota.

So I hope we won't look at this project through the lens of the old project, because we have dramatically changed it in negotiations with members on this side, on the Senate side, and the administration. That is what has led the administration to endorse this project.

Mr. Chairman, the need, I think, is really very clear. This is a sample of water from the Leonard Jacobs residence in Reeder, North Dakota. It looks like coffee or iced tea, but I can tell you, it is a lot less drinkable than that. This is a problem we have all over North Dakota.

Mr. Chairman, this chart shows the comparison of the typical water supply for rural North Dakotans, that jar on the right. The jar on the left represents water that is delivered via pipeline: clean, healthy water. That is why we need this project, Mr. Chairman. We need it desperately.

This chart shows a young child bathing in the typical water we see in southwestern North Dakota and northwestern North Dakota. Can you imagine putting your child in that kind of water for a bath? But that happens every night in hundreds and thousands of households across North Dakota. We need your help. We need your help to change that.

Mr. Chairman, members of the Committee, we also need to be able to deliver water to eastern North Dakota, because in the past

we have seen repeatedly that the Red River has become so dry you could walk across it without getting your shoes wet. This is 1910. The Red River was virtually dry then. It happened also in the thirties. We can fairly anticipate it is going to happen again. That is why this project is so important.

Let me just say what this bill contains. It contains $200 million for statewide municipal, rural, and industrial water projects, $200 million for tribal MR&I.

I might say that tribal water supplies in many cases are even worse than what I have shown here. There is $200 million to deliver water to the Red River Valley, $25 million for an expanded natural resources trust, and $6.5 million for recreation projects. This represents, in negotiations with the administration, a $140 million reduction from the legislation as introduced, and it represents a $600 million reduction from the cost of the currently-authorized project. That is why we believe this is taxpayer-friendly.

As I have indicated, we also enjoy the support of the environmental organizations in North Dakota, because we have made it environmentally sensitive.

We have also made this project treaty-compliant. I know some of you have heard from our neighbors to the north. As the Governor has indicated, we have no intention to violate the Boundary Waters Treaty. We intend to comply with it, because we know we can.

Mr. Chairman, members of the Committee, I hope very much that you will work on this legislation, suggest to us how it could be improved, but help us move it forward, because it is needed. It is broadly supported in North Dakota, and I believe it deserves your support.

Thank you, Mr. Chairman, and members of the Committee.

[The prepared statement of Senator Conrad follows:]

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

INTRODUCTION

Mr. Chairman, thank you for providing me the opportunity to testify in strong support of the Dakota Water Resources Act of 1999. I appreciate your willingness to hold this hearing—the second in 2 years on this bill—and hope to be able to demonstrate the significant progress we have made on this legislation in recent months.

I am especially pleased that this bill enjoys incredibly broad support. As you heard last year, and as you will hear today, the bill has the unanimous support of the bipartisan elected leadership of the State of North Dakota. It is supported by North Dakota water users and North Dakota conservation organizations—groups that have historically disagreed on water policy in our state. The bill is supported by the Greater North Dakota Association (our chamber of commerce) and the North Dakota Education Association. Mr. Chairman, this bill enjoys the broadest support of any piece of legislation affecting my state that I have worked on in my two terms in the Senate.

Additionally, we are extremely pleased that the bill is supported by the Administration. After more than a year of discussions, covering more than 60 issues, last spring we reached agreement on this bill. In reaching that agreement, we reduced the cost of the legislation by $140 million, strengthened environmental provisions in the bill, and provided additional assurances to our Canadian neighbors.

The bill before the Committee is not our grand-daddy's Garrison project. The bill enjoys the support of North Dakota and the Administration because it is a fiscally-sound, environmentally-sensitive, and Treaty-compliant plan to complete the Garrison Diversion project. We believe the bill deserves the support of this Committee, and we are ready to work hard with you to garner your support.

THE NEED

On the verge of the 21st century, North Dakota still faces significant water development needs to meet the basic water demands of our citizens and to ensure a bright economic future for our state. North Dakota is a semi-arid state that historically has suffered from insufficient water supplies as well as water quality problems.

These charts show the dramatic need for water development in North Dakota.

This chart shows a sample of the poor quality water directly from the tap of some of our residents. This water sample on the left is well water from a farmstead in southwest North Dakota. It is as dark as weak coffee, but not nearly as fit to drink. The water sample on the right in the chart shows water delivered by the Southwest Pipeline Project, which is clear and clean and fit to drink. Only through the funds provided by the cost-shared Garrison MR&I program could this clean water have become a reality.

I recently attended a "turning on the tap" ceremony in Hettinger, North Dakota sponsored by the Southwest Pipeline project. The Southwest Pipeline project is one of North Dakota's true success stories, bringing more than 900 million gallons of water annually to more than 28,000 homes and businesses across Southwest North Dakota.

The dedication event represented the completion of another phase of the project to bring water to the Hettinger and Reeder areas in Adams County North Dakota. You should have seen the elation in people's faces as clean, clear water flowed from the faucet. For the first time in their lives, people in the area do not need to haul water several times a month and the project means white clothes will come out of the wash white, not grey.

This next chart shows a picture of a baby bathing in dirty water from southwestern North Dakota. It is the same kind of water shown in the first picture, and is as unfit to bathe in as it would be to drink. This is what we need to change in North Dakota.

We also must meet the water needs of the Red River Valley.

The next chart shows Red River nearly dry in Fargo in 1910. While we all remember the flooding of 1997, we must also remember that the Red River has been nearly dry on many occasions. At times you could walk across the river without getting your feet wet. This picture illustrates the times the river has been nearly dry, leaving the communities up and down the Red River Valley without a reliable source of water.

THE BILL

As I said at the beginning of my statement, the Dakota Water Resources Act is not our grand-daddy's Garrison project. It represents a new vision to address the 21st Century water needs of my state. The bill before the Committee today reflects the realistic contemporary water needs of the State, and represents a realistic settlement to the long-standing commitment made to our state when we agreed to host a permanent 500,000-acre flood.

Fundamentally our bill proposes to further reduce irrigation in exchange for additional MR&I development, and also proposes innovative ways to meet the other purposes of the project.

Our bill includes:

- $200 million for statewide MR&I projects;
- $200 million for Tribal MR&I projects;
- $200 million for a Red River Valley Water project;
- $25 million for an expanded Natural Resources Trust;
- $6.5 million for recreation projects;
- Requires the state to pay for existing features at the time and to the extent those features are actually used;
- About 70,000 acres of irrigation, and a prohibition on irrigation development in the Hudson Bay drainage basin;
- Requires compliance with the National Environmental Policy Act and the Boundary Waters Treaty with Canada; and
- Encourages the State to establish a water conservation program using funds from the bill.

The bill will result in a project that will cost about $600 million less than the currently-authorized project would cost the government to fully construct.

THE PROCESS

We have engaged in an unprecedented and cooperative process. The six years of effort have included discussions with interested North Dakotans representing every interest, with the Federal agencies, and with National and North Dakota environ-

mental organizations. In February, 1997, we held a marathon 10 hour negotiating session with environmental interests. That meeting resulted in an agreement on 12 principles that would guide our legislative proposal. The bill before the Committee remains true to the agreement we reached with the conservation organizations more than two years ago, and we are extremely pleased that the North Dakota Wildlife Society and the North Dakota Chapter of the Wildlife Federation support the bill.

The result is a product that has nearly unanimous support of leaders in North Dakota. This bill has the support of the bipartisan elected leadership of North Dakota from every level of government—Federal, state, tribal, and local. It has the support of water interests; business leaders; ND conservation organizations; large and small cities; agriculture; rural electric co-ops; even the ND Education Association.

CONCLUSION

Mr. Chairman, this legislation represents a fiscally-sound, environmentally-sensitive, Treaty-compliant approach to completing the Garrison project. The bill will help meet the contemporary water needs of our state while enhancing our natural resources. I hope this represents the final chapter in the history of this project, and urge the Committee to join us in supporting passage of this bill.

Mr. DOOLITTLE. Thank you. Our next witness will be Senator Byron Dorgan.

STATEMENT OF BYRON L. DORGAN, SENATOR, NORTH DAKOTA, U.S. SENATE

Senator DORGAN. Thank you, Mr. Chairman, very much. I am a member of the authorizing committee in the Senate as well on this issue, and we have just recently voted this bill out of the Senate committee. It is now going to be going to the Senate floor at some point.

We did that because this bill makes good sense. There has been a great deal of work done. A Republican Governor, a Democratic congressional delegation, a bipartisan group of leaders of the State House and the State Senate have all agreed on this project and the changes and the alterations that have been necessary to advance to this piece of legislation.

It is not just officials, however, it is a representative group of North Dakotans, representing a wide range of interests, including environmental groups, who have joined us and work with us. This is almost unprecedented in our State. All of us agree that this represents the best approach, a sound approach to respond to the needs of our State.

I want to talk just for a moment about what this is and what it is not, because that is very important to understand.

First of all, this project is not some historical accident, and it is not the result of some thick slather of pork that someone attached to some bill 40 years ago. It is not that. This project is the second half of a contract that the Federal Government made with the people of the State of North Dakota. That contract says we will have two parts. In both the Federal Government initiated it and signed it and the people of North Dakota agreed to it. The contract was to say, we want to harness the Missouri River, and we want you in North Dakota to have a permanent flood forever the size of the State of Rhode Island, right smack in the middle of your State.

Fellow citizens of North Dakota, the Federal Government said, if you will allow a permanent flood to visit your State forever, we will give you something in return. We pledge to that you by contract will have an opportunity to move the water behind that permanent flood, now called a reservoir, around your State. You will then be

able to address the issue of the Red River running dry and a wide range of other serious water quality problems in North Dakota.

That was the bargain. We did not come hat in hand asking anybody for anything, and never have. The bargain was, take the flood, keep the flood forever, and we promise you we will provide water development benefits as a result.

We got the flood. We invite all of you to come and see it. There is good fishing, good recreation. There are some benefits to it, but nonetheless, it is a permanent flood in the middle of our State. Moreover, we have not yet received the full flower of develpoment benefits promised us by the Federal Government to move this water around our State and have the other capabilities that are necessary for our future.

Our State, of all the western reclamation States, is the one that has been left behind. We come to you today with a final revision of this project, saying that this is what is necessary for the Federal Government to do to keep its bargain with the people of North Dakota.

Senator Conrad indicated this proposal reduces the authorized project by over $600 million. These changes that are proposed will reaffirm the decision-making of the Secretary of Interior on key issues. Some were worried that the decision-making on whether the Red River Valley needs, for example, would exclusively go to North Dakota. That will not be the case. This bill addresses forthrightly and completely the concerns of Canada. Those who say different are wrong. This bill addresses those Canadian concerns completely.

Further, the bill deauthorizes the Lonetree feature to which Canada had previously objected and on which it demanded consultation. This deauthorizes it and converts it into a wildlife enhancement area.

This bill, fourth, strengthens environmental protection, and does so by incorporating specific recommendations of the North Dakota wildlife and conservation groups. This bill creates a project that does not destroy wetlands, it preserves wetlands. In short, this bill is very important for the future of our State.

If we speak about this with some passion and some impatience, I expect you will understand why. Fifty years, 30 years, 20 years, at some point the Federal Government must keep its bargain with the people of North Dakota. It can do so by passing a piece of legislation that has broad bipartisan support, makes good common sense, reduces by over $1 billion according to Administration testimony the authorized project that now exists, and enhances the ecomomy and assists the people of our region of America in a manner that was envisioned 50 years ago when the dual promise for flood control and other development was made.

[The prepared statement of Senator Dorgan follows:]

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

Mr. CHAIRMAN:

I welcome the opportunity to testify today in support of the Dakota Water Resources Act (H.R. 2918) introduced by Representative Pomeroy. Senator Conrad and I have introduced S. 623 which, as amended, is identical to the House bill.

Let me say a few words about the Dakota Water Resources Act. Senator Conrad, Rep. Pomeroy, and I have worked with North Dakota Governor Edward Schafer and the statewide elected leaders of North Dakota to develop a bipartisan consensus in

support of this bill. The bill is widely supported by tribal and local governments as well as North Dakota wildlife, water user, and business groups.

With amendments adopted in the Senate Energy Committee mark-up last week, it is now supported by the Clinton Administration as well. So we have achieved some very strong support for this critical legislation.

This is a water development bill that I am proud to sponsor. It reduces Federal costs, meets environmental and international obligations, and very importantly, fulfills the Federal promise to address North Dakota's contemporary water needs. This bill meets the Federal obligation to compensate North Dakota for farm lands lost to a Federal flood control project. It cannot be judged as just another rural water bill. It is much more.

The Federal Commitment to North Dakota

Over fifty years ago, the Federal Government began building a series of mainstream dams on the Missouri River to provide flood protection, dependable river navigation, and inexpensive hydro power—primarily for the benefit of states in the Lower Missouri Basin. These problems became acute when flooding during WWII disrupted the transport of war supplies and spawned disaster relief needs in a budget already overstretched.

When North Dakota allowed the Garrison Dam and Reservoir to be built in the state (along with the added impact in North Dakota created by the Oahe Reservoir in South Dakota), it agreed to host permanent floods that inundated 500,000 acres of prime farm land and the Indian communities on two reservations. The state and Tribes agreed to this arrangement in exchange for a promise that the Federal Government would replace the loss of these economic and social assets with a major water development project, the Garrison Diversion Unit.

But 50 years later, the project is less than half done.

We were promised a major water and irrigation project. It was designed to help meet the agricultural needs of a semi-arid state that gets only 15-17 inches of rainfall per year. We originally expected the funding to provide for the irrigation of over a million acres of land, most of it in areas much less productive than the land lost to the Garrison Reservoir. The Federal Government eventually started a scaled-down version of the project, with 250,000 acres of irrigation. In response to criticisms that the project was too costly and too environmentally disruptive, a Federal commission proposed a major revision in 1984 and made recommendations on how to meet North Dakota's contemporary water needs.

In 1986, I renegotiated the project with the Reagan Administration, the then-House Interior Committee, and national environmental groups. These talks resulted in the Garrison Diversion Reformulation Act of 1986. The law implemented the Garrison Commission's findings and recommendations and included a 130,000 acre irrigation project for the state and Tribes, the promise of Missouri River water to augment water supplies in the Red River Valley, an installment on municipal, rural, and industrial (MR&I) water for communities across the state, initial water systems for the Standing Rock, Fort Berthold, and Ft. Totten Indian reservations and a range of activities to enhance wildlife and habitat.

The Completion of the Promised Project

The Dakota Water Resources Act would scale back this project even more. It reduces federally authorized irrigation from 130,000 to 70,000 acres and eliminates funding for irrigation development. This will reduce project costs and target limited funds in the bill to high priority irrigation and MR&I water development.

The bill does provide $630 million in new resources to complete the major MR&I delivery systems for the four Indian tribes and the state's water supply network, and includes a process for choosing the best way to address the Red River Valley's water needs. It also makes wildlife conservation a project purpose, expands the Wetlands Trust into a more robust Natural Resources Trust, and funds a few priority recreation projects.

The State has worked with the Bureau of Reclamation to resolve several concerns about the bill in a series of negotiations and discussions over the past months. The revisions reduce costs, meet tough environmental standards, strengthen compliance with an international border agreement, and reaffirm the role of the Secretary of the Interior in decision-making.

Mr. Chairman, permit me to outline the modifications made over several months:

1. Retain the cost share of 25 percent for MR&I projects, along with a credit for cost share contributions exceeding that amount. This, in place of a 15 percent cost share.

2. Reimburse the Federal Government for the share of the capacity of the main stem delivery features which are used by the state. This, instead of writing off these features.

3. Index MR&I and Red River features only from the date of enactment, not since 1986.

4. Expressly bar any irrigation in the Hudson Bay Basin.

5. Give the Secretary of the Interior the authority to select the Red River Valley Water Supply feature and determine the feasibility of any newly authorized irrigation areas in the scaled-back package.

6. Extend the Environmental Impact Studies period.

7. Require that, prior to construction of any Red River Valley delivery features, the Secretary of the Interior, in consultation with the Secretary of State, and the EPA Administrator, must determine that the project complies with the Boundary Waters Treaty.

8. Reduce the project costs by $140 million by cutting $100 million in MR&I and $40 million for the Four Bears Bridge.

9. Set cost-sharing on operations and maintenance.

Revision that Pass Muster

Taken together with prior provisions, these changes achieve four purposes. First, they reduce total project costs by over $500 million—by limiting indexing; by defining specific state responsibility for repayment of existing features instead of blanket debt forgiveness; by de-authorizing such major irrigation features as the Lonetree Dam and Reservoir, James River Feeder Canal, and Sykeston Canal; and by retaining current law with respect to MR&I cost-sharing and repayment for Red River supply features. The state will also contribute about $435 million through repayments and cost-sharing.

Second, the changes affirm the decision-making authority of the Secretary of the Interior on key issues. The Secretary would consult with the state of North Dakota on the plan to meet the water needs of the Red River Valley but make the final selection of the plan that works best and certifies compliance with the Boundary Waters Treaty. The Secretary also negotiates cooperative agreements with the state on other aspects of the project. These arrangements protect the Federal interest while assuring that North Dakota is a partner in a project so closely linked to its destiny.

Third, the bill forthrightly addresses concerns of Canada. The U.S. and Canada have a mutual responsibility to abide by the Boundary Waters Treaty and other environmental conventions. The Dakota Water Resources Act states in the purpose that the United States must comply strictly with the Treaty. It further bars any irrigation in the Hudson Bay drainage with water diverted from the Missouri River, thus curtailing biota transfer between basins. Again, the Secretary of the Interior would choose the Red River Valley water supply plan, but if that choice entails diversion of Missouri River water, then it must be fully treated with state-of-the-art purification and screening to ensure treaty compliance.

Further, the bill de-authorizes the Lonetree features to which Canada previously objected and on which it demanded consultations. However, Canada will have a robust opportunity to comment and consult on the project as the State Department reviews possible Red River Valley projects and Environmental Impact Statements are prepared. Since Canada supported the 1986 Garrison Reformulation Act, it boggles my mind to see how it might oppose a bill that dramatically strengthens the safeguards for our northern neighbor.

Fourth, the revised bill strengthens environmental protection and does so by incorporating the specific recommendations of North Dakota wildlife and conservation groups. It lengthens the periods for completing the Environmental Impact Statements. It also protects the Sheyenne Lake National Wildlife Refuge. Moreover, it preserves the role of the Secretary of the Interior on compliance matters and drops the provision that called for a study of bank stabilization on the Missouri River.

This bill is environmentally sound. It does not destroy wetlands, it preserves them. It preserves grasslands and riparian habitat, too. It was not dreamed up by a water development group. It was drafted with the input of tribal and community leaders, local and national environmental groups, the bipartisan leadership of the state, and the Bureau of Reclamation and Office of Management and Budget. It reflects a balanced approach to water resource development that applies the principles of conservation while offering the hope of economic development.

Mr. Chairman, I thank you for the opportunity to testify and I would be glad to answer any questions.

Mr. DOOLITTLE. Thank you. Mr. Pomeroy, you are recognized to close.

Mr. POMEROY. Mr. Chairman, with your leave I will go at the end of the next panel, with about 2 minutes of closing.

Mr. DOOLITTLE. Is that what you would like to do?

Mr. POMEROY. Yes, I would.

Mr. DOOLITTLE. Okay. Do members have questions of our distinguished witnesses?

We thank you for coming. Again, I have never seen a State that has this high a level of political representation for a project, so for the second time in about a year, you have manifested that focus. It is impressive, and we thank you for coming to share your views with us.

Senator CONRAD. We want to thank the chairman and thank the members of your Committee for your attention to this matter. We very much appreciate it.

Mr. DOOLITTLE. Thank you.

Mr. VENTO. Mr. Chairman, I appreciate the opportunity to sit in the hearing. I have an opening statement and I wanted to make it part of the record.

Obviously, we have, as was stated, the Governor submitted his statement. I appreciate him putting that in the record. I would observe that we don't have a full complement of witnesses, and I am pleased to hear that you are going to accept and expect statements for the record from others that are interested.

My major issue and questions that we have to be resolved, and I don't know that I will be able to stay throughout the course of the hearing, as I have a conference on the banking bill at 3, but I will try to follow this and work with the sponsors and with the Subcommittee as they move forward on this, on the deliberation of this, because we are interested, obviously, in Minnesota beyond just the statements from the Governor, which, as I agree, they are dealing in some cases with questions that have been answered in this legislation, but it has been a moving target for some time.

So I will submit, with your permission, Mr. Chairman, this, and thank you for accommodating my participation in today's hearing.

Mr. DOOLITTLE. Thank you. We are pleased to have you here. Without objection, your statements will be made part of the record.

[The prepared statement of Mr. Vento follows:]

STATEMENT OF HON. BRUCE VENTO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Thank you Chairman Doolittle and Ranking Member Dooley for permitting me to sit with the Committee during part of this hearing. The Garrison Diversion Project has been of great concern to the state of Minnesota for many years. I appreciate the opportunity to express some thoughts on this matter and hope that Members of this Committee will take these concerns into consideration. The Garrison Diversion Project has been in development for over forty years. To say the least, this is a complicated matter that stands to affect a great many people, various states, and even our neighbors to the north, Canada. I would also like to note that today's witness list does not appear to represent a full cross section of all opinions regarding this project. I have heard several concerns regarding this project expressed to me by the Canadian Embassy and national environmental and taxpayer groups. I hope that at a later date, we may be able to hear their concerns, so we may gain a better understanding of this project or at least, as the chairman has stated, that they will submit statements for the record.

I first became better aware of the Garrison Diversion Project during its reauthorization in 1985. The net result of 1985 legislation yielded the Garrison Diversion Reformulation Act of 1986. The project, which originally was agricultural in nature and was designed to provide a statewide network of irrigation ditches to North Dakota's farmers, metamorphosed into a project designed to provide clean, safe and reliable drinking water to the state's residents. The legislation which comes before us today has gone a step further, and virtually eliminates all irrigation plans. It now focuses almost entirely on supplying potable water to the residents of North Dakota.

Because of North Dakota's lithology, its residents have some of the poorest quality water in the nation. In many cases, their water supply must flow through lignite coal veins. The end result is poor quality water that is unacceptable for the citizens of North Dakota to drink. The health and welfare of our nation's citizens should always come first and I am glad to see that North Dakota's delegation has been amenable to changing the nature of their project to one that focuses solely on safe drinking water.

It is my understanding that this project will have funds distributed to the town of Fargo, to various communities within the state, and to the State's four Indian Reservations for the development and construction of safe drinking water supplies. My reason for concem with regard to this project is the ecological factor associated with connecting the town of Fargo and other communities which lie in the Hudson River Basin to a water supply system that pulls its water from the Missouri Basin. In essence, this legislation will divert water from Lake Sakakawea which is fed by the Missouri River, through a series of pipelines and canals to the Sheyenne River. The Sheyenne River in turn empties into the Red River which North Dakota and Minnesota share as a border.

The interbasin transfer of water raises a serious question as to the water quality of the Red River and to the biota that may be transferred. The legislation currently requires North Dakota to "consult" with the Secretaries of the Interior and State and with the Administrator of the Environmental Protection Agency before any interbasin water transfer occurs. I am concerned that the legislation requires North Dakota to consult only with the appropriate executive agencies. I understand that language may be offered to strengthen the consultation requirement to one that requires their approval. Although this certainly helps to address the environmental issues associated with interbasin transfers of water, I believe more needs to be done.

Specifically, I am concerned that inadequate consideration has been given to the threat of introducing exotic species into the Hudson Bay watershed and that the interbasin transfer of water may adversely affect the water quality of the Red River. In a recent issue of *The Economist*, I was surprised to learn that managing invasive species in North America will collectively cost $124 billion. This policy risks the chance of increasing this dollar figure. I find it puzzling for Congress to mandate treatment before identification of what is being treated.

The Red River currently boasts one the nation's best catfish fisheries. The use of protective screens and aeration, for example, certainly will not provide foolproof safeguards against water contamination by microbes. What happens if transferring Missouri River water to the Red River introduces a whirling disease-like microbe that could decimate the Red River's catfish population?

The eight states and one province that surround the Great Lakes have a compact that provides prior notice and consultation for transfers of water out of the basin. The governors of each state, recognizing the importance of a healthy lake system, require unanimous approval of all parties before any water may be removed. Although no water is being taken out of the Great Lakes watershed, it is important that North Dakota consult with those states, or at least, Minnesota because this project will inevitably add foreign water to a watershed that empties into the Great Lakes.

There is also the issue of water quality. Although the Garrison Diversion rroject does not include the construction of a Devil's Lake inlet or outlet, the State of Minnesota is still concerned that water may eventually flow out of it and into the Red River. The Devil's Lake is a cyclical body of water that self regulates through periods of natural recharge and evaporation. Because of its evaporative nature, the water is saline. If this water enters the Red River, it could disrupt the quality of the river's water.

The Garrison Diversion Project has long been a debated activity and project. As the Committee proceeds in its consideration of the Garrison project, I ask that it consider all of the issues surrounding it. The climate in North Dakota and in the western part of Minnesota can be harsh to both the people that live there and its fauna and flora. It is important for man to understand the confines in which he lives. In modern times of sensitivity to man's effect on the environment, we should not allow two watersheds that have been geologically unconnected for millennia to

become connected before we identify all possible impacts that may occur. I hope that North Dakota and Minnesota may work cooperatively in the future on this matter. It is important that we provide a safe supply of potable water to the people of North Dakota, but in doing so, we must address the environmental concerns that will result from the construction of this project.

Mr. DOOLITTLE. I ask unanimous consent that Mr. Pomeroy be permitted to join us here on our panel.

Without objection, so ordered. Please come up, if you would like, or you can remain there.

Mr. POMEROY. I think I will sit this second panel down here, if you don't mind, because I will wrap up following this, as we have gone through our witnesses.

Then, again, with your leave, and I appreciate it, I will come on up and sit with you all.

Mr. DOOLITTLE. Let me invite the members of this panel to come forward. We have four, I believe.

If you gentlemen would remain standing and raise your right hands.

[Witnesses sworn.]

Mr. DOOLITTLE. Let the record show each answered in the affirmative. We welcome you, gentlemen. We try to live within the 5-minute rule here. There is a timer down there that gives you an indication. We won't cut anybody off in mid-sentence, but try to use it as a guide.

With that, we will welcome our Commissioner of Reclamation, Eluid Martinez. Commissioner.

STATEMENT OF HON. ELUID MARTINEZ, COMMISSIONER, U.S. BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Mr. MARTINEZ. Good afternoon. I was going to ask which one is the Pepsi so I could take a drink out of it.

Mr. Chairman and members of the Subcommittee, I am pleased to provide the Administration's testimony on the Dakota Water Resources Act of 1999. My written statement has been submitted for the hearing record, and if appropriate, I will summarize that statement.

H.R. 2918 would alter the Garrison unit of the Pick-Sloan Basin program as currently authorized to increase the funding authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies.

If I may, I will deviate a little from my prepared statement and try to set this in some context for the Committee. In the figures I have, they do not necessarily track with some of the testimony, but at least here is the information I have.

The reformulation of this project in '86 by Congress set in place the construction of a project that, if completed, would require Federal expenditures in the amount of $2.4 billion. The Bureau of Reclamation has requested in this budget between $27 and $30 million each year to move along the lines of constructing this project as currently authorized.

The reformulation today that is being requested, based on figures I have, would bring the cost down to $1.4 billion. So we have almost $1 billion less that is being requested to complete the project

that is being contemplated versus completing the project authorized in 1986.

Out of the $1.4 billion that is being requested to complete the project, as is being presented to you today, $613 million has already been spent to date. So what remains is an $800 million future commitment.

Now, what this bill really requests is an increase of $600 million to fund municipal, rural, and industrial water systems in the State of North Dakota. Out of that $600 million, $200 million is to fund Indian projects, with no reimbursement to the Federal Government; $200 million to be used to fund municipal and rural and industrial water systems in the Red River Valley, if the studies indicate that those projects are both necessary and feasible.

If those $200 million are used, they will be repaid to the Federal Government by the State of North Dakota 100 percent with interest. The remaining $200 million is an increase to the State of North Dakota in terms of a grant by the Federal Government to match the 75 percent Federal share to 25 percent State share for MR&I projects.

The reason I go into this is I know your concern as to how these projects get funded. There is $200 million grant at 75 percent, $200 million to be repaid back with interest, and $200 million to go to the tribes under our trust responsibility, nonrepayment.

What else would this bill do? It requires that a study be done of water needs in the Red River Valley to determine, first of all, if there is a need, and if these projects are justifiable. It also deauthorizes the project features associated with almost 75,000 acres of non-Indian irrigation that will be deauthorized by this project, and it increases by $25 million the amount of money to be put into a trust fund to address natural resources and fish and wildlife issues.

As I understand, the '86 Act set up a wetland trust fund to address wetlands, and required 10 percent of the money in that trust fund to be matched by the State. This bill increases it by $25 million, and expands the scope of issues that can be addressed by the fund. In other words, the old fund was only for wetlands. This is for wildlife restoration and so forth.

So in a summary, this is what this legislation does. This will contain concerns with respect to certain issues.

The Administration has been working with the project sponsors and the State of North Dakota over the last couple of years to come to closure to the point where we now are of the opinion that the administration supports this legislation, even though we continue to make minor adjustments and continue to have a dialogue with the project sponsors.

The remaining areas of concern are addressed in that portion of my written testimony which addresses outstanding concerns.

Mr. Chairman, that just generally summarizes my testimony. I will be glad to answer any questions you might have.

[The prepared statement of Mr. Martinez follows:]

STATEMENT OF ELUID MARTINEZ

My name is Eluid Martinez. I am Commissioner of the U.S. Bureau of Reclamation. I am pleased to provide the Administration's testimony on H.R. 2918, the Dakota Water Resources Act of 1999.

Mr. Chairman, H.R. 2918 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 tribal, 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 and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

First, I would like to express my appreciation to the North Dakota delegation for their continued willingness to work with the Bureau of Reclamation and the Administration on these important matters. In the past several years, a great deal of progress has been made on a number of longstanding and extremely difficult issues. The delegation, as well as the North Dakota Governor's office, State legislative leaders, the State Engineer, the Conservancy District and others have worked hard along with the Administration, Reclamation and other stakeholders to find solutions.

Since the bill was introduced, the Administration has had many hours of discussions with the North Dakota delegation working to address the significant issues that are associated with this legislation. We believe we have reached agreement on nearly all of these issues and we appreciate 4the willingness of Mr. Pomeroy and the delegation to include them in this legislation. The Administration looks forward to supporting this legislation assuming we can resolve the very few remaining issues currently under discussion.

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, Public Law 98-108 authorized construction of 250,000 acres as the initial stage of the project.

Over the ensuing 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, Public Law. 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 (Public Law 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 and maintenance (O&M) 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 principal 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 Ad-

ministrations 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 1998, the delegation introduced a revised and reformulated Dakota Water Resources Act that altered the Garrison Diversion Unit of the Pick Sloan Missouri Basin Program as authorized in 1986 to increase the funding authorization levels for State and Indian tribal, 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 and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

In summary, Mr. Chairman, the Pick Sloan Missouri Basin Program, of which the Garrison Diversion Unit is an integral part, 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 percent) of the planned 5.3 million acres having been developed.

Issues Where We Have Reached Agreement

Since H.R. 1137 was introduced in March 1999, the Administration and the delegation have met many times and have made significant progress in resolving the Administration's serious concerns about the proposal. The following describes the modification that were made in H.R. 2918 to resolve outstanding issues mentioned in past Administration testimony on the Dakota Water Resources Act:

- *MR&I Facilily Funding:* The Administration recognizes that additional need exists for good quality water for domestic and other purposes in a large portion of the State. The Administration supports the bill's proposed $200 million authorization of MR&I funding for Indian communities, and the proposed $200 million loan at the project's original authorization interest rate for construction of facilities in the Red River Valley. In addition, the Administration supports extending the current grant authorization to address other State-wide MR&I needs by an additional $200 million, a reduction of $100,000,000 from the previous proposal, with a 25 percent local cost-sharing.
- This combination of authorizations would provide a total of $600 million in new Federal funding authority to address priority needs within the State for quality water in a way that addresses continuing Federal budget constraints. We also believe it is important that this package of programs includes repayment of funding provided for Red River Valley facilities. This repayment reflects the Administration's long-standing policy that in the case of non-Indian rural water supply system development, non-Federal interests should repay 100 percent of allocated project construction costs with interest.
- *Operation and Maintenance:* Consistent with long-standing cost-allocation procedures, the State would pay: (1) a pro-rata share of OM&R on existing principal supply works, including associated mitigation, based on a percentage of capacity used; (2) 100 percent of OM&R on all new facilities with the exception of facilities required to meet treaty obligations or to comply with Reclamation law; and (3) all energy costs with the same exceptions.
- *Irrigation Development:* The development of 28,000 acres of undesignated irrigation "not located in the Hudson's Bay, Devils Lake or James River drainage basins" would be required to meet an economic feasibility test with respect to

national economic development benefitsz—thereby holding this project to the same standard as other Federal projects.

• *International Treaty Compliance:* Before any construction is undertaken on any part of the system capable of moving water into the Hudson Bay basin, the Secretary of the Interior, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate steps have been taken to meet requirements of the U.S.-Canada Boundary Waters Treaty. This will ensure that the United States' obligation under the Boundary Waters Treaty is carried out. However, the Administration would like the adopted technical changes that we have submitted to make the bill more consistent with treaty obligations.

• *Four Bears Bridge:* Reconstruction of Four Bears Bridge would not be accomplished through the Bureau of Reclamation.

• *Red River Valley Water Needs Assessment Studies:* Completion of a report by the Secretary of the Interior and the State of North Dakota on the comprehensive water quality and quantity needs of the Red River Valley and options for meeting those needs, including delivery of Missouri River water to the Red River Valley, would include consultations with the Environmental Protection Agency, the U.S. Department of State, the U.S. Army Corps of Engineers, and other interested and affected entities, including the states of South Dakota, Iowa, Missouri, Minnesota, and the appropriate Federally recognized Indian tribes.

• *Status of MR&I Grant Funds:* All MR&I grant funds, including accrued interest, would be managed as "Federal" for the purposes of compliance with Federal laws such as NEPA and the National Historic Preservation Act.

• *Completion of the Principal Supply Works:* Completing and maintaining the principal supply works identified in the 1984 Garrison Diversion Unit Commission Final Report would not be a requirement of law, but would be one of the alternatives to be reviewed to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs.

• *Natural Resources Trust:* There would be no linkage between contributions to the Trust and the Red River Valley Water Supply Project.

Outstanding Concerns:

With respect to the Natural Resources Trust, however, the Administration remains concerned about the proposed elimination of the state and local contribution to the Trust that was established by the 1986 Act. This would give the State no financial stake in the Trust Fund and would reduce our efforts to make this into a partnership.

Furthermore, in addition to the technical changes for international treaty compliance, there are technical amendments requested by the Treasury Department relating to calculation of the interest rates for capital costs and relating to oversight of the Natural Resources Trust which we request be included in H.R. 2918.

We also note that H.R. 2918, as currently drafted, may affect revenues and therefore, may effect the Pay-As-You Go provisions of the Omnibus Budget Reconciliation Act of 1980.

Mr. Chairman, I would like to reiterate my appreciation to the North Dakota delegation and others for working with the Administration to address the significant issues that are associated with this legislation. A great deal of hard work has taken place and significant progress has been made. I would like to continue that effort to work with the project sponsors and supporters as well as the opponents to try to find a solution to what has become a long standing and difficult issue.

That concludes my statement, I would be happy to answer any questions.

Mr. DOOLITTLE. Thank you.

Our next witness is Mr. Tex Hall. Mr. Hall is Chairman of Three Affiliated Tribes, the Fort Berthold Indian Reservation.

Mr. Hall.

STATEMENT OF TEX HALL

Mr. HALL. Thank you, Chairman Doolittle and members of the Subcommittee, and Congressman Pomeroy from our State of North Dakota. I really appreciate being given the opportunity to present testimony on behalf of the Dakota Water Resources Act, H.R. 2918.

Just briefly, Mr. Chairman and members of the Subcommittee, my tribe is home of the Mandan, Hidatsa, and Arikara tribes. We are known for the homeland of Sakakawea. Our tribe wintered Lewis and Clark in 1804 when they came up the river. She served as a young Indian guide to the expedition, and without her assistance, it would not have been successful for the route to the Pacific Northwest.

The reason I say those things is that the two most probably devastating acts to my people were the smallpox epidemic shortly after that, with the steamboats coming in after Sakakawea helped lead the way to the trade routes in 1837, which almost decimated the thousands of Mandans to only 400.

Then the second most devastating act was the flooding of our homelands. As our Governor and members of our congressional delegation had mentioned, it was over 500,000 acres that was lost. We lost 156,000 acres. Our tribal business council at that time went on resolution to not support the flooding of our homeland because it was our capital of Elba Woods.

When the government did eventually say, you have no choice, we are going to flood you to make way for this dam, they made many promises to us. One was a new hospital, a new school, and a rural water system. We don't have any of those things yet today, and it has been since 1944, members of the Subcommittee.

We do have some efforts that are being made with our economic development packages, but I can speak for my tribe, and I cannot speak for all of the other tribes of North Dakota, but I was with the other tribes yesterday, and they have all endorsed the Dakota Water Resources Act unanimously for the $200 million for the Indian tribes for the four reservations in North Dakota. They have unanimously supported that.

First, I want to say clearly, on behalf of the Three Affiliated Tribes, we strongly support H.R. 2918 and urge its immediate passage. We also are understanding of some of the concerns, Mr. Chairman, that you had raised earlier. But we feel that those concerns I think can be worked out. Our tribe and the other tribes of North Dakota should not be held up.

They mentioned one of those bottles of water earlier. As a matter of fact, as the chairman of my tribe and probably one of the more fortunate members of my tribe economically, I took a shower in one of those colored bottles of water this morning, so I, too, have to haul my water, as well as many of the elderly people and many of the patients that are on dialysis.

We literally, in every community, and we have six communities on Fort Berthold, and we literally have to have pickup trucks and small ton trucks, so we put cistern tanks in a lot of those homes because the water was simply like that. Some of our well water, we have high sodium, which leads to hypertension and heart attacks. We also have—which is double the standard, the regular standards on Fort Berthold. We are also 12 times higher than the national average for diabetes.

We feel that these things did not occur before the flood, so we are still living with this devastating piece of legislation that flooded our capital and our homelands.

Mr. Chairman, we see opportunity here today, and we testified on the Senate side earlier this year. We are very pleased that it is in this Committee, in this Subcommittee here today. Again, I know there are particular problems that have been mentioned, but I feel it has been a bipartisan effort within our State of North Dakota, and as well as there is unanimous support of our tribe. I just came from home this morning and all the people and the membership of the Fort Berthold are all urging the passage of this Act.

Finally, the new millenium is coming upon us. I just feel that members of my Nation should not have to drink and bathe daily in water such as this. I think it is the Federal Government's commitment, that when they flooded us, they said, we promise we will rebuild and replace what we took from you.

My tribe made the ultimate sacrifice for the 156,000 acres to be flooded. We hope and urge the support of the Subcommittee for the immediate passage of the Dakota Water Resources Act. We thank you for the testimony today. I stand to answer any questions that you may have.

[The perpared statement of Mr. Hall follows:]

STATEMENT OF TEX HALL, CHAIRMAN, THREE AFFILIATED TRIBES

Chairman Doolittle, Members of the Subcommittee:

Thank you for the opportunity to present testimony today concerning H.R. 2918, the "Dakota Water Resources Act of 1999." The Three Affiliated Tribes of the Fort Berthold Reservation are the Mandan, Hidatsa and Arikara Nations. We also testified last year in support of a similar bill presented to the 105th Congress, and our testimony today is not very different from the information we provided earlier. However, our needs for the water systems to be authorized by H.R. 2918 only become greater as our population continues to increase.

We strongly support H.R. 2918 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 again want to thank our Congressional delegation, Governor, Ed Schafer, and the many others who have worked on this legislation 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, along with a remarkable young Indian woman, Sakakawea, 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 botton-lands along the river. Few of our members were ever on welfare. Our reservation, which straddles the Missouri River, has been approximately 1,500 square miles in size since the late 1880's, although since 1910 almost one-half of the reservation has been owned by non-Indians and more than 15 percent of the area is now covered by the water of the Lake Sakakawea reservoir behind Garrison Dam.

Despite our protests, our Council resolutions, our delegations to Washington and our tears, our way of life and the lives of our Tribal members 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 Lake Sakakawea behind the dam, and the land taken from us represented 69 percent of the land needed for the reservoir. By October 1, 1952, most of our Tribal members were forced from their homes because of the "great flood," as many of our elders

call the formation of the reservoir. 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 descriptions of what we would lose if the dam was built. Among other things, we were promised 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.

Fifty years later that rural water system is still only partly constructed. In just the past four 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, or "UTAC"), which issued its final report on May 23, 1986. A copy of this Committee Report, which we commonly refer to as the "JTAC" report has been provided to our Congressional delegation in the past and to this Committee when we have testified previously, and I request 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. 2918 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, funds which have "owed some of our MRI water system needs to be satisfied. A summary of our current water needs is included in this written testimony.

Subcommittee on Coast Guard and Navigation

Principal Benefits of H.R. 2918 for the Three Affiliated Tribes and northwest North Dakota

Now, in 1999, 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 and continued authorization for approximately 15,000 acres of irrigation projects which were meant to replace lost agricultural lands. These are discussed in more detail below.

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

H.R. 2918 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 governments, 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 10 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 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 fines," which applies 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. We would ask that a copy of the article be made a part of the official record of this hearing.

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 Enterprises, the Northrup Grumman plant in New Town and other Tribal enterprises we are still developing. 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 participation rates within a specified timetable over several years. This means that economic development must be of the highest 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 has just been 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. While both facilities have been recently upgraded, the water distribution system needs to be ex-

panded for economic expansion to take place. 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 and a recently completed water treatment plant, but the distribution system needs expansion.

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 which is 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 we are no longer receiving MR&I funds from the previous authorization in the 1986 Garrison Reformulation Act. 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, thus benefiting everyone in the area. These are just a few of the principal elements of the MRI projects we were promised more than 45 years ago.

2. Irrigation:

In addition, I want to urge this Committee to retain the authorization for irrigation on the Fort Berthold reservation contained in H.R. 2918. 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 continue to 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. 2918: "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.

We also want to note that this bill is now substantially different than it was when originally introduced in the last Congress. Money for the replacement of Four Bears Bridge across the Missouri River, and within the Fort Berthold Reservation, has been deleted, $43 million, and other methods of financing the Four Bears Bridge, which is badly in need of replacement and which is the only bridge for a distance of 200 miles along the river, are being considered outside of this piece of legislation. The Four Bears Bridge, inadequate when constructed is just another example of infrastructure needs of the Three Affiliated Tribes that have not yet been provided to replace what we had before the Garrison Dam was constructed.

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 funda-

mental 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. 2918 cannot come soon enough. We cannot accept any alternative.

Thank you for the opportunity to testify before this Committee.

Mr. DOOLITTLE. Thank you.

Our next witness is Mr. James Chandler, Counsel of the U.S. Section of the International Joint Commission.

Mr. Chandler.

STATEMENT OF JAMES CHANDLER, COUNSEL, U.S. SECTION OF THE INTERNATIONAL JOINT COMMISSION

Mr. CHANDLER. Mr. Chairman, thank you for inviting the International Joint Commission to participate in this hearing. I am pleased to be here.

First, I should say that the International Joint Commission is an international organization and it does not get involved in the merits of specific proposed legislation. Therefore, I am not here either in support of or in opposition to the bill before you.

However, since North Dakota is a border State and many of the water-related projects in North Dakota have either real or perceived impacts in Canada, we thought it would be useful to provide the Committee with some information regarding the Boundary Waters Treaty of 1909 and the International Joint Commission.

The treaty provides much of the context for U.S. and Canadian relations on environmental issues, and the IJC was established as one mechanism to help the governments achieve their goals under the treaty.

The purpose of the treaty is to provide a framework for resolving and avoiding problems along the U.S.-Canadian border. It contains a few basic principles. These include freedom of navigation in boundary waters, a requirement that projects in boundary waters or in some cases a river flowing across the boundary that affect waters on the other side have international approval, and also the requirement that waters flowing across the boundary not be polluted to the injury of health or property in the other country.

The treaty also established the IJC and gave us a number of responsibilities. The Commission is composed of six members, three from the U.S. and three from Canada. The three U.S. Commissioners are appointed by the President and confirmed by the Senate. Even though the Commission is organized in two sections, one in Washington and one in Ottawa, the Commissioners are not under instructions from their governments, as is the case in most international organizations. They act as a unitary body, and in fact, as required by the treaty, they take an oath to carry out the purposes of the treaty at the first meeting after their appointment.

The Commissioners are supported by small staffs in the two capitals, but more importantly, by many international boards across the border which are appointed by the Commission but drawn largely from Federal, State, and provincial agencies.

The Commission helps the governments meet the goals of the treaty in two major ways. First, we have approved approximately 20 projects along the border that affect water levels on the other side, and we have ongoing regulatory responsibilities for many of these through boards of control drawn from both countries.

Second and perhaps more relevant for North Dakota issues, we examine questions or issues that are referred to us by the two governments. In these cases, which come to us under article 9 of the treaty, we provide a mechanism that can help the two countries jointly examine issues and develop common or agreed solutions to issues along the border.

The IJC is usually asked by the governments to examine the facts of a situation and provide its conclusions and recommendations to the governments for their consideration. None of the IJC's findings or conclusions is binding on the governments, but the input of IJC studies is often the basis for agreements or further negotiations between governments.

Sometimes the questions from governments involve issues that are of equal or similar concern to both countries. Examples of this are Great Lakes water quality, and how to avoid damages from events such as the 1997 flooding in the Red River Valley, North Dakota.

At other times, the questions have involved proposed actions in one country that might have adverse affects in the other. Examples include a thermal power plant in Saskatchewan on the Poplar River that had potential impacts in Montana, proposed coal mining in British Columbia with impacts in Montana, and the Garrison Diversion in North Dakota.

There are times when the IJC is asked to monitor conditions once a study is completed. On occasion, we are asked to take another look at issues in light of new information or changed conditions. Over the years we have carried out about 55 studies such as this.

In all of these cases, it has been the Commission's practice to establish an international study board or task force to carry out the actual investigation. These international groups, which are half Canadian and half American, are drawn largely from Federal, State, and provincial agencies, although increasingly we are including members from universities and other nongovernmental institutions. Subgroups and committees are drawn from the same sources, and the idea here is to borrow people from agencies and other institutions that need to be a part of a successful outcome, bring them together as a study team, and let them grapple with key facts and issues in an interdisciplinary, binational way.

All members are appointed in their personal and professional capacities, and not as representatives of their agencies. The agencies are not considered to be bound in any way by the views of their employees. We also involve the public to the extent we can in our work.

Our experience is that through this process a binational consensus will emerge, usually from the bottom up, at least regarding the facts, and often regarding issues, as well. Such a binational consensus makes it easier for the two governments to reach agreements and thereby resolve or avoid disputes.

Mr. Chairman, I would be happy to answer any questions.

[The prepared statement of Mr. Chandler follows:]

STATEMENT OF JAMES G. CHANDLER, LEGAL ADVISER, U.S. SECTION, INTERNATIONAL JOINT COMMISSION

Thank you for inviting the International Joint Commission, United States and Canada, to participate in this hearing. I am James Chandler, Legal Adviser to the United States Section of the Commission, and I am pleased to be with you today.

Because North Dakota is a border State and many water related projects in the State have real or perceived effects in Canada, we thought it would be useful to the Subcommittee to have some background information about the Boundary Waters Treaty of 1909 and the International Joint Commission or IJC. The Treaty provides much of the context for U.S.-Canadian relations on environmental issues. and the IJC was established by the Treaty to help the governments achieve their goals.

The purpose of the Boundary Waters Treaty is to provide a framework for resolving and avoiding problems along the U.S.-Canadian border.

It contains a few basic principles. These include:

- Freedom of navigation in boundary waters,
- The requirement for international approval for projects in shared boundary waters and, in some cases, rivers flowing across the boundary which affect water levels in the other country, and
- The requirement that water flowing across the boundary not be polluted to the injury of health or property on the other side of the boundary.

The Treaty also established the LIC and gave it several responsibilities.

The IJC is composed of six members, three from the United States and three from Canada. The three U.S. Commissioners are appointed by the President and confirmed by the Senate. Even though the IJC is organized into a U.S. Section and a Canadian Section, Commissioners are not under instructions from their governments as is the case in most international organizations. They take an oath to the Boundary Waters Treaty and are committed to working together to make decisions that are in the common interest of both Countries. Commissioners are supported by small staffs in Washington and Ottawa and, more importantly, by numerous international boards appointed by the IJC and drawn largely from Federal, state and provincial agencies.

The IJC helps the Governments meet the goals of the Treaty in two major ways.

First, we have approved some 20 or so projects in rivers that flow along and across the border. In many of these cases we have ongoing regulatory responsibilities which we carry out through international boards of control.

Second, and perhaps more relevant to issues in North Dakota, we examine questions or issues that are referred to us by the two governments. In these cases, which come to us under Article IX of the Treaty, we provide a mechanism that can help the two countries jointly examine issues and develop common or agreed solutions to issues along the border.

The IJC is usually asked by the governments to examine the facts of a situation and provide its conclusions and recommendations to the governments for their consideration. None of the IJC's findings or conclusions is binding on the governments, but the output of IJC studies is often the basis for agreement or further negotiations between the governments.

Sometimes the questions from governments involve how to address issues that are of equal or similar concern to the two Countries. Examples include how to improve Great Lakes water quality or how to reduce the amount of damage from events such as the 1997 flood in the Red River Basin.

At other times, the questions have involved proposed actions in one country that might have adverse effects in the other or raise the concern that they might have adverse effects. Examples include a thermal power plant in Saskatchewan on the Poplar River. A proposed coal mine in British Columbia on the Flathead River, and the Garrison Diversion Unit in North Dakota.

There are times when the IJC is asked to monitor conditions once a study is completed. On occasion we are asked to take another look issues in light of new information or changed conditions. Over the years. the IJC has carried out over 55 studies at the request of the governments.

In all of these cases. it has been the IJC's practice to establish an international study board or task force to carry out the actual investigation. These international groups, which are half American and half Canadian, are drawn largely from Federal, state and provincial agencies. although increasingly we are including members from universities and other non-governmental sources. Subgroups and committees are drawn from many of the same agencies and institutions. The idea is to borrow people from agencies and other institutions that need to be a part of a successful outcome, bring them together as a study team, and let them grapple with the key facts and issues in an interdisciplinary, binational way.

All members are appointed in their personal and professional capacities and not as representatives of their agencies. The agencies are not considered to be bound in any way by the views of their employees. The IJC also uses a variety of public consultation initiatives to assure that affected interests are given an opportunity to be a part of our work.

Our experience is that through this process, a binational consensus will emerge, at least regarding the facts of a particular case and often regarding the issues as well. Such a binational consensus makes it easier for the two Federal Governments to reach agreements and thereby resolve or avoid disputes.

Mr. DOOLITTLE. Thank you. Our final witness will be Mr. Dave Koland, Executive Director of the North Dakota Rural Water Systems Association. Mr. Koland.

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

Mr. KOLAND. Thank you, Mr. Chairman. In the interests of curtailing the length of the hearing, I am going to summarize my summary of my written testimony that you have in front of you. But there are some points that I do need to make. One of them that has been made again and again, this good drinking water is still just a dream for many people in North Dakota. There are too many people that turn their tap on every morning and this is the water they get out of it. There are no other alternatives than what we are proposing to you.

What is happening in North Dakota is happening all across rural America, but more so in North Dakota. Fifty-four percent of our communities now have less than 200 people living in them. In the 1930s, that percentage was about 30 percent. People are migrating from our small towns into our urban centers. It's selective migration. It is the young adults who are leaving our communities looking for jobs. So one of the keys that we have to talk about is preserving the rural life-style that we have.

We have a work ethic in North Dakota that is second to none. North Dakota workers are more inventive, more resourceful and more profitable than workers anywhere else in the world. It's my contention that comes from the environment that they are raised in, the small communities, the way of life that you can find only in rural America. Our Nation is well served when we invest in the infrastructure that will promote and sustain the growth of those communities. Rural water systems provide water to 210 communities in North Dakota right now, but there are still community after community that are waiting for a clean safe supply of drinking water. The key to providing that water in rural North Dakota has been the MR&I program and the Grant/Loan Program for Rural Development. Without those two programs, the exodus from rural North Dakota would have indeed been a stampede.

North Dakota people are willing to pay for water. The average cost by the rural water system that a consumer pays for 6,000 gallons of water a month is about $50 a month. EPA's guidelines says that the affordable limit or threshold for water is about $40 a month. Our water systems that are being built now are asking people to pay $60 a month. They will pay that to get rid of this water. Without the grant programs that we are talking about in this legislation, the water rates that we would have to ask people to pay are $130 to $150 a month. It's just not going to happen. The exodus

from our rural communities will continue. We will be left with communities that are made up of senior citizens, period. The young people will leave and will be gone. We know that in communities where we have rural water now and in farms where we have rural water now they come back. Homes are salable when there is a decent supply of rural water. The homes that do not have rural water stand empty. No one wants to bring their family into a home where they turn the tap on and this is the kind of water they get out of it.

So what we are asking you is to make an investment that will provide one of the basic necessities of life, clean safe water. We are asking you to make an investment that will turn empty houses into homes. We can make an investment today that will change the future of rural North Dakota.

Mr. Chairman, it is my belief that an investment in the Dakota Water Resources Act will help North Dakota continue to provide America with the best workers in the world.

[The prepared statement of Mr. Koland follows:]

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

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

I also serve as the Executive Director of the Eastern Dakota Water Users, an organization of 13 cities and 12 rural water systems in the Red River Valley.

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.

Good drinking water is still just a dream in many rural North Dakota communities. Turning on the tap each morning brings brown smelly water instead of the clear fresh water the majority of people in North Dakota enjoy.

Small communities have few alternatives to provide their citizens with a dependable supply of clean, safe water. Many await the construction of regional water systems such as the Southwest Water Authority and the Northwest Area Water Supply project, or for funding to expand the existing rural water system that serves their area.

Rural North Dakota is migrating to our four largest cities. According to the Census Data Center, 54 percent of our towns now have populations of less than 200 compared to only 30 percent in the 1930's. During that same period, the number of farms in North Dakota has shrunk from 86,000 to less than 30,000 today. The exodus of our population to the larger cities has not been evenly spread across the age groups but instead has been concentrated in the childbearing age groups, young adults seeking employment opportunities in the urban centers.

North Dakota workers are a highly prized resource of our state. National and international companies have discovered that North Dakota workers are more productive, more inventive, more resourceful, and more profitable than workers are anywhere else in the world. They know, because for the last 20 years, we have been steadily exporting our young people to every corner of our nation. They are highly sought after employees of many major corporations.

That outstanding work ethic is enhanced and nurtured in the young people of our state by the lifestyle and experience of living in a rural community. The values and priorities of our young citizens are molded and shaped by that special environment that is found most often in the small towns across our country. Our nation is well served when we invest in the infrastructure that will promote and sustain the growth of these communities.

Rural water systems now provide clean safe water to 210 communities in North Dakota. But many still wait for the water they so desperately need. Communities like Mohall (931 people), Munich (310 people), and Glenfield (118 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 U.S. EPA Economic Guidance for Water Quality Standards Workbook states that rates greater than 1.5 percent of the median household income (NMI) are not only unaffordable but also "may be unreasonable."

In North Dakota, that translates into a monthly cost of $319.34 (ND 1996 MHI=$31,470). The average monthly cost on a rural water system for 6000 gallons of water is currently $48.97. Only two systems in the state have a monthly cost below the "maximum affordable cost" set out in the EPA guidance. Twelve systems must charge their consumers $50 or more with one system charging 170 percent of the "affordable rate" or $66.00/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 5.12 percent of the Median Household Income. They could have ranged as high as $190.80/month or a prohibitive 7.3 percent of MHI.

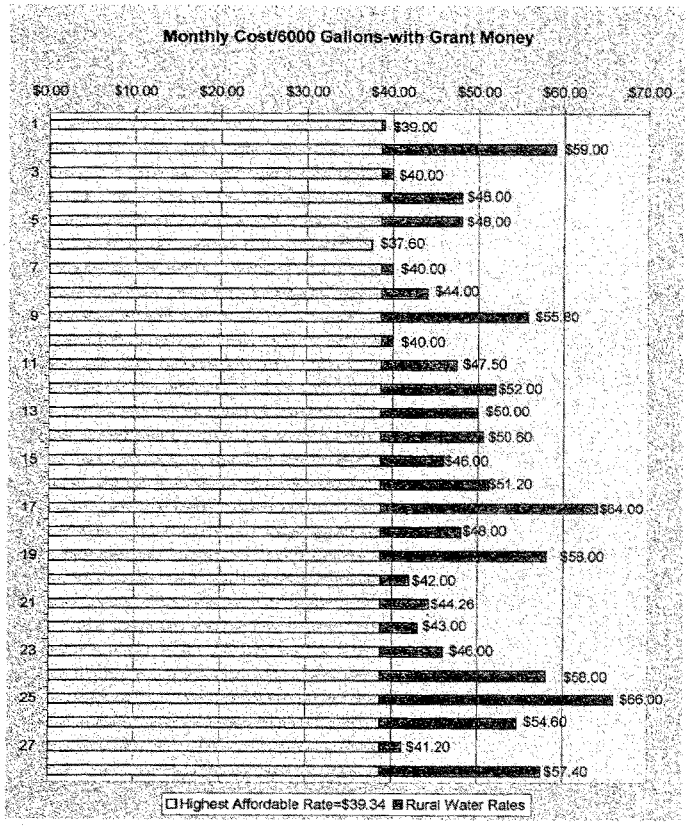
Across North Dakota, we have seen the impact of providing good water to rural areas and witnessed the dramatic change in small communities. Homes once occupied by aging widows are soon rented or sold to young adults. While houses and farmsteads without rural water stand empty.

Schools that once faced declining enrollments now have to deal with an influx of new students. Employers confronted with a tight labor market in the urban centers are seeking new ways to tap the underutilized work force in the rural areas. The people waiting for water in our rural communities are willing to pay more than what the experts consider an affordable price for clean safe water.

The key ingredient we are missing is WATER. We have the roads, the communications, the energy, the schools, the most productive workforce in the world, everything except WATER!

We can make an investment today that will provide one of our basic needs—clean safe water. We can make an investment today that will turn empty houses into homes. We can make an investment today that will change the future of rural North Dakota

Mr. Chairman, it is my belief that an investment in the Dakota Water Resources Act will help North Dakota continue to provide America with the best workers in the World.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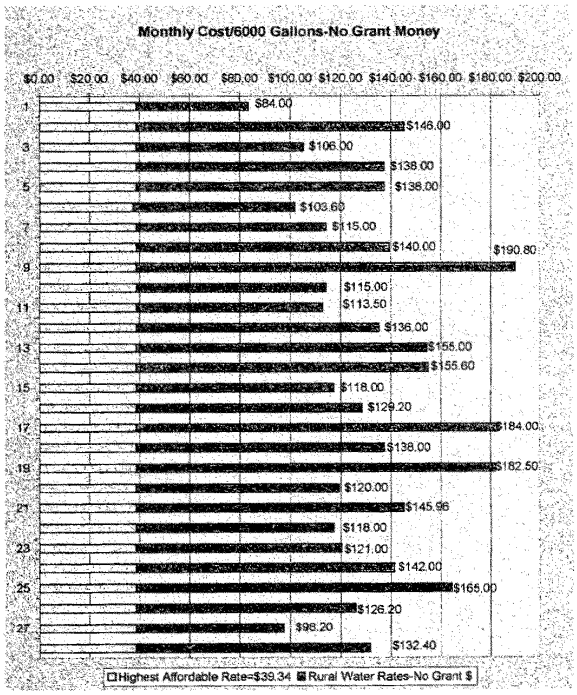
Rural Water Rates



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

Mr. POMEROY. Mr. Chairman, in closing, first let me thank you and each committee member. You have now invested a considerable amount of time on the issue that is extremely important to my

district. On a personal level, I appreciate it. I offer up my time to attend to an issue in your district that you might want me to attend to. I owe it to you. Thank you.

Three issues of controversy will surface in the course of this hearing as you study this matter. I would just like to briefly speak to them in closing. Environment, Canada, cost. First the environment.

The environmental concerns raised by the initial 1964 project were extraordinarily different in the Dakota Water Resources Act in front of you. This Act actually deauthorizes the Federal subsidized irrigation which has proven in the past to be such a significant point of contention. Those of you who worked with this plan for a while will remember the Lone Tree Reservoir as the single point of controversy, an area of 33,000 acres acquired by the Federal Government to be a reservoir and a staging area of how we were going to send the water around, deauthorized as a reservoir because it is federally owned by now, permanently turned into a wildlife area. It already serves as a wonderful resource for wetlands, wildlife habitat and is used by hunters and sportsmen and environmentalists alike. That is consistent with much of what has been done with the plan. In fact, because the initial mitigation was acquired and envisioning a much larger project, this project under the Dakota Water Resources Act would be 140 percent mitigated, 40 percent net gained in terms of federally owned wildlife water wetlands areas.

Another feature, that leads into my second point, Canada. The Canadian point. Transferring water between basins. I don't know a better way to address that than put the water in a pipe, treat it to drinking water standards to make certain that there is no inappropriate interbasin transfer. What more can you do than make it tap quality, drinkable quality as we move the water between the basin? Prior to that ever occurring, there is a triple fail-safe further safeguarding Canada.

First, this study has got to show that there is a need and that is the alternative that best meets the need. You will recall the track of the dry puddle that was the Red River now serving a community of 160,000 people. We have—it varies. If that were to occur today, we would be in a state of crisis. I don't know what we would do. So that is the first part of the triple fail-safe. It has to be determined that that's the most logical alternative.

Second stage of the fail-safe, the Secretary of the Interior has to make the decision that that's how it should proceed. Third stage of the fail-safe, no construction can start until it's deemed to be fully compliant with the Boundary Waters Treaty Act. We have heard about the IJC and their role in making that type of technological evaluation of that determination. We are not proposing to abrogate any treaty. We will completely comply with the treaty, and drinking water standards after treatment assures that we can do that.

Many parts of Minnesota, especially the Moorhead community and the other side of the Red River Valley, they think this is very interesting proposition because they face some of the same water shortage problems that we do.

Third issue, cost. I thought it was very well outlined by Commissioner Martinez. Six hundred and forty million dollars authoriza-

tion we are talking about here. Recognize that we are basically reformulating existing reauthorization and shrinking it, shrinking the liability of the Federal Government. Two hundred million dollars of it fully consistent with the Federal trust responsibilities. Not reimbursable but fully consistent with the Federal trust responsibilities established in the treaties with these tribes now more than 100 years ago. We put them on bad ground and then we flooded it. It's about time we at least give them drinking water and reasonable quality water through this infrastructure mechanism.

Second part, $200 million, water west to east. Again that's subject to the determination of the needs, subject to the clearance with Canada. If it is constructed, fully reimbursable for the facilities used. The third, $200 million, MR&I, 75-25 cost share. We are taking the promise and the dream of irrigation, deauthorizing it for what is our forward looking water needs, municipal, rural and industrial. We believe that this project makes sense.

Mr. Chairman, you have advanced some interesting ideas on how we ultimately structure funding. We are happy to work with you on that. We will get back to you with whatever feedback as you may want.

I would note that this is one of the projects of the Pick-Sloan project. There were lots of them in several different states. I think it is a bit of a heavy burden for us if we are suddenly going to impose a brand new funding type of requirement on this one different from all of the others of the Pick-Sloan project. But you are the chairman and we are interested in talking. In fact—but I am done talking now.

Thank you very much for your attention in this matter.

[The prepared statement of Mr. Pomeroy follows:]

STATEMENT OF HON. EARL POMEROY, A REPRESEMTATIVE AT LARGE, NORTH DAKOTA

Mr. Chairman and members of the Subcommittee, I want to thank you for holding this hearing on the Dakota Water Resources Act of 1999. I appreciate the opportunity to express my strong support for this legislation—H.R. 2918 in the House, and its companion, S. 623 in the Senate.

With the construction of the main stems dams along the Missouri in the 1950s that flooded over 500,000 acres of land and disrupted life for two tribal nations in North Dakota, the state was promised a significant water project. Unfortunately, over 40 years later, the commitment has yet to be realized. The bill before us today will settle the longstanding obligation of the Federal Government to the state in a manner that will address the most urgent needs in the state—water quality and supply for our communities. This bill represents the culmination of broad bipartisan support among the state elected leaders, the tribes, environmental organizations and the state's congressional delegation. The Act is a fair and reasonable closure to the commitment by the Federal Government to the state of North Dakota.

It has been a little over a year since I last appeared before the Subcommittee on the, Dakota Water Resources Act. Since then, we have made several key changes to the bill. In addition to technical clarifications, the vast majority of these changes represent the culmination of an agreement reached between the state of North Dakota and the Administration which led to the Administration's support of the bill. I want to highlight the key items of agreement incorporated into this revised version.

MODIFICATIONS/IMPROVEMENTS

First, this improved Dakota Water Resources Act provides $200 million in funding for statewide municipal, rural and industrial (MR&I) program, a $100 million reduction from the previous legislation. Further, the bill clarifies that if an MR&I revolving loan fund is established, the funds will be treated as Federal funds, therefore requiring compliance with Federal laws such as the National Environmental Policy Act (NEPA). Additionally, the bill removes the $40 million in authorized funding for

the replacement of the Four Bears Bridge across an arm of Lake Sakakawea on the Ft. Berthold Indian Reservation.

The bill also includes modified language to strengthen provisions to ensure the interest of Canada are met. Prior to the construction of any water delivery system to deliver Missouri River water into the Hudson Bay Basin, the Secretary of Interior, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment of the water can be provided.

Further, the state of North Dakota will be required to pay a pro-rata share of the operation, maintenance and replacement (OM&R) costs on existing principle supply works, including associated mitigation, based on a percentage of capacity use. Secondly, the state would pay 100 percent of OM&R on all new facilities with the exception of facilities required to meet treaty obligations or those for compliance with reclamation law. Further, the state would be required to pay for all energy costs to authorized facilities.

Finally, the bill removes the provision which linked the full funding of the Natural Resources Trust to the completion of the Red River Valley project.

Mr Chairman, the Dakota Water Resources Act today represents a broad consensus among various interests across the state of North Dakota and the Administration. I believe that the changes made further improve the bill and will ensure that we are able to meet North Dakota's future water needs.

While changes have been made to the bill, one thing has not changed and that is the need for this legislation. The legislation is needed to help the state and Indian tribes meet their current and future water quality and supply needs.

ADDRESSING THE CONCERNS

I want to touch briefly on some of the arguments put forward by opponents of the legislation.

Environmental

First, let me address the environmental concerns. Some have claimed that the Dakota Water Resources Act will result in the destruction of wetlands. I want to assure the Subcommittee that this is not true.

The environmental plan implemented under the Garrison Diversion project is one of the most comprehensive in the nation. The state of North Dakota has been, and continues to be, very sensitive to this need and instrumental in helping implement it. Our accomplishments to date have been well recognized by the conservation community, sportsmen and outdoor enthusiasts alike. Garrison Diversion's fish and wildlife mitigation and enhancement plan has created or enhanced over 70,000 acres of habitat throughout North Dakota's prairie pothole region, specifically for fish and wildlife purposes. The mitigation plan has not only offset habitat losses but it has exceeded the requirements by creating new wildlife habitat. To date the project has been mitigated to 140 percent, resulting in a net gain for the environment.

One of the best examples is the 33,000 acre Lonetree Wildlife Management Area. Lonetree was initially envisioned as the site for a dam and reservoir, however, due to environmental concerns, we are deauthorizing that project feature. With passage of this bill, Lonetree will be solidified as a permanent wildlife management area. Today, outdoor enthusiasts from all over the nation come to hunt, hike and fish on this beautiful grassland. Additionally, the Kraft Slough wildlife area is nearing completion and over 90 percent of the area is in public ownership.

Another important environmental aspect of the project is the continuation and expansion of the resources trust fund, a fund that has been accepted by environmental organizations and landowners alike. Many wetland projects have been implemented through cooperative efforts with farmers, ranchers, various state and Federal agencies and private organizations using a combination of cost share and grants. The Dakota Water Resources Act provides additional funding and authorities for the trust fund allowing more cooperative projects which will benefit both landowners and our prairie wetlands.

Further, the Act will provide many additional benefits to fish and wildlife. Most significantly, the bill deauthorizes all federally subsidized irrigation, eliminating the potential impact to wetlands caused by underground drainage systems. Further, the Act eliminates any direct transfers of water between basins which could have caused a transfer of biota to our Canadian neighbors.

Our past accomplishments and the potential future environmental benefits have helped gain the strong support of environmental groups in North Dakota. The North Dakota Wildlife Federation, representing many sportsmen and women from throughout the state, and the North Dakota Chapter of the Wildlife Society, rep-

resenting hundreds of professional biologists, support the Dakota Water Resources Act. In fact, wildlife enhancement is added as a project feature under the bill.

International Concerns

Concern has been raised by Canada that the Dakota Water Resources Act weakens the protections to the country that were included in the 1986 Reformulation Act. First, it is important to note that the 1986 Reformulation Act, which Canada supported, specifically authorized the transfer of water through open canals to the Hudson Bay drainage. Further the 1986 Act provided that water would not be delivered until a determination has been made that such delivery would be in compliance with the Boundary Waters Treaty Act.

Cost

Finally I want to address the cost issues related to the project. The reformulated, refocused project which shifts focus from irrigation to municipal, rural and industrial water supplies reduces the estimated cost of the project by over $600 million.

A total of $200 million is provided for statewide MR&I to meet the highest priority needs identified across the state. The bill continues the 75/25 cost share established under the 1986 Act and allows the state to convert some of the grants to loans in areas where communities have the ability to repay. Under this scenario we will be able to stretch the limited Federal dollars further in order to reach more people who need a quality, affordable water supply.

Another major component of the 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. At the time, it was understood this number was not representative of their needs, but rather a starting point. Today, we recognize this was wholly inadequate level of funding as the unique and pressing needs of the reservations are much greater. The Dakota Water Resources Act will provide $200 million for fulfilling the clear Federal trust responsibility to provide for their critical water needs.

Finally, I want to address $200 million authorization for meeting the water supply needs of the Red River Valley. In keeping with long-standing Bureau of Reclamation policy and law, municipal and industrial water delivered to beneficiaries through the project facilities will be repaid, with interest.

Significant investment has been made to date in this project, however, we have yet to get the full return on that investment. The bill before us today will ensure that we are able to take full advantage of that investment to meet the future water needs of the state. The Dakota Water Resources Act is fiscally responsible, treaty-compliant and environmentally sound. Mr. Chairman, while we believe a commitment was made to North Dakota which has gone unfulfilled, it is the sheer weight of the needs of the people of North Dakota for clean, safe, affordable water which drives this legislation. The resource is available, the need is significant and this legislation is the answer. This is a fair and reasonable fulfillment of the commitment by the Federal Government to the state of North Dakota.

In closing, I would like to submit for the record a copy of the testimony of the Chairman of the Garrison Conservancy District, Norm Haak.

Mr. DOOLITTLE. Thank you. I hope we will talk. It is our desire to be helpful and, frankly, we think some more talking is in order. So we will proceed on that basis. Let me just ask the commissioner. Commissioner, I am from California. We are always grateful to have reservoirs. It is only in North Dakota where I have ever heard it referred to as a permanent flood, like it was something that was a gross disadvantage.

Mr. MARTINEZ. I guess it makes a difference what kinds of lands you flood. If what you are flooding is prime lands that are available, that's where the difference lies. I guess the position that North Dakota has been taking, especially with Indian lands, is it just turned out that the Federal Government made a conscious decision to flood out the best lands in the country, in that part of the world. So it just sometimes they are welcome and sometimes not in terms of reservoirs.

Mr. DOOLITTLE. They had been substantial flood control benefits, even for North Dakota, have there not?

Mr. MARTINEZ. I would not argue with that. There has been for North Dakota and other states downstream.

Mr. DOOLITTLE. There is $164 million provided for in the legislation. That's authorized for non-Indian irrigation. Commissioner, how high is it anticipated or contemplated in that legislation that beneficiaries would pay for that irrigation, and what are the standards used?

Mr. MARTINEZ. Mr. Chairman, that goes beyond my expertise own this project. I will get you an answer for the record on that, if I may.

Mr. DOOLITTLE. That's fine. Generally speaking for irrigation, for irrigators, it's based on the ability to pay. Isn't that the standard that normally applies, rate payments based on the ability to pay for the irrigators?

Mr. MARTINEZ. For the irrigators, if their ability to pay is insufficient, then costs are shifted to the power users.

Mr. DOOLITTLE. What is the interest rate for the irrigators?

Mr. MARTINEZ. Well, my understanding is they would pay without interest.

Mr. DOOLITTLE. On the irrigation there is no interest, right. That's why they call it the irrigation subsidy, I guess. If it's not fully reimbursable by irrigation interests, then you indicated, I think, that it was the power users that made up the difference. Is that correct?

Mr. MARTINEZ. Ultimately, that's my understanding.

Mr. DOOLITTLE. That's my understanding, too, normally. But if the power revenues indeed pay for the remaining costs, then I would draw your attention to section 6, subparagraph C of page 14, lines 5 through 15. That refers to no increase in power rates or repayment methodology. It just seems to me this is one of those very confusing things about this legislation because you were testifying and I believe that you believe this, that it would be made up for by the power users, but then there is a provision in the bill that prohibits that.

Mr. MARTINEZ. Maybe my project sponsors—I will get you an answer for the record.

Mr. DOOLITTLE. Sure. Does anyone wish to respond to that? It's page 14, lines 5 through 15.

Mr. MARTINEZ. I will be glad to provide an answer to that.

Mr. DOOLITTLE. Okay. All right. Let me just ask the next question. Now, is Indian irrigation reimbursable?

Mr. MARTINEZ. The intent is not to have any reimbursement on the parts of the Indians.

Mr. DOOLITTLE. I understood that to be true with reference to the MR&I, but does that also intend to be true with reference to the irrigation part of it?

Mr. MARTINEZ. That's been my understanding, that's correct.

Mr. DOOLITTLE. Is it your understanding that the $200 million commissioned for the Red River Valley water supply project would be reimbursable?

Mr. MARTINEZ. It's my understanding that if a project is found feasible, that it would be reimbursed 100 percent with interest.

Mr. DOOLITTLE. There are in section 2, page 5, lines 23, 24 and 25, it states, quote, "All costs of construction, operation and main-

tenance in the replacement of water treatment facilities authorized by this Act and attributable to meeting the requirements of the treaty, Boundary Water Treaty in 1909, shall be nonreimbursable."

Mr. MARTINEZ. My understanding is that part of the project that is required to meet treaty obligations or the operation and maintenance that is required to meet treaty obligation is treated in the Act as a cost of the Federal Government and therefore nonreimbursable.

Mr. DOOLITTLE. That would make it nonreimbursable.

Mr. MARTINEZ. That portion of the cost attributed to the United States having to meet treaty obligations.

Mr. DOOLITTLE. Do we have any idea what portion of the cost the nonreimbursable portions represent?

Mr. MARTINEZ. We don't have those figures because as it turns out the needs assessment and the has yet to be completed. It might turn out that the project is not feasible and therefore none of that $200 million would be expended.

Mr. DOOLITTLE. Don't we have to know, though? If we are going to authorize all of this, wouldn't we have to have a knowledge of what those costs are going to be in the event that you determine that it's feasible? Because that would affect, wouldn't it, the total cost of the project?

Mr. MARTINEZ. My second voice tells me that's an appropriation issue. But I think that you raise a valid question that the Committee has to consider.

Mr. DOOLITTLE. I just bring that up because there are representations being made how much money we are saving or the costs of this are being reduced from what it used to be. We find it very difficult, our Committee staff and I, as we look at this, it seems very confusing—it's very, very difficult to read through this legislation and really figure out what is going on because there seems to be claims that are made and then contradicted by the actual language of the bill.

Mr. MARTINEZ. Mr. Chairman, I grasp the point of your question. On the one hand, you have an argument that it is going to reduce total cost and then you have the position that it might have potential expenses and costs because of the treaty. I want to be responsive to your question and I will provide a response on the record.

Mr. DOOLITTLE. Thank you. I will recognize Mr. Miller for his questions.

Mr. POMEROY. Mr. Chairman, I didn't want to interject myself in the discussion with your own questions, but I would just assert that it's also possible that the line of investigation preliminary to the construction of the moving of water west to east would determine there was no interbasin transfer and for purposes of incurring additional costs may very well not be additional costs, but the legislation does contemplate a rather straightforward fashion. If it's a Federal Government to a Federal Government issue, dimension presented, that is a Federal cost.

Mr. DOOLITTLE. Well——

Mr. MARTINEZ. Mr. Chairman, if I may, this is not unusual. This hapens on interstate rivers. We have this issue on the Colorado River and some other rivers.

Mr. DOOLITTLE. I think the issue is whether this is or isn't reimbursable and what that amounts to.

Mr. Miller, do you want to go ahead?

Mr. MILLER. Thank you, Mr. Chairman. I think that your questions are important in terms of the consideration of this Committee. Just a couple of remarks here. One, obviously I think this delegation has struggled with this project for some time trying to meet what anyone who is familiar with this realizes is a very, very legitimate need. None of us would want our constituents to be put in the same situation as we have here with respect to their potable water supply and recognizing the need to bring that about. I think this legislation is a substantial improvement over what we have seen in the past. I think that the questions that the chairman raised are important and we do look forward to your responses to that.

I also—am I correct in making the assumption that I assume that the Indian/non-Indian projects would go along—I recognize this is all a matter of appropriations, but they would go along in a contemporary fashion with one another; is that correct?

Mr. POMEROY. That's the plan, absolutely. We have not in our collaborative discussions leading to the draft of the legislation finalized discussions on ranking of the MR&I needs that we have identified. But you can see the fact that where the water needs of the entire state, which are very significant, we have also recognized that an equal standing of our commitment of the four Indian reservations.

Mr. MILLER. You would suggest that——

Mr. POMEROY. My contemplation, Congressman, is that they would be absolutely funded concurrently and equitably. Not one, for example, state MR&I placed at a higher priority than the Indian MR&I given the available dollars.

Mr. MILLER. I am probably showing my age, but when we did the reformulation in '86 that was the clear understanding that that's how it would happen in the sense that for many years the tribes had been used as a rationale to try to get money from the Congress except they weren't getting the benefits. One of the theories of the reformulation, and certainly in our discussions in the final agreements, were that they would—these things would move alongside of one another in the future, not one waiting for the other to be finished. I just hope that's envisioned in this project.

Mr. POMEROY. It most certainly is, Congressman. We consider the verdict was an absolute champion for native Americans. The problem was we plugged in a woefully inadequate figure relative to Indian MR&I. Twenty million dollars. All been spent. We hit that cap quickly.

Mr. MILLER. Some of the concerns that have been raised with respect to the inner basin, the Canadian ambassador visited me yesterday. For the moment, I think some of those concerns seem to be addressed. Mr. Koland, is it your responses here? I just want to say that I consider those to be serious issues. In the San Francisco Bay Area, we are struggling with invasive species and all of the problems. It's not a minor problem once it is set upon you in terms of dealing with it.

Again, you both suggested that, one, that you think you have solved that, and, two, that the project doesn't go forward unless people are satisfied to that extent. I would hope that that clearly is the intent and the situation here because the cost of that happening is just unbelievable as we see various communities and basins, watersheds now struggling with invasive species that we ought not to set anything in motion that would suggest that that might happen.

Mr. POMEROY. We make an important change over existing authorization which said that construction can proceed while a determination relative to the Boundary Water Treaty Act can be made. Under the Dakota Water Resources Act we say no construction—this is after determination of need—yet if the Secretary of Interior says I would rather be done, no construction begins until the treaty compliance is determined. I think that you make an important point in that regard.

Mr. MILLER. Thank you for your presentation. Again, I would hope that the Bureau would be able to supply us some responses to the chairman's questions. Thank you.

Mr. DOOLITTLE. Thank you. Mr. Pombo is recognized.

Mr. POMBO. Thank you. I know that the chairman had additional questions and I will yield my time to the chairman.

Mr. DOOLITTLE. Thank you. Commissioner, in your testimony you suggest that $200 million for the MR&I system would be a loan, that the projects original authorization interest rates for the constructed facilities, and the second $200 million would extend the current grant authorization to address other statewide MR&I needs. I wonder if you could explain why this section authorizing these provisions authorizes the Secretary also to convey to the State of North Dakota on a nonreimbursable basis the funds authorized, which are $400 million?

Mr. MARTINEZ. Mr. Chairman, if I may, I would defer to my staff member here who has worked on it on a day to day basis, to respond to your question, if I may.

Mr. DOOLITTLE. Just step up for a minute. For the record, state your name, please.

Mr. RICHARDSON. Steven Richardson. The measure calls for $200 million to refund the grant portion in the 1986 agreement for the MR&I. That's the matter that is under the cost share formula of 75-25. The other $200 million for the non-Indian MR&I has to do with the Red River North study, which is fully reimbursable.

Mr. DOOLITTLE. I'm sorry, has to do with what?

Mr. RICHARDSON. This section has to do with possible construction of facilities for water going to the Red River of the North frm the Missouri River basin. Those facilities have not been constructed that have to be—meet before—I believe all of the preconditions have been stated to when they would be constructed. If—when and if those facilities would be constructed, that $200 million would be reimbursable.

Mr. DOOLITTLE. But the legislation it speaks to the funds authorized. So it seems to me——

Mr. RICHARDSON. Give me a moment, Mr. Chairman, and I will go to the—Mr. Faber, the counsel, I am going to let him give you the cite.

Mr. FABER. Do you have copy of the underlying '86——

Mr. RICHARDSON. Yes, sir, I do. I will go to it.

Mr. FABER. If you look to section 7.

Mr. RICHARDSON. Can you give me a page?

Mr. FABER. In the page designations I have, section 7 starts on page 15. And the language in question is on page 16 in subsection 3. That subsection——

Mr. RICHARDSON. Yes, this is where it is very confusing.

Mr. FABER. That's the problem. This is a section that is proposed to be amended here yet it has language in there that would suggest that this may be nonreimbursable.

Mr. RICHARDSON. I believe that the key citation, if you read in the third line, section 10(B)(1), is the matter that is not. But it is very difficult and we—if—the way that this happened and this very draft that we referred to was developed because of questions just like that, how does this all fit together with existing law. This is an attempt, but the cross citation still lacks some work. We will be glad to provide whatever clarity that we can.

Mr. DOOLITTLE. Even the experts admit this is confusing.

Mr. RICHARDSON. We would certify that, sir.

Mr. DOOLITTLE. I think this legislation needs some work.

Mr. POMEROY. Mr. Chairman, having been involved in the drafting, I don't claim this was a perfect work. This is not a Mount Sinai product. The fact of the matter is we have got a '65 Act amended in '86, and now we amend it in this Act. The problem is we never completed the earlier version nor could we start brand new. So it has been a dickens of a drafting challenge. All I can do is absolutely assure you there is no intention through this inherently confusing nature of the undertaking to do any trickery relative to reimbursable, nonreimbursable, any of the rest of it. We would be only too happy to accept editing, drafting ways to make it clear.

Mr. DOOLITTLE. Does somebody want to state what the intent really is? Is it to have all $400 million be nonreimbursable or what is the——

Mr. RICHARDSON. Mr. Chairman, if you refer on the same draft that Mr. Faber is looking at, on page 23, section 10(B)(1)—and there are 5 or 6 other Bs that appear on that page. But the reg statement begins on line 18. The attempt I believe was to make nonreimbursable that portion described as municipal and industrial water supply and the $200 million.

Mr. DOOLITTLE. So it's that and not the second $200 million?

Mr. RICHARDSON. That is correct. That is our understanding.

Mr. DOOLITTLE. Mr. Pomeroy, is that your understanding?

Mr. POMEROY. Yes, sir.

Mr. DOOLITTLE. I only have, Commissioner, one other question at this point. That is under the '86 Reformulation Act, there is a figure used, $80.535 million, authorized to carry out the resources trust and other provisions. This number seems quite specific even though the legislation doesn't indicate how it should be spent. I guess my questions would be has it all been spent and what has it been spent on?

Mr. MARTINEZ. I will provide you a detailed answer for the record on that.

Mr. DOOLITTLE. Let me just proceed. The environmental community, I understand, in North Dakota seems to accept this project. Is it correct that we are setting up an organization that the environmental community will jointly administer with $25 million of Federal dollars; is that your understanding?

Mr. MARTINEZ. Excuse me, I was listening——

Mr. DOOLITTLE. Sure. I was just saying it does, in fact, that this bill set up something where the environmental community will jointly administer $25 million of Federal money?

Mr. MARTINEZ. It's my understanding it will be administered by the Federal Government.

Mr. DOOLITTLE. I thought in the bill it appears that there is a joint responsibility with the environmental community. We can perhaps give you——

Mr. POMEROY. Mr. Chairman, maybe I could assist in that. The wetlands trusts is an existing entity administering funds. This provides an additional appropriation for that existing entity. And changes the name to——

Mr. DOOLITTLE. There is a joint administration in that trust, is there not, made up of—I think it refers to the quote unquote, environmental community. And then the governor has appointees and the Federal Government; is that right?

Mr. POMEROY. It's my understanding. I actually have Dave Sprynczynatyk, the state engineer from North Dakota seated immediately behind me who could give you very technology specific answers to the questions if you like. He has not been sworn in yet, but he would be very happy to respond.

Mr. DOOLITTLE. I think that you have roughly confirmed our understanding. I don't know that we need to get into the precise specifics of it at this point. I just wanted to observe that it appears we have already spent more than $80 million for Lone Tree for environmental purposes.

Mr. POMEROY. Initially, Mr. Chairman. Of course, it wasn't our notion that that would be serving the role it now serves.

Mr. DOOLITTLE. Yes, I understand that. That was not your desire, I recognize that. And this legislation though perpetuates this by having the Federal Government pay the O&M costs in perpetuity, right? Is that right, Commissioner, as you understand it, where the Federal Government picks up those costs forever?

Mr. MARTINEZ. That's my understanding.

Mr. DOOLITTLE. Mr. Pomeroy, I know that you are not thrilled about this, but it appears that more than one-sixth of the Garrison project costs is for environmental issues. Is that your understanding?

Mr. POMEROY. Again, some of that is a result of mitigation that was commenced envisioning a much larger irrigation dimension. So now that the irrigation has fallen off, we have a project that is perhaps the single most generously mitigated project in the country at 140 percent.

Mr. DOOLITTLE. Yes, and I am sure the environmental community would like that to be the standard for the rest of the United States.

Mr. POMEROY. Some of them are still raising some questions about this one.

Mr. DOOLITTLE. Yes, whether it has gone far enough.

Mr. POMEROY. But the North Dakota ones, including the Wildlife Society, which has professional biologists and a variety of different professions, these are the local folks that really know this and know how it all fits together in North Dakota and it has their enthusiastic support. I think that is an indication that we have achieved some acceptable measure of balance with significant components of the environmental community.

Mr. DOOLITTLE. I would just like to throw this out, Mr. Pomeroy. We have a lot of money being spent in California, the CAL-FED process. And then the Committee asked for months ago, over a year ago, which we finally just got, an environmental cross-cut budget that takes all moneys being spent to improve the environment, whether they are coming from the State or Federal Government or local government or different—Corps of Engineers versus the EPA, all of these different entities. It really is revealing to show just what is being spent from which source. I would just encourage you to seek that out because I think it would give us a much better handle as to what is going on here. There is no question about what this has been overmitigated. I think it would be useful to the Committee as it seeks to assist you in drafting legislation.

Mr. POMEROY. I would be very interested in that information.

Mr. DOOLITTLE. At this particular time the chair recognizes Mrs. Napolitano for her questions.

Mrs. NAPOLITANO. I really didn't have any questions other than that I have met with the delegation yesterday and I have been able to ask most of my questions. However, my take of this legislation is really consolidation of something that you need done. You started it, you have had piecemeal funding. Now, you want to kind of get it done, am I correct?

Mr. POMEROY. That's absolutely correct.

Mrs. NAPOLITANO. You are willing to mitigate the concerns of both the committing site and also of the Governor of Minnesota and move forward with it and—not move forward, rather, until they are——

Mr. POMEROY. We have certainly addressed them very thoroughly. Minnesota concerns tend to be identical to Canada because they are concerned about this water. So we treated the tap water drinking quality, and we think that that addresses that concern and, in fact, gives the significant bonus to the Minnesota border cities that their water supply needs are being met as ours would be if this alternative would be the one executed under this legislation.

Mrs. NAPOLITANO. Thank you. I think the suggestion by the chair to do a consolidation fee where there is funding mechanisms would be a great idea. But I don't think any persons should be subjected to that kind of water. When I looked at that, I thought it was Pepsi.

Mr. POMEROY. Here is the water, here is the Pepsi, here is the coffee. It's just not right.

Mrs. NAPOLITANO. It is something that is unconscionable and I am very glad you brought it to us. Thank you. Thank you, Mr. Chairman.

Mr. DOOLITTLE. Mr. Simpson, just to confirm, you have no questions? Or if you do, I will recognize you.

Mr. SIMPSON. No, Mr. Chairman, I don't have any questions, just to thank the delegation and Mr. Pomeroy for bringing this before us and meeting with me yesterday and talking to me about it. I agree that it is deplorable and is something that we need to address. Apparently, if we can address some of the drafting questions so that the legislation actually reflects what your intention is and makes it clear, then I think that will go a long way toward addressing some of the concerns here. Thank you.

Mr. DOOLITTLE. Thank you. Dr. Christensen, you are recognized.

Mrs. CHRISTIAN-CHRISTENSEN. Thank you, Mr. Chairman. I don't have any questions either. I apologize for being late. I want to welcome the delegation also. I had the opportunity to meet and ask some questions earlier. The need is clearly demonstrated. There has been a lot of effort to try to work out some of the objections that have been raised. I trust they will be worked out through the satisfaction of all parties concerned and then we will have something that we can fully support.

Mr. POMEROY. We all found our visit with you very interesting, and sharing one thing, if anyone thought North Dakota and the Virgin Islands not having much in common, but you have abundant water immediately available yet you have serious drinking water issues on your island. We have these huge reservoirs right adjacent to terrible water quality issues. This Garrison diversion, now the Dakota Water Resources drive of the state will continue until we get the result. We simply can't quit. We have got the need and we have got the water. With your good help we will get the two of them resolved.

Mr. DOOLITTLE. Were you concluded, Dr. Christensen?

Mrs. CHRISTIAN-CHRISTENSEN. Yes. I was going to just add that the only time I ever heard cisterns referred to outside of the Virgin Islands was in that visit.

Mr. DOOLITTLE. Thank you. Commissioner.

Mr. MARTINEZ. I want to apologize to you and the Committee for not being as responsive as I should be, but we will get into the record the information to help you make some logic out of this on what might be considered some confusing statements.

Let me share with you this concern about Canada, and not as Commissioner of Reclamation but as a former state water engineer who represented a state on Senate compact commissions. The issue here goes, in my opinion, beyond the question of—two states had entered into an agreement, two countries had entered into an agreement as to the quality of water or under what conditions the quality of water should be at the boundary of a state or international boundary. Then it becomes the duty of the state or the water official state to be able to best utilize their water resources within their state to meet the needs of a developing area, moving one area up to another. As long as you meet those conditions of those treaties or the compacts at the state line, you are really getting into a point of trying to regulate how the states should be or should not be able to use this water. If it meets those conditions, it's gone one step too far.

Do you see what I am trying to get at? The issue here is if the treaty conditions are met, does Congress want to get into dictating to a state how it should or should not use its water resources? I just raise that issue because these are—they are two issues but they are intertwined. I guess what the State of North Dakota is saying is there is a treaty in place. We will comply with that treaty and we are putting in some fail-safe provisions to make sure that we do.

Mr. DOOLITTLE. Your point would be that we shouldn't necessarily worry about that since that will be handled, however those things get handled between Canada and the United States.

Mr. MARTINEZ. That would be my advice.

Mr. DOOLITTLE. You run the commission—what did we call the commission between Mexico and the United States?

Mr. MARTINEZ. I served on the Colorado River Compact Commission representing the interests of the State of Mexico as a state engineer.

Mr. DOOLITTLE. We don't have something similar to this international joint commission in the southern border, do we?

Mr. MARTINEZ. The way that it's handled there is you have an international boundary and water commission which has a U.S. Representative that represents the interests of the United States.

Mr. DOOLITTLE. Does that go clear across the border between Mexico and the United States?

Mr. MARTINEZ. From California down into the Gulf.

Mr. DOOLITTLE. Well, I wouldn't want your water either. Obviously, the need is there. I do think there is some real issues about how this can be paid for. I know, Mr. Pomeroy, you are thinking water. You have been unfairly singled out since other fixed lawn units got a better deal in the past. I just think that dealing with the realities of today, I mean, there are a lot of the presuppositions that existed back then have changed. There is much more emphasis now on restraining the growth of Federal spending in order to keep the budget in balance and pay down the debt. There are a different set of priorities. Obviously, having decent water is a fundamental.

This Committee will work with you, if you wish us to work with you, to try to figure this out. But I do renew my observation that most of the nitty-gritty work has not been done with this Subcommittee to meet our concerns. It has been with the administration, which is obviously a key component in anything that happens. But you must work with the Subcommittee in order for this process to move forward as it was intended to. Not you personally——

Mr. POMEROY. I understand, Mr. Chairman, perfectly clear. I would just say it is kind of a sequential thing. We wanted them here today saying they were in support. We really did and we worked hard to get that. But now, this is in the Subcommittee's court. And so in sequence we will be working mightily to try to address all of your issues. The only thing on this alternative funding sources and being singled out at Pick-Sloan that I would just throw out. We will really wrestle with whatever you want us to wrestle with. But let's say some might suggest looking at power revenues from the marketing agencies or WAPA in specific to address this. What we would find at that point is having addressed all of these

Canadian issues, environmental issues, these other issues, is suddenly we have a new range of issues with western states saying you want to raise our power rates for your water project?

We are going to have to chase all of those issues down. If we are a little less than enthused about that proposal, I suppose that I would just throw it out there. We are going to be working and talking and doing everything that we can, Mr. Chairman, to get down your point of consensus on this project as the next stage of this legislation.

Mr. DOOLITTLE. Thank you. I appreciate all of you making the effort to come here today. I know that you have worked very, very hard for a long time on this and hopefully it will come to a good conclusion.

We will keep the record open for responses from you to such additional questions that we may propound and would hope that you would answer expeditiously.

With that, this hearing is adjourned.

[Whereupon, at 3:47 p.m., the Subcommittee was adjourned.]

[[Additional material submitted for the record follows]

STATEMENT OF GOVERNOR JESSE VENTURA

Chairman Doolittle, Ranking Member Dooley, and members of the Subcommittee on Water and Power, thank you for the opportunity to submit written testimony on behalf of the State of Minnesota to voice opposition to H.R. 2918, the Dakota Water Resources Act of 1999.

The State of Minnesota has opposed the Garrison Diversion project in North Dakota for decades and remains opposed to this bill. Although the bill has been modified over the years, it is still an interbasin diversion of water with potentially devastating environmental impacts on the waterways in the Red River basin. Until the many unanswered questions are resolved about these potential impacts, the State of Minnesota does not believe that this project should move forward.

This project is in direct conflict with the State of Minnesota's water policy and with the diversion policies of the Great Lakes States. The experts in Minnesota tell me that there are several potential environmental costs to Minnesota resulting from an interbasin water diversion of this magnitude. For example, there is a potential for the transfer of pathogens and exotic species. The costs of treating such nuisances are enormous. I also understand that there are several unanswered questions about the impacts of biota transfers. To both Minnesota and Canada, it is important that a clear and detailed plan about the type and scope of biota treatment be provided before this project proceeds.

As a Federal taxpayer, I am amazed and concerned about the cost of this project. At a time when Congress is trying to make spending decisions within tight spending caps, the prospect of spending more than $600 million on one water project in North Dakota seems almost absurd. Any minimal benefit that may be provided to Minnesota communities on the border who are in need of drinking water for economic development purposes are clearly outweighed by the tremendous potential environmental costs associated with this project. To the Minnesota Federal taxpayers, this project is a big loser.

Finally, I object to the way that this project has moved forward without the input of several stakeholders who have consistently opposed this project. On June 30, 1999, I sent a letter to the White House requesting that Minnesota be included in the negotiations between the Administration and the North Dakota Delegation. Unfortunately, the State was not able to weigh in during these negotiations. Likewise, I understand that our northern neighbors in Canada feels that their concerns have not been fully heard. Missouri River states that are affected by this diversion also need to have a voice in this project.

In order to provide fairness to these states downstream in the Missouri River Basin, I urge that this bill apply the water diversion process employed in the Great Lakes Basin to the Missouri River Basin. The Water Resources Development Act of 1986 prohibits diversions of water from the Great Lakes Basin for use outside the Great Lakes Basin unless such diversions are approved by the Governor of each of the Great Lakes States. In order to give states downstream a fair say in what happens to their waterways, this same standard should be used.

Clearly, a project as controversial as the Garrison Diversion should not continue to move forward behind closed doors. I understand that there will be a temptation to allow this bill to skirt the legislative process. For the State of Minnesota, too many unanswered questions remain about the Garrison Diversion. This issue needs to be fully debated out in the open. I urge you, Mr. Chairman, to help ensure that this bill does not move forward without the input and analysis of your entire Committee, and of the Congress as a whole.

I appreciate the Subcommittee's attention to Minnesota's serious concerns about this bill. Thank you for the opportunity to share my State's views on this issue.

STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Thank you, Mr. Chairman, for convening this important legislative hearing on H.R. 2541, to adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi; H.R. 1866, a bill to provide a process for the public to appeal certain decisions made by the National Park Service and the U.S. Fish and Wildlife Service; and H.R. 1864, to standardize the process for conducting public hearings for Federal agencies within the Department of the Interior.

My remarks today will focus exclusively on H.R. 1866 and H.R. 1864. I would like to commend Chairman Hansen for his hard work in putting these two pieces of legislation together.

In my state of Wyoming all of the land management agencies that fall under the Department of the Interior hold public hearings on a number of different issues that affect the constituents in the state.

Wyoming has two major units of the national park: Yellowstone National Park and Grand Teton National Park. Decisions that are made effecting these parks have a great affect on neighboring communities, or gateway communities as they are called.

It is essential that Wyoming constituents have the ability to engage land managers on questions they have and deserve straight forward answers to those questions.

H.R. 1864 would simply standardize the procedures used by Federal agencies for public hearings. This mainly helps the public know what they can expect when they attend these meetings.

Currently, the formats for these meetings are as varied as the number of land managers that conduct them.

The public deserve some consistency in this regard and I believe H.R. 1864 is a common sense approach to making that happen.

H.R. 1866 provides a process for the public to appeal certain decisions made by the National Park Service and the U.S. Fish and Wildlife Service.

I wholeheartedly support this legislation. It is a very sensible way to ensure the public that their disagreements with decisions made by the National Park Service and the U.S. Fish and Wildlife Service can be resolved in a timely and responsible manner.

Currently, the only recourse a person has who legitimately disagrees with a land management decision is to take that agency to court. Obviously that method is both timely and costly to the average citizen.

The BLM and the U.S. Forest Service have adequate administrative processes whereas a person can go through certain procedures, pursuant to NEPA, to appeal a land management decision.

There are, of course, problems with this process also, but for the most part it works.

Mr. Chairman, I once again would like to commend your work on putting H.R. 1866 and H.R. 1864 before us today. I support both of these responsible pieces of legislation.

I yield back the balance of my time.

NATIONAL WATER RESOURCES ASSOCIATION
Meeting Tomorrow's Challenge

President Glenn Johnson
Vice President David Sprynczynatyk
Treasurer Alan Mikkelsen
Secretary Thomas Donnelly

September 30, 1999

The Honorable John Doolittle
Chairman, Water and Power Subcommittee
U.S. House Resources Committee
Longworth House Office Building, Room 1324
Washington, DC 20515

Dear Mr. Chairman:

I am writing on behalf of the membership of the National Water Resources Association in support of the Dakota Water Resources Act which will complete the Garrison Diversion Project in North Dakota.

The National Water Resources Association (NWRA) is a nonprofit federation of associations and individuals dedicated to the conservation, enhancement, and efficient management of our Nation's most precious natural resource, WATER. The NWRA is the oldest and most active national association concerned with water resources policy and development. Its strength is a reflection of the tremendous "grassroots" participation it has generated on virtually every national issue affecting western water conservation, management, and development.

In the West, water infrastructure is every bit as important as transportation infrastructure. It is essential to the continued economic growth and development of the region. The Reclamation Program has been a hugely successful public and private partnership that is largely responsible for the development and economic stability of the arid West.

Sadly, the people of North Dakota have been denied similar benefits despite federal promises dating back to the 1940's that the Garrison Project would be completed in exchange for the economic concessions and loss of land resulting from the construction of major features of the Pick-Sloan Missouri Basin Program.

The Bureau of Reclamation's Strategic calls for the Bureau to expeditiously complete construction of all sixteen water and energy supply projects which are currently under construction. We strongly support this position. These projects, which include the Garrison Project, should be completed as rapidly as possible in an effort to minimize cost and keep faith with the States and project beneficiaries involved.

Approximately, $550 million has been spent to date on the Garrison Project and, as yet, not a drop of water has been delivered. Construction of a 22 mile-long pipeline is all that remains to be constructed in order to make the project functional. Congress should no longer allow special interests and others to continue to unnecessarily delay this project until the cost to complete the project has undermined the current federal investment.

3800 North Fairfax Drive, Suite #4, Arlington, Virginia 22203, (703) 524-1544
FAX (703) 524-1548 E-mail: nwra@erols.com HomePage: http://www.nwra.org

The State and the project beneficiaries have lived up to their part of the reformulation agreement. If current negotiations drag on any longer, it is time for Congress to step in and mandate the expedited completion of this project.

NWRA supports and encourages the expeditious completion of the Garrison Diversion Project as called for in the Dakota Water Resources Act. This Act will help meet the priority needs of the State of North Dakota.

Respectfully submitted,

Thomas F. Donnelly
Executive Vice President

cc: David Sprynczynatyk, NWRA Director (North Dakota)

The Honorable John Doolittle, Chairman
House Resources Committee
Subcommittee on Water and Power

Mr. Chairman and Honorable Members of the House Resources Committee, I am Bruce Furness, Mayor of the City of Fargo, North Dakota. Thank you for this opportunity to submit written testimony before the Committee in support of H.R. 2918 – The Dakota Water Resources Act of 1999.

INTRODUCTION

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 have been unified in assuring passage of a State Water Plan in the 1999 North Dakota Legislature, a historic achievement. We are unified in developing a consensus piece of legislation through the U. S. Congress 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 US population center in the Red River Valley with approximately 165,000 people. Fargo has enjoyed an annual growth rate of about 2% 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% 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 alone cannot 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 and expanding 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 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% 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 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. 50 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. 96% of the usable surface water in North Dakota is in the Missouri River. It represents the best source of highly available water and has an extremely small impact on downstream sites. Analysis shows that the potential allocation of 100 cfs for Eastern North Dakota is less than ½ of 1% 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 (1/2 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.

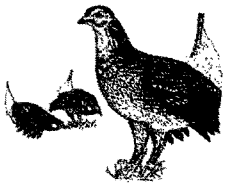
Thank you once again for the opportunity to submit written testimony in support of H.R. 2918.

ffgdtassept96b

North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



September 28, 1999

Congressman John T. Doolittle, Chairman
Subcommittee on Water and Power
U.S. House of Representatives
1522 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Doolittle:

I am writing to provide the written testimony of the North Dakota Chapter of The Wildlife Society (Chapter) on the Dakota Water Resources Act of 1999 (H.R. 2918). The Chapter has taken an active role in the issues surrounding the Garrison Diversion Unit since the project was first authorized by Congress in 1965. This multi-purpose water development project has had a long and varied history. We believe that the Dakota Water Resources Act represents a sincere effort by the North Dakota Congressional Delegation and North Dakota's state political leaders to develop legislation that balances the need for water development with the need to protect the environment. The Chapter supports the legislation as currently written, its environmental provisions, and the amendments that were offered by the Administration in May of 1999.

Thank you for this opportunity to provide written testimony on the Dakota Water Resources Act. If there are questions concerning the attached testimony or if additional information is needed, I can be reached at the address listed above or at sbicknel@btigate.com.

Sincerely,

William B. Bicknell, President
North Dakota Chapter of The Wildlife Society

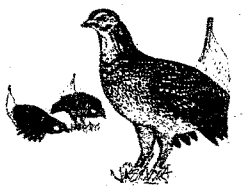
Attachment

cc: Congressman Earl Pomeroy
Senator Kent Conrad

North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



Written Testimony of

THE NORTH DAKOTA CHAPTER OF THE WILDLIFE

to the

THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE RESOURCES
SUBCOMMITTEE ON WATER AND POWER

on

THE DAKOTA WATER RESOURCES ACT OF 1999 - H.R. 2918

September 30, 1999

The North Dakota Chapter of The Wildlife Society (Chapter) is a professional organization of approximately 350 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 forge an agreement that led to the passage of the Garrison Diversion Unit Reformulation Act. On May 27, 1999, the Chapter testified before the Senate Subcommittee on Water and Power in support of the provisions of the Dakota Water Resources Act. We also have presented statements of support for this project at both Senate and House Subcommittee field hearings in North Dakota. We stand by those earlier statements and are submitting written testimony in support of H.R. 2918, the Dakota Water Resources Act of 1999, as modified based on discussions with the Administration.

During the better part of the past three years, the Chapter has participated in productive, forthright discussions concerning the Dakota Water Resources Act. Through this process, the Chapter has focused its attention on three principal objectives:

1. Clearly defining the provisions of the Dakota Water Resources Act to help ensure that the debate about this bill focuses on the clearly articulated objectives, thus reducing the possibility of future misinterpretation concerning the intent of this legislation;

2. Ensuring that the contemporary water needs of the State of North Dakota include the conservation of fish and wildlife resources and their habitats as an integral part of this project; and

3. Participating in discussions with the North Dakota Congressional Delegation, the State's political leaders, and all other interested parties to develop balanced legislation that fully addresses adverse impacts to the environment.

The Chapter's field of expertise is fish and wildlife resources and environmental impact assessment. Therefore, our comments will focus on the environmental aspects of the project.

The Dakota Water Resources Act is primarily a municipal, industrial, 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 that this work can be completed without significant environmental impacts. Certainly, that has been the case where pipelines have been constructed to deliver water throughout southwestern North Dakota. 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 Chapter strongly supports the commitments in this legislation to ensure that the delivery of water to the Red River Valley will be in full compliance with the Boundary Water Treaty Act of 1909. We also endorse the commitment to prepare an Environmental Impact Statement to objectively evaluate existing and projected water needs and develop environmentally sound, cost effective alternatives.

Based on our review of the Dakota Water Resources Act, the Chapter believes that the proposed legislation balances North Dakota's water development needs with the need to conserve fish and wildlife resources and their habitats. Two important provisions to maintain this balance are (1) expanding the mission of the North Dakota Wetlands Trust to address natural resource issues throughout North Dakota and (2) addressing the operation and maintenance needs of the project's fish and wildlife mitigation and enhancement features.

The Dakota Water Resources Act recognizes the conservation of fish and wildlife resources as a project feature that is essential 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. We also recommend that the conservation of woodland habitat be included as part of the Trust's mission. The Chapter endorses the Trust's wetland education initiatives and supports the complimentary funding that is earmarked in the Act for the North American Prairie Wetland Interpretive Center.

The North Dakota Wetlands 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 eleven years. This list includes working with 37 organizations and over 200 landowners on Trust funded projects and programs. The Trust has developed numerous cooperative agreements to protect and restore prairie pothole wetlands and has provided over $1.7 million in direct or incentive payments to landowners for various conservation practices.

Voluntary projects such as these are just some of the reasons that the North Dakota Wetlands Trust's 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 North Dakota's natural resource heritage. Expanding opportunities to cooperatively work with landowners throughout North Dakota benefits both natural resources and the state's economy. The Trust's effectiveness can best be summarized by the comments of a Ramsey County farmer 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 needs. Along similar lines, the Chapter believes that establishing a separate account to operate and maintain the project's fish and wildlife mitigation and enhancement features is an important step to meet the project's conservation objectives. The operation and maintenance account will benefit wildlife resources, neighboring landowners, and the people using these public lands. The account is essential to ensure that the stated environmental commitments of the project are met in the future. We recommend that the authority to establish an operations and maintenance account for the project's wildlife features stand on its own merits and not be tied to the completion of the Red River Valley water supply features. With a secure mechanism to fund the operation and maintenance needs of the project's wildlife development features, we are confident that the habitat losses associated with the project will be adequately mitigated now and in the future.

In closing, the North Dakota Chapter of The Wildlife Society believes that substantial progress has been made since the first draft of the Dakota Water Resources Act was circulated. The North Dakota Congressional Delegation, and the State of North Dakota's political leaders are to be given credit for their demonstrated leadership in keeping a diverse group of people, representing many interests, moving forward

I would like to thank you for the opportunity to provide written testimony expressing the Chapter's opinion. We respectfully request the opportunity to participate in future discussions directed toward developing legislation that meets the contemporary water needs of North Dakota and, at the same time, conserves the state's natural resources.

Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Elaine McLaughlin
Secretary

AT LARGE

Joe Keepseagle

Dave Archambault

Jesse Taken Alive

Reva Gates

Sharon Two Bears

Verna Bailey

DISTRICTS

Robert Cordova
Cannonball District

Raphael See Walker
Fort Yates District

Joe Strong Heart
Wakpala District

Palmer Defender
Kenel District

Dean Bear Ribs
Bear Soldier District

Milton Brown Otter
Rock Creek District

Farren Long Chase
Little Eagle District

Randal White Sr.
Porcupine District

September 27, 1999

The Honorable John Doolittle, Chairman
U.S. House of Representatives
Committee on Energy and Natural Resources
Subcommittee on Water and Power
1522 Longworth House Office Building
Washington, DC 20515

Dear Representative Doolittle:

The Standing Rock Sioux Tribe is pleased to present testimony in support of the Dakota Water Resources Act of 1999 (HR 2918) in advance of the hearing on September 29, 1999. This legislation is important to the Standing Rock Sioux Tribe and other tribes in North Dakota, because it will assure safe and adequate drinking water supplies throughout our reservations and raise the standard of living.

Enclosed are ten (10) copies of our written testimony. The testimony is the same as submitted in the Senate hearing. At the instruction of your staff, we have also provided an email version of our testimony to dina.gideon@mail.house.gov.

I trust that our testimony will be made part of the Congressional record for this project.

Sincerely,

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

cc The Honorable Earl Pomeroy
The Honorable Byron Dorgan
The Honorable Kent Conrad

P.O. BOX D • FORT YATES, NORTH DAKOTA 58538

TESTIMONY OF STANDING ROCK SIOUX TRIBE
on
DAKOTA WATER RESOURCES ACT OF 1999
HR 2918

before
HOUSE SUBCOMMITTEE ON WATER AND POWER

1. Support for Dakota Water Resources Act of 1999

The Standing Rock Sioux Tribe is a strong proponent of the Dakota Water Resources Act of 1999 (HR 2918). Valuable benefits are expected by the governing body and membership of the Standing Rock Sioux Tribe. Primary among the benefits, this bill will provide $80 million in construction funds for expansion of the drinking water system within the boundaries of the Standing Rock Indian Reservation and $120 million for drinking water systems on the Fort Berthold, Fort Totten and Turtle Mountain Indian Reservations.

In 1986 the Garrison Diversion Unit Act (PL 99-294) offered a reason for renewed hope and restoration of our dignity, spirit and economy. The Act provided $8.5 million for improvement of our drinking water systems and $12.57 million as our part of $67.9 million for irrigation of lands on both the Standing Rock Indian Reservation and the Fort Berthold Indian Reservation. Moreover, the Garrison Diversion Unit Commission called for the establishment of a Joint Tribal Advisory Committee (JTAC) to study the diminishment of our lands and the impact on our people. JTAC recommended the development of irrigation on the Standing Rock Indian Reservation, the completion of our municipal, rural and industrial water supply system and just compensation for the taking of our lands. PL 102-575 implemented the JTAC recommendations, in part, by providing for an Equitable Compensation Fund in the amount of $90.6 million, which has been established and is providing substantial benefit to the Standing Rock Sioux Tribe at the present time.

The governing body and the membership of the Standing Rock Sioux Tribe in 1999 looks to HR 2918 to continue the restoration of our health and welfare, which is so urgently needed to bring conditions on the Reservation to near the same level as the surrounding region. The Subcommittee's support for HR 2918, including $200 million for safe and adequate drinking water on the Standing Rock Indian Reservation and other North Dakota Indian Reservations, is respectfully and strongly urged.

2. Safe and Adequate Drinking Water

To understand the value of drinking water and the other benefits of HR 2918 on the Standing Rock Indian Reservation, the information of Table 1 is presented to describe conditions on the Reservation. The 1990 Census underestimated the population on the Standing Rock Indian Reservation by as much as 15 to 20 percent. Setting this deficiency aside, the Census identified 4,782 Indian people on the Reservation as well as 3,084 non-Indians, giving the total population of the Reservation at 7,956. Our population is much different than the population of the region, however. Our median age is 20 years, as contrasted with a median age of 30 years in the state of North Dakota. The Indian population on the Standing Rock Indian Reservation is youthful and vital. It will grow to more than 10,000 over the next 40 years. It needs an economy with opportunity for income and employment. These conditions did not exist at the time of the 1990 Census as disclosed by Table 1 but has improved by large degree as provisions of PL 99-294 have

TABLE 1

CHARACTERISTICS OF THE POPULATION
STANDING ROCK INDIAN RESERVATION

Statistic	Standing Rock Indian	Standing Rock Non-Indian	Standing Rock Indian Reservation	North Dakota
Population				
Total	4,872	3,084	7,956	638,800
Below Poverty Level	2,867	679	3,546	88,276
% Below Poverty Level	58.8	22.0	44.6	13.8
Median Age	20	--	--	30
Occupied Housing				
Total	1,135	1,190	2,325	240,878
Persons per Household	4.3	2.6	3.4	2.7
Per Capita Income	$3,421	$9,489	$5,773	$11,051
% State Average	31.0	85.9	52.2	100.0

been implemented. Over 58 percent of our population was below poverty level as contrasted with the State of North Dakota which had 13.8 percent of its population below poverty level. The Indian population on the Standing Rock Indian Reservation had a per capita income of $3,421 as compared with the State average of $11,051. There were an average 4.3 persons per household occupied by tribal members on the Standing Rock Indian Reservation but only 2.7 persons per household statewide. This latter figure reflects the fact that more children were in the family households, as reflected by the lower median age. But the higher number of persons per Indian household also reflects the level of poverty on the Reservation.

The Standing Rock Sioux Tribe will undertake an investigation of morbidity and mortality related to major diseases on the Reservation in the near future. Nevertheless, it is believed that health statistics on the Reservation will not depart substantially from other reservations in the region. The statistics related to diabetes, heart disease and cancer are staggering. It is well known that diabetes on nearby reservations affects more than 15 percent of the population as contrasted with 3.1 percent across the Nation. It is also known that the rate of death from heart disease is 250 per 100,000 in the Indian population in the age group between 35 and 60 as contrasted with 55 deaths per 100,000 in the non-Indian rural population of the region. In age groups over 60 years, deaths from heart disease on nearby reservations approach 1,700 persons per 100,000 as contrasted with 1,250 deaths per 100,000 in the non-Indian population. Finally, cancer deaths in the Indian population over age 60 total as high as 1,300 per 100,000 as contrasted with the death rate in the non-Indian population of 950 deaths per 100,000.

The cost of these diseases is high in both human and economic terms. In human terms it is devastating to our families and to our Indian community. In economic terms these diseases over the next fifty years will cost more than $200 million extra on the Reservation than the cost of the non-Indian population of the same size from the rural areas of the Northern Great Plains.

The economic conditions presented in Table 1 and the impact on health are highly correlated in the opinion of the Standing Rock Sioux Tribe. It is respectfully submitted here that HR 2918 can contribute significantly to a change in economic conditions on the Standing Rock Indian Reservation, which in turn can improve the rate of morbidity and mortality of major diseases as summarized above.

3. Garrison Project Has Provided Benefit Since 1990

Most of the benefits of PL 99-294 came after the 1990 Census, and there is confidence that 1990 economic conditions will have improved by the year 2000 Census. Safe and adequate drinking water has revolutionized those parts of our Reservation that have received it. The quality of drinking water before our Garrison MRI project was deplorable. The tribal membership suffered from lack of water supply of suitable quality. This caused families to use less water than in a normal community for the reason that it stained fixtures, tasted poorly and was a cause of water-borne diseases, among other things. Our schools have been positively impacted by our MRI project, and the Prairie Knights Casino, one of our commercial activities that provides the greatest source of income to the Tribe, has benefitted.

The Tribe expended $8.0 million in Garrison funds to build drinking water systems serving the communities of Cannonball and Porcupine with good water diverted from the Missouri River. Funds were also used to deliver well water from the McLaughlin area to the community of Rock Creek. Drinking water in these communities was formerly unsafe and constituted a risk to the health of our membership. Those communities now receive safe and adequate drinking water diverted from the Missouri River and treated in a modern plant to remove contaminants and provide disinfection.

The additional $80 million provided by HR 2918 will bring safe and adequate drinking water to the balance of the communities on our Reservation, serving both Indian and non-Indian residents. Moreover, it will provide a significantly improved drinking water source for all rural residents within the Reservation boundaries.

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September 28, 1999

Honorable John Doolittle, Chairman
Subcommittee on Water and Power
House Committee on Resources
1522 Longworth House Office Building
Washington DC 20515

Honorable Calvin Dooley, Ranking Member
Subcommittee on Water and Power
House Committee on Resources
509 O'Neill Building
Washington DC 20515

RE: The Dakota Water Resources Act (DWRA) of 1999 (HR 2918)

Dear Chairman Doolittle and Ranking Member Dooley:

The City of Grand Forks, North Dakota strongly supports The Dakota Water Resources Act (DWRA) of 1999 (HR 2198). Water supply is a significant challenge facing the City of Grand Forks. While in the midst of recovery from the devastating flood of 1997, concerns over water supply shortages in the Red and Red Lake Rivers may seem ironic, but these concerns emphasize the dynamics of water flows in the Red River Basin. Water supply is also related to infrastructure, as a water supply is only usable when we can afford to withdraw it from the source, treat it, deal with the residuals generated from the treatment process and distribute it to our residential, commercial, institutional, and industrial users.

The Phase I Part A report completed by the United States Department of Interior Bureau of Reclamation entitled, Red River Valley Water Needs Assessment, identified water supply shortages throughout much of the Red River Valley during drought conditions when current and projected water demands within the basin are compared to the available water supplies. These shortages would have serious impacts on the existing population and businesses within the entire Red River Valley. An adequate water supply will be critical to the vitality and growth of the region.

Related to infrastructure, continuing drinking water regulatory changes, aging infrastructure, increasing capacity demands, and most notably infrastructure impacts from the flood of 1997 are placing an enormous burden on our water supply system. The proposed set-back levee flood protection plan by the US army Corps of Engineers, alone, will force the relocation of all three of our water supply intakes, a three million gallon water storage reservoir, our water reclamation facilities, and a proposed reservoir for disinfectant contact time and storage. We are also concerned about the possibility of having to construct a new water treatment plant due to additional residential impacts from construction of facilities adjacent to the existing site, the proximity of the existing site to the proposed levee, and regulatory and capacity inadequacies associated with the existing facilities. Although we are still trying to get a handle on the total

costs associated with these water infrastructure challenges, preliminary cost estimates have ranged from at least $50 million to over $100 million. The City of Grand Forks is committed to addressing these challenges but will likely need financial support.

We know other water systems across the State of North Dakota also face significant challenges. Interest from new rural water users, consolidation of small systems into regional systems, regulatory impacts, and aging infrastructure are impacting many systems. The MR&I funding in HR 2918 is an excellent means of addressing our needs, as well as other statewide water infrastructure needs.

We have concentrated on several components of HR 2918, which will directly affect the City of Grand Forks, such as water to the Red River Valley and expansion of the MR&I program. Other components of the legislation, including Indian MR&I, recreation, fish and wildlife, the principal supply works, the Oakes test area, hydropower, Devils Lake, and irrigation, are all important to the statewide perspective of water resources.

The City of Grand Forks strongly urges you to support the development and passage of The Dakota Water Resources Act of 1999 (HR 2918).

Sincerely,

Patricia A. Owens

Patricia A. Owens
Mayor of Grand Forks, ND

XC: Representative Earl Pomeroy
Senator Kent Conrad
Senator Byron Dorgan
Dana Bohn, ND Water Coalition
Steve Burian, Advanced Engineering
Ken Vein, City of Grand Forks
Lisa Dressler, City of Grand Forks

LKD: slb/lkd

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