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S. HRG. 107–693

FISCAL YEAR 2003 FIELD HEARINGS

HEARINGS

BEFORE THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

January 8, 2002—THE FARM BILL

January 20, 2002—IMPACT OF THE PRESIDENT'S 2003 BUDGET REQUEST ON HIGHWAY AND WATER INFRASTRUCTURE NEEDS

January 22, 2002—THE PRESIDENT'S FISCAL YEAR 2003 BUDGET

August 20, 2002—ASSESSING THE NEED FOR NATURAL DISASTER ASSISTANCE

Printed for the use of the Committee on the Budget

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THE FARM BILL

TUESDAY, JANUARY 8, 2002

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Bismarck, ND

The committee met, pursuant to notice, at 9 a.m., in the Civic Center, Room 101, Bismarck, North Dakota, Hon. Kent Conrad (chairman of the committee) presiding.

Present: Senator Conrad.

OPENING STATEMENT OF SENATOR CONRAD

Chairman CONRAD. Welcome. Good to have you here this morning. This is an official hearing of the Senate Budget Committee on the question of a new farm bill.

This is critically important that we address this question because the farm bill is still pending before the United States Senate and upon our return we must conclude action. We must conclude action by April 15th or lose the funding that was in the last budget resolution. That is $73.5 billion of funding over and above the so-called baseline which would be the funding available under the previous farm bill. I think you can see without that additional funding there would be no way of writing any kind of decent farm legislation.

In fact, what we would be stuck with is the status quo minus the disaster assistance payments we have received each of the last 4 years. Those payments have totaled more than $25 billion of disaster assistance payments. They were necessary because of the failure of the current farm legislation.

In fact, I believe the current farm law itself is a disaster. I don't know why else we would have had to write disaster assistance bills, economic disaster assistance bills for agriculture each of the last 4 years. I think all of us know what the consequences would have been if we had not had that disaster assistance in place for North Dakota and other farm States. Can you imagine what would have happened without those economic disaster assistance payments each of the last 4 years? There truly would have been a race to the auctioneer.

The reason this hearing is important is we must establish a record before the Senate Budget Committee that has responsibility for identifying the budget needs of the Country as they address the budget for the year 2003.

Let me just move, if I can, to the charts to try to make this case clear in a visual way as well. The first and, I think, most dramatic reason that we need a new farm bill is that we have got prices that farmers received at a 50- to 60-year low. In real terms, adjusted

for inflation, the prices farmers are receiving are the lowest they have been in 50 or 60 years. This chart shows the relationship between the prices that farmers pay—that is the green line—and the prices that farmers receive—that is the red line—and what you can see is the last time that they were even close was before the last farm bill was written. You will recall at that time we were assured of permanently high farm prices. Now, that promise was good for about 90 days, and then as you can see, farm prices started collapsing even while the prices that farmers paid for all of the inputs continued to increase. The result is a chasm between the prices that farmers receive and the prices that they pay for all of the goods that they must buy. That is, I believe, the first and most important reason for us to write a new farm bill to deal with this disparity.

Second, I want to indicate the October price index that indicates the prices that farmers receive showed the biggest monthly decline since they started keeping records 91 years ago. Farm prices declined in the month of October by nearly 10 percent. It is a second key reason we need to act on new farm legislation and act now.

An additional reason is what our major competitors are doing. Our major competitors are the Europeans. They are giving much higher levels of support to their producers than we are giving to ours. Let me just show the difference.

This is the European Union. The level of support they provide their farmers each year, it averages over $300 an acre. This is what we provide our farmers, $38. So we are being outdone here almost 10 to 1. It is no wonder our farmers are in a very difficult circumstance. But it doesn't end there because if we look at world agricultural export subsidy we see a similar and even more dramatic pattern. This chart shows that the European Union is flooding the world with agricultural export subsidy. You can see that the blue part of this pie is what Europe is doing to support their producers. They account for 84 percent of all the world's agricultural export subsidy. This is the United States' share, this little red piece here, 2.7 percent. So we are being outgunned there nearly 30 to 1. In fact, something more than 30 to 1, it is no wonder our producers are facing difficult economic times.

Now, the consequence of all of this is demonstrated in this chart, it shows North Dakota net farm income excluding Government payments. Now, this should sober anybody who takes the time to look. If we go back to 1991 through 1996 you can see we were getting substantial income without Government support. That is, before Government support was included, there was substantial net farm income in North Dakota. But with the passage of the last farm bill, the collapse in prices, you can see farm income without Government payments evaporate. In the most recent year for which we have full records—the year of 2000–2001 is not yet completely compiled—there would have been no net farm income, none in the State of North Dakota without Government payments. That is the harsh reality that we must confront.

Maybe we can go to these next charts and talk about where we are now with the new farm bill.

First of all, as all of you know, the House has taken action; they have written a new farm bill. It is a good effort, it is a good begin-

ning but it could be improved on. It could be improved on because, first of all, when they wrote the farm bill in the House of Representatives, they took very good care of the South because it was written by a chairman and a ranking member of the House Agriculture Committee who happened to be from Texas, and they took very good care of Southern agriculture. They didn't take very good care of the Northern Plains. In fact, we came in, by various calculations, third to last in the United States, second to last, somewhere in there, in terms of the additional money going to agriculture under the budget commitment that was made. That is not acceptable. We shouldn't be second to last or third to last or dead last. There ought to be a fair sharing of the new resources.

When we look at the farm bill comparison, in the House they don't have higher loan rates, higher marketing loan rates for wheat, feed grains, et cetera. The House doesn't have it, the Senate does. The all-barley loan rate, the House doesn't have it, the Senate does. The loan rate for oilseeds is substantially lower in the House bill than in the Senate bill. Marketing loan for pulse crops is critically important to those who want to diversify, and what we see is that there is no provision in the House bill, none. In the Senate bill, there is coverage for the pulse crops. And then the repeal of the sugar loan forfeiture penalty, no provision in the House bill, it is covered in the Senate bill.

We also see a difference between the two bills in terms of their effect on commodity program funding. We see in the Senate bill nearly $2 billion more for the commodity programs than we see in the House bill. That is critically important, obviously, when we go to conference to try to rectify the weaknesses in the House bill with respect to the Northern Great Plains. If we are going to get a better deal for our part of the country, you have simply got to have additional resources so that we have leverage in the negotiations.

We have heard a lot and the Eastern media is making much of the disparity in the farm bill with respect to where the money goes, and they emphasize the very large payments that are made to some producers. There is no question there is a problem with this. Many of us believe and have long supported reasonable payment limitations, but I must say the Eastern media in many ways has misrepresented the full picture. They have not put it in context because what you find, if you study this issue, is that the vast majority of farms in the United States are hobby farms. They are very small farms that really aren't farming operations at all; they are weekend operations. They are people who live in town who are not dependent for their livelihood on the farm. And so of the 2.2 million farms that are cited, really only 350,000 of them have more than $100,000 of gross receipts.

Now, let me make this very clear. I am not talking about gross income. I am talking about gross receipts of at least $100,000. There are only 350,000 farms in this country with gross receipts of over $100,000. That is really where we have to look when we write farm policy because that accounts for 80 percent of all the food products that are produced in this country.

So I have done this chart to try to emphasize and show the difference between—this mic is not much better than the other one.

We are going to go to No. 3. OK. How about this one? This one work? Hey, third time is the charm.

I think this is a very important piece of information. The red bar shows what is happening in terms of the number of farms. The yellow bar shows the amount of production coming from those farms. The green bar shows the amount of Government support. And what you see is very clear, the retirement or hobby farms, there are a very large number of them. They produce very little. They actually get more Government support than their production would dictate. In the small commercial farms, you can see that there is a rough balance between the number, the amount of production they have and the amount of Government support they receive. In fact, again, in that category they receive more Government support than their production would dictate. And then the large commercial farms, those are the ones that really are producing the vast majority of what is produced agriculturally in America. You can see they account for 80 percent of all the agricultural production, much smaller in numbers, and they actually get less Government support than the production they provide would indicate.

I hope this puts the question in some context here so that we understand what is really happening with respect to Government payments as relates to production. Those who produce the most get the most in Government payments. That is the way the farm program works. Those who produce almost nothing don't get much in the way of Government support and they don't produce much. I mean, that is the reality. So I hope that point is clear.

Let me indicate that I hope today we are able to lay out in the record in a way that is clear and convincing the need for a new farm program and that we are able to make the case that will stand up in the weeks and months ahead why it is critically important for this country, not just the rural parts of this country but to the entire country, why a new farm bill is critically important and in this Nation's interest.

[The prepared statement of Chairman Conrad follows:]

STATEMENT OF U.S. SENATOR KENT CONRAD (D-ND)
CHAIRMAN, COMMITTEE ON THE BUDGET
UNITED STATES SENATE

FARM BILL HEARING
BISMARK, NORTH DAKOTA
January 8, 2002

The Committee on the Budget meets this morning to assess the current state of agriculture and the need for a new Farm Bill.

As most of you know, when Congress recessed for the holidays, the Farm Bill was still pending before the full Senate. We had already completed two weeks of debate on the bill and considered numerous amendments, including three Farm Bill alternatives, all of which were handily defeated by bipartisan majorities. Unfortunately, the continued filibuster by the other side derailed our hopes of completing action on the Farm Bill and sending it to the President before the year was out.

However, there remains an urgency to getting a new Farm Bill in place as soon as possible, for three reasons.

First, current policy has failed. Freedom to Farm had a shelf life of about one year. Since then, we've had to provide emergency aid to agriculture for each of the past four years. Commodity prices, in real terms, remain at 50 year lows. In October, commodity prices took their largest one-month plunge in the 91 years

that USDA has been keeping such records. Look what's happened over the past year:

- Wheat prices are down an average of 32 cents from their already-low levels of a year ago;
- Corn, down 15 cents.
- Soybeans, down 71 cents.
- Rice – down 35% from a year ago.
- Cotton – off 46%.
- Cattle – down over $13.00/cwt.
- Hogs – off $4.40/cwt.

Some warn against a return to the "failed policies of the past." What about the failed policies of the present?

Second, the uncertainty over the Farm Bill is creating an especially difficult time as producers sit down with their lenders to arrange financing for their 2002 crops. How can you do a cash flow analysis when you don't know what numbers to plug in? I hope we can hear more on this point from the lenders we have testifying this morning.

Finally, the deteriorating budget outlook puts additional Farm Bill funding at continued risk. I am pleased that the Administration has finally stepped forward

and pledged that it will support an additional $73.5 billion for a new Farm Bill – provided the President and Congress can agree on the policies that will underpin the new bill. That means we've come a long way in the past 6 months or so. Many of you will recall that last August the Administration warned that any new Farm Bill spending would have to be offset by cuts elsewhere in the budget, which had the practical effect of making any increased Farm Bill funding very difficult to obtain. So we welcome the Administration's reversal on this fundamental point.

But even with the Administration's statement of support, we're still at risk of losing some of the additional money for a Farm Bill if the new budget projections due later this month from the Congressional Budget Office and the Office of Management and Budget confirm, as expected, that we're once again returning to an era of chronic budget deficits. Such projections could undermine public and congressional support for a new Farm Bill, and the Farm Bill will likely be one of the first legislative items that is decided in the wake of the new budget forecast.

So, for all these reasons, I believe we must act, and act soon.

Before we hear from our witnesses, I thought it might also be helpful to review briefly the current state of the Farm Bill debate in Washington.

As you know, the House finished work on its Farm Bill in October. As I've

said on many occasions, I think the House Farm Bill represented a good start. It was a bipartisan bill designed to correct Freedom to Farm's chief flaw by reintroducing counter-cyclical support, in the form of deficiency payments triggered when prices are low. That's real progress.

Some have said to me, "Kent, why doesn't the Senate simply accept the House bill, because it's a pretty good deal for wheat." Wheat is obviously critically important to North Dakota. And again, the House bill is a good first step, but as this chart makes clear, thus far we've been able to improve upon the House bill in several key areas.

For example, the Senate bill increases loan rates, while the House bill leaves current policy in place. And as you may know, USDA is currently debating whether to let loan rates fall for the 2002 crops, as allowed under Freedom to Farm. The previous USDA froze loan rates in place, rather than allow them to drop.

The Senate bill also provides for an "all-barley" loan rate of $2.00 per bushel; the House bill has just a $1.65 loan, at best.

The Senate bill offers a $5.20 soybean loan rate; the House bill $4.92. In the case of minor oilseeds such as sunflowers or canola, the Senate bill provides a loan rate of 9.7 cents per pound; the House provides just 8.7 cents.

The Senate bill establishes, for the first time, a loan program for the pulse crops – dry peas, lentils, and chickpeas. The House bill ignores pulse crops.

Finally, the Senate bill repeals the loan forfeiture penalty for sugar, but the House bill is silent on that point. Repeal of the penalty adds a full cent to the sugar support level and will have a direct impact on the bottom line of our sugar producers

(Next chart) Let me also mention that, looking out over a five-year period, the Senate bill provides more funding for commodity programs as compared to the House bill, $27.6 Billion versus $25 Billion in the House bill, a difference of nearly $3 Billion.

(Next chart) I want to conclude with a comment on farm program payments, which have received a lot of media attention recently and been a hot topic in rural areas as well. Although we need to tighten some of the loopholes and prevent abuses in the current system, I also think that the public needs to understand that of the nearly 2.2 million farms in this country, nearly two-thirds are simply hobby or retirement farms. In fact, according to USDA, there's only about 350,000 farms in the entire United States that have sales – *sales, not income* – in excess of $100,000 per year. It's these farms that I think need to be the focus of our farm policy discussions, because they account for more than 80 percent of U.S.

agricultural production.

Unfortunately, USDA and some of the media critics continue to talk about most of the payments going to a small handful of larger producers, which is true only if you include all the hobby farmers in the mix. But as this chart shows, the share of government payments received by smaller farms actually exceeds the share of output attributed to these smaller farms, while the reverse is true for the larger farmers – their share of government payments is less than their share of production.

When the Senate returns to the Farm Bill I hope that we closely examine the payment limit issue and, as I said, address some of the loopholes and abuses, but I also hope that we do it with a bit more perspective on who's actually producing food in this country.

In closing, I am hopeful that the Senate can complete work on its Farm Bill in the coming weeks, so that we can conference with the House and pick the best features of both bills, budget permitting.

This morning the Committee looks forward to hearing from producers and lenders with your assessment of the pending Farm Bills, the state of our farm economy, and the need to get a new Farm Bill in place. I want to thank everyone for coming out today, and now we'll hear from our witnesses.

Chairman CONRAD. With that I want to turn to my colleague, Congressman Pomeroy, who will join me for the hearing today, and ask for his remarks.

Mr. POMEROY. Mr. Chairman, I want to thank you. We knew sometime, about a year ago, I think, you convened a similar meeting we knew the year ahead that is now being looked back on, 2001, it was going to be a critical year for restructuring of the farm program and that you were going to be a critical actor in it. You certainly fulfilled high expectations of the leadership role you would play in developing a new farm bill.

As chairman of the Budget Committee, you were able to secure critically needed resources to build a better farm program; $73 billion over 10 years achieved against extraordinary competing budget pressures could have only been accomplished by your leadership as Budget Chair. Very, very good work there.

Then in the fourth quarter of the year, as the Senate Agriculture Committee, also of which you are a member, wrestled with trying to get a bill out, your leadership again became evident in the crafting of the bill passed on a bipartisan vote out of the Senate Agriculture Committee as a better response to, I believe, farm policy than the House-passed bill. Both are an improvement from where we are. Both have as a cornerstone price protection for farmers.

As was mentioned, for reasons having to do with geography of the leadership of the House Agriculture Committee, the House tilts a little to Southern commodities as opposed to Northern commodities. I think the Senate package is more balanced.

We were terribly disappointed that a minority in the Senate could exercise basically their prerogative under a filibuster; the ability to summon 60 votes prevented the bill from getting enacted today. How vastly preferable it would have been to have had the competing versions of the House and Senate bills being talked about in conference committee with two passed bills as we try to reach the final project than still having the Senate action in front of us.

I have to identify—before I get there, let me say that the data from 2001 once again reveals why we need a new farm program and why it has to have price protection at the heart of it. The payments, the AMTA payments under the schedule of the old farm bill will be a mere—will be 41 percent. We are 41 percent in 2001, below what they were in 1996. They will be 44 percent below in 2002—that notwithstanding the fact that prices have fallen a third. So prices collapse and you get less support from the farm program. That just fundamentally doesn't make sense. The farm program needs to be there to respond when prices collapse, not to provide the support when the market prices are stronger.

The role of the Secretary of Agriculture, I think, has been most unfortunate in terms of trying to delay passage. As the House considered the bill, it was the position of—the administration took a hands-off position until literally the bill was coming to the House floor, at which time they said we didn't need to take action and then they also said if you do take action, don't pass the bill before you. The House, in a strong bipartisan way, rejected that; 291 to 120 was the vote on that bill. Unfortunately, the erosion of the con-

sensus behind price protection for agriculture had begun, and we saw it ultimately thwart passage in the Senate in December.

In addition to trying to stop the bill in the House, the Secretary of Agriculture—and intervention in the Senate debate I thought was also very unfortunate and had a significant role in sidetracking enactment of the bill in the Senate. The support of the version of Senator Lugar, the support of the version of Senator Roberts, neither of which have price protection at the heart of the bill, gave, I think, support to those trying to scuttle a new approach to the farm program based on price protection, and in the end they stopped enactment of it in December.

In the balance of my remarks, I would like to express my further disappointment in the Secretary of Agriculture for an announcement that came out of the U.S. Department of Agriculture late Friday afternoon relative to the announcement of marketing loan rates for the upcoming crop year. Although loan rates have been set in each of the last 5 years at the highest level allowed under the statute, and although farmers need to know what those loan rates will be for the upcoming crop year so they can make planting decisions and lenders can make lending decisions, the Secretary of Agriculture announced that she would not make an announcement on marketing loan rates; she would instead await action by Congress on the new farm bill. This is the very individual that has played such a prominent role in scuttling enactment of the farm bill last year, and now she says she won't set loan rates, which are wholly within her discretion as Secretary, until Congress passes a new farm bill.

This statement comes after rumors were squirming around regarding the prospect of the U.S. Department of Agriculture actually reducing the loan rates on oilseeds. I believe that in light of the uncertainty relative to this Secretary's leadership of the U.S. Department of Agriculture, her failure to affirm that loan rates will be held at their present levels makes it a very real prospect that they won't be held at the present levels.

Now, how in the world do you make planting decisions or lending decisions with that kind of uncertainty hanging over you? It is a time of decisions here in North Dakota and across farm country, trying to figure out what to plant, trying to figure out what your financing is going to be, lenders trying to figure out whether or not the operations are going to have cash-flow. When you look forward at the uncertainties of weather that will inevitably face our farmers, the variations in price that will inevitably face our farmers, what in the world is the Secretary of Agriculture doing adding yet additional uncertainty by not making it very clear what the loan support is going to be?

I will introduce into the record, Mr. Chairman, with your leave, data prepared by North Dakota State University, specifically Richard Taylor, Assistant Director of the Center for Ag Policy and Trade Studies, that estimates that the loan rate for wheat and barley could fall 11 percent. Now, because market rates are likely to be above this, that may not have an impact on the farmers' bottom line, but the oilseed equation is very different. Those loan rates could fall as much as 6 percent, and they would fall even more but for a floor placed into the statute that does not allow them to fall

further. Because the loan rate is above the market rate in oilseeds, this is every dollar off the farmers' bottom line. NDSU estimates that at existing price levels it would cost North Dakota farmers $20 million in soybeans, $10 million in sunflowers, $10 million in canola. That is a $40 million hit if prices stay at present levels. Well, this is the kind of uncertainty that is going to make it very, very difficult to plan the year ahead.

I have yesterday sent a letter to the Secretary of Agriculture urging her to set these loan rates, to reverse this unfortunate position and set these loan rates. I hope the various groups testifying today will join me in this call. Farmers deserve to know what their loan rates are going to be.

I introduce this for the record, Mr. Chairman. I thank you for holding this hearing.

[The prepared statement of Mr. Pomeroy follows:]

Statement of Congressman Earl Pomeroy
January 8, 2002

First, I would like to thank Senator Conrad for inviting me here to take part in this hearing to discuss the farm bill and the budget. As Chairman of the Senate Budget Committee, Senator Conrad has been a needed advocate for proper funding of agriculture this year and a tremendous momentum-builder in the U.S. Senate behind Farm Bill passage.

I only wish that we were sitting here discussing implementation issues of a new Farm Bill, instead of determining where we go from here now that the Farm Bill debate was forced into 2002. This delay places at risk the $73.5 billion allocated for rewriting the Farm Bill in the 2001 budget resolution. While Congress can still access that money provided that a Farm Bill is passed into law prior to a new budget resolution, there is some question of whether USDA could implement the Farm Bill in time for the 2002 crop year. Freedom to Farm may be a failure, but it's stuck around like a weed in our farmers' fields.

Congress was able to send a powerful message regarding the continuing importance of agriculture to our nation's economy, in that only a little over three months after a devastating attack on our country and in the middle of a domestic anthrax scare that still has many of our Senators' offices closed, both chambers came very close to final passage of a farm bill with responsive price protection. The bills considered in both chambers were far from perfect, but represented a carefully crafted balanced approach necessary to achieve some consensus on the divisive regional and cross-commodity issues in farm legislation.

Unfortunately, the attempts by the majority of Senators and Representatives to successfully pass a Farm Bill were thwarted by a minority who were determined to make our farmers wait another year to see effective price protection and a restored safety net. They were aided in their mission to kill the measure by an indecisive Administration that initially urged both Chambers to ignore the plight of our farmers under Freedom to Farm by pushing consideration of the measure to next year. Then, when it became apparent that enough members wanted to see a Farm Bill pass this year, the Administration threw its support to bills that further endangered farm income and that were destined to fail. Now, as we further discuss the prospects of Farm Bill passage this year under a drastically changed budget picture, the Administration states that it will not even go so far as to establish marketing assistance loan rates at the maximum level allowed by law; rates have been set at this level for the past five years. The uncertainty our farmers face due to weather and volatile commodity markets has just been exacerbated by this decision and the overall delay in Farm Bill passage.

Importance to Farmers and the Businesses They Support

I think we know just how important the issue of a new Farm Bill with income support is to our farmers. If we need a reminder, we just need to look at the support levels in the last year of Freedom to Farm. Conditions under the old Farm Bill continue to deteriorate for North Dakota agriculture. Under the 1996 Farm Bill, payments continue to decline even as prices bottom out as they have in recent years. Fixed payments in 2001 were 41 percent lower than in 1996. However, wheat prices in 2001 were only 66 percent what they were in 1996, so even though prices are much lower, payments declined. In 2002, fixed payments continue to decline, another 4 percent decrease from 2001. Quite simply, the 1996 Farm Bill is inferior to either of the Farm Bill versions this year because it obviously does not respond to price movements. If federal farm

legislation is designed to provide some stability in the volatile world of commodity prices for farmers, the 1996 Farm Bill does not work.

If farm income declines, businesses dependent on the buying power of the farmer decline as well. Grain elevators, seed stores, and equipment dealers all depend in part on the success of the local farmer. Farm lenders suffer when farm cash flow decreases, placing stress on local financial institutions during a difficult economic period.

Importance to Rural Economies

The additional stress placed on these rural businesses all lead to greater hardship on the rural economy. In North Dakota, we have seen rural economies in some areas die over the past five years of record-low commodity prices. In other areas, only the influx of emergency agricultural assistance funds from the government kept the economy afloat.

While the goal of farm income support is often mentioned as the primary impetus behind this new Farm Bill, the legislation plays a much larger role. Funding for rural development and agricultural research programs are contained within the Farm Bill. These programs provide important benefits for all of our citizens by supporting our rural areas and the safety of our overall food system, not just our farmers. In Fargo, research is being conducted at the Agricultural Research Service station to develop quick tests for dioxin contamination in food to prevent distribution of tainted food. Additional agricultural research initiatives may help alleviate some of the scab problems that cause considerable damage and financial loss in North Dakota.

Funds to shore up value-added agriculture are included and given a boost in the Farm Bill. North Dakota has been a leader in value-added agriculture initiatives and three North Dakota groups received grants totaling almost $1.5 million from USDA's value-added grant program this year.

The group that the Senator has assembled today to discuss the Farm Bill and budget represent the heart of the issue in Farm Bill debate. The Governor and the Commissioner of Agriculture for North Dakota represent the diverse interests of North Dakota agriculture and rural development. Agricultural producers are the first line, seeing prices drop, crops destroyed, and government payments evaporate, and agricultural lenders are often the first to hear when there are problems in farm country. I look forward to hearing from these "first responders" on the current situation as we head into another year and continue our push for a new Farm Bill.

Agriculture Conservation Rural Enhancement (ACRE) Act of 2001, reveals that the projected net income of small, medium and large farmers over five years will actually be higher under ACRE than under either the Harkin bill or the House bill. The element lacking in the Cochran-Roberts version is a counter-cyclical payment, and that feature could be created in a compromise version by moving the Marketing loan payment in Harkin and the Fixed decoupled payment in Cochran-Roberts to meet in the middle, creating a counter-cyclical payment.

In December, I sent a letter to Senate Majority Leader Daschle, Senate Minority Leader Lott, Agriculture Committee Chairman Harkin, Ranking Agriculture Committee Member Lugar, and Committee members Conrad, Cochran and Roberts. I also contacted Democratic Policy Conirnittee Chairman Sen. Dorgan. In that letter, I urged the senators to acknowledge each other's positions and strive to reach a compromise.

I am here again today, to urge you to find common ground. If both parties can make necessary and prudent concessions between the competing versions of the farm legislation in the Senate, we can have a new farm bill in time for planting. Both the Senate bill and the I-louse bill passed last October allocate the same amount for a farm safety net. Both parties will have to compromise in the conference committee, anyway. It's time to come together in a bipartisan manner and get the job done for our farmers.

Safety Net

	Harkin	Cochran- Roberts	House Bill
Fixed Decoupled Payments	LOW (and declining)	HIGH	MEDIUM
Counter-Cyclical Support	MEDIUM	LOW (savings account)	HIGH
Marketing Loans	HIGH	same as current	same as current

The two competing farm bills in the Senate and the bill passed by the House contain similar provisions of a safety net a fixed decoupled payment, counter-cyclical price support and a marketing loan. With this similarity in their structure, a reasonable compromise is attainable.

Chairman CONRAD. Thank you very much, Congressman Pomeroy, and thank you for the very useful information you provided the committee.

I, too, was surprised by the failure to act by the Secretary of Agriculture, but I must say I wasn't surprised given her track record. It has been an extreme disappointment. Never was I more disappointed then during the farm bill consideration in the Senate when she called colleagues telling them not to pass a farm bill last year, to wait until this year and the money would be there.

I think if you just apply some common sense, you can see that all of the expenses of the Federal Government are going up with the war effort, the revenue is going down with current economic conditions, and that every part of the Federal budget is going to be squeezed; and we had a window of opportunity to write a stronger farm bill with the resources that were won after hard fighting last year; and this Secretary played no part in that fight, played no part in the effort in the House in passing a farm bill, and then tried to scuttle getting a bill in the Senate.

The Secretary of Agriculture has a responsibility to be an advocate for farmers. That is her role, that is her mission, and I believe she has utterly failed in that responsibility.

With that, we are going to turn to our witnesses. Let me just say that this hearing is somewhat different than the previous hearings and at previous hearings we have started with witnesses, all of the major farm groups, we have had that hearing before the Senate Budget Committee, they did an outstanding job, and I want to thank each and every one of them for the role they have played this year.

At this hearing we thought it would be useful to do it a little bit differently and to have farmers from every part of the State with every kind of farm organization, background, and affiliation, people who are affiliated with the Farm Bureau, people with the Farmers Union, people with the Grain Growers, people with the various oilseed representatives as witnesses to make the case as to why we need a new farm bill. But we are going to lead with the leader of our State, the Governor of North Dakota, who has played a very positive role, I might say, working together on a bipartisan basis to make our case in Washington; and I want to thank the Governor for his contacts with the administration and with his contacts with Republican Members of the House and the Senate to urge them to take action on a stronger farm bill.

Governor, welcome. It is good to have you here and we await your testimony.

While the Governor is coming, we appreciate very much how you have worked on this issue. Let me just say, as the Governor is getting settled, that we believe our first obligation at this hearing is to try to make the case as to why a new farm bill is necessary, and that is really what we are attempting to prove in the record that is being constructed.

With that, again welcome, Governor. Thank you for being here and please provide us with your testimony.

STATEMENT OF JOHN HOEVEN, GOVERNOR OF NORTH DAKOTA

Governor Hoeven. Senator Conrad, thank you for holding the hearing and thank you for the opportunity to testify. Greetings to Congressman Pomeroy as well.

Before I start, if I could, I am just going to take maybe one small liberty. I came in this morning and there was a gentleman in the crowd that looked familiar to me, and I didn't recognize him right away. But he was kind enough to come over and say hello, and just showing that we have great ties throughout the world here in North Dakota, I don't know how many of you are football fans, but for any of you that at one time may have rooted for the Cincinnati Bengals, even watching them in the Super Bowl against the San Francisco 1949ers, who remembers their coach's name? Sam Weiss. Sam Weiss, would you stand up and take a bow. It is good to have you here today. Welcome to North Dakota. You are doing some announcing now for one of the networks.

Mr. WEISS. CBS.

Governor Hoeven. It is good to have you here.

Senator Conrad, you always draw a crowd of celebrities. Great work.

It is good to be here, and I appreciate the opportunity to testify. I had the opportunity about 6 months ago, or a little longer, to testify at your field hearing in Fargo, and I think these are very important. We come out to North Dakota to pick up this kind of testimony, and I wouldn't show up without a chart. Now, I realize you out-charted me, you have five or six there, but I did bring a chart to kind of talk about a few concepts.

There is no question that we need a farm program with a long-term countercyclical safety net. That is important not just for North Dakota but for the entire country. I mean the entire country. We talk about the Midwest and we talk about the Farm Belt, and it is vitally important for all our farmers throughout America. When we are talking about fiscal stimulus that will get this Nation back on track, that is the No. 1 task right now. I mean, clearly the war on terrorism is vitally important, we are heavily engaged in it, homeland security as well. We are doing an outstanding job with that, but at the same time we need to make sure that we keep this economy going. And what could be better fiscal stimulus than passing a long-term farm bill with a countercyclical safety net? And that is why it is so critically important not just for our farmers, not just for North Dakota, but for the entire country.

I think we have the opportunity to pass the right kind of farm bill. Last year we did a lot of work in the House, and I compliment the members of the House for passing a farm bill. And I was a strong supporter of the concept underlying that farm bill, the commodity title—again, a long-term countercyclical safety net composed of three different payments: a decoupled payment, a countercyclical payment, and the marketing loan program.

I understand Senator Conrad's comments about it in terms of the relative pricing favoring some the Southern crops, and that is something we talked about and something that the Senate has gone to work on.

I spent a lot of time last year encouraging the House to move forward but also encouraging the administration to support this kind of farm bill, and I think that we have made a lot of progress with the administration. They have indicated that they will sign, that they will support and sign a comprehensive bipartisan bill and that they support the full $170 billion funding level. I think that is very important. The key now, of course, is to move the right kind of bill through the Senate and to get into conference with the House and get the farm bill in place.

I compliment Senator Conrad for working with Senator Harkin to move that farm bill out of the Ag Committee, and I can remember talking to both Senator Conrad and Senator Dorgan, as well as other Senators, Democrat and Republican, saying, Hey, we have got to do some work. The bill that Senator Harkin has and the bill that Senator Lugar has, neither one is acceptable for farm country. It was about that time that Senator Conrad and others went to Senator Harkin and said, Hey, we need to do some major work on this bill, and they did and they improved it significantly and they moved it through the Ag Committee.

Now we face a situation where we have two bills on the Senate floor, essentially, or a bill and an amendment. We have got the Harkin bill, and we have got the Cochran-Roberts amendment, and somehow we got to bring those two together and get it passed so that we can get into conference with the House and get a final bill passed. And that is where I think we really need to work in terms of encouraging bipartisan compromise. We need to get Democratic Senators to move forward, we need to get Republican Senators to move forward on the basis of bringing these bills together, taking the best elements of both in a strong and positive way, going over to conference with the House and getting this bill in front of the President, getting it signed, and getting it passed.

Now, I brought along just my one chart, Senator, if I may. You can all hear me all right? I don't know if this is quite large enough for you to see, but the key to the farm bill forces the commodity title, and underlying that is this long-term countercyclical safety net that we need for our farmers. It is going to provide the right kind of foundation so that farmers can plan for the future and invest for the future over a long period of time. That not only helps our young farmers get into the business by buying equipment, making investments they need, but also it helps our farmers in terms of diversification and making investments into value-added agriculture so they can vertically integrate, get more money from processing and marketing the crops they grow. So like any business person, we need a long-term plan so that they can plan and invest for the future.

So what are the elements of that countercyclical safety net? Well, first, we have got the marketing loan program which, as you know, is in existence today. We have got a countercyclical support payment which was brought into the equation under the House bill, and we have got the decoupled payments, some more of the AMTA payments that you are all familiar with. Those are the three components.

Now, the good news is in some respect they are in all versions of the legislation that the Congress is looking at right now. In the

House bill, the marketing loan program continues essentially as it is now. Also, there is a decoupled payment. But the farm bill or the House version truly provides a long-term countercyclical safety net in that it has a target price and a countercyclical payment. OK.

But when we go over to the two Senate versions—and, remember, anything that gets passed eventually is going to have to be reconciled with the House version before it goes to the President.

So what are we looking at in the Senate? Under the Harkin bill, you have got a higher marketing loan program, and that is very attractive for our farmers and that is something that Senator Conrad has worked very hard to get. And not only is it the right thing to do, but I know he is looking in terms of going into negotiations with the House being in a strong position, and that makes sense, too. That goes back to that discussion about how you price for Northern versus Southern commodities. OK.

But as a result, then, it also has a countercyclical payment, but because it has a higher marketing loan program, it tends to be a lower countercyclical payment, although the target price between the House and Senate version, when I am talking about the Harkin version, are roughly similar, and then it has got a lower decoupled payment than you have got in the House bill. But all three elements are there. OK. All three elements are there, so you have got a similarity in that safety net mechanism.

Then Cochran-Roberts. Same marketing loan program is in place now, same as in the House version. It has got a very high decoupled payment, and that decoupled payment doesn't decline over time like it does in the Harkin program, but it doesn't have that countercyclical in the way we need it. It doesn't have a countercyclical payment; it has got a savings account.

So what needs to happen is that we need to see some movement wherein maybe some of this decoupled payment—OK, and maybe some of the marketing loans, we need to move those toward each other making sure that we have an adequate countercyclical payment, the safety net component. That, again, is in the House version and with this kind of compromise pass a bill. Any bill that comes out of the Senate is going to tend to move that way when you go over into conference with the House, anyway.

The point I am trying to make is that the room for compromise on a bipartisan basis is there. I strongly support Senator Conrad's work to negotiate the best bill possible for our State, I think that is the right thing to do. But I am encouraged that we are talking about three fundamental components in this safety net, that the room for compromise is there. We need to all push on both sides of the aisle to get the compromise needed and to get this bill passed.

One final point: NDSU Professor Won Koo, who does a lot of work in this area, has taken a look at the Cochran-Roberts version, and it is very positive for North Dakota farmers. Using the same factory price assumptions underlying the scoring on these bills, it is stronger for North Dakota, doesn't have some of the problems in terms of waiting that the House bill does. So, again, I think that offers room for compromise, and I think the key for all of us is to make sure that we are pushing to get the job done.

Senator Conrad, thanks for the opportunity to testify. I really appreciate it.

[The prepared statement of Governor Hoeven follows:]

TESTIMONY OF THE HONORABLE JOHN HOEVEN, GOVERNOR OF NORTH DAKOTA

Senator Conrad, thank you for the opportunity to testify today at this hearing on the very important matter of getting legislation passed for our farmers and ranchers.

As I stated at the field hearing that you hosted in Fargo in August:

–It is obvious that we need a good farm bill, and we need one now. When I appeared before your committee in August , I said that we need one soon. I am here again in January to testify that we need a farm bill before the snow melts to enable our farmers to prepare for another growing season.

–I have spoken with President Bush and his senior agriculture staff, and I believe we have helped move the administration in the right direction. The president is on record supporting a farm bill that is bipartisan and comprehensive. the administration has gone on record saying it will fund the full $170 billion for the farm bill.

–I have worked with you and Senator Dorgan to get a solid farm bill passed, and I compliment you on your hard work to get the bill out of the Senate Agriculture Committee.

–Now it is time for the Senate to compromise and reach consensus on a farm bill. Throughout the fall and early winter the Senate debated two different versions of a farm bill—one, the Harkin bill, with higher loan rates and a decoupled target price system; and the other, the Cochran-Roberts bill, with the current marketing loan program and higher direct payments. The farm bill concepts are not that different in their framework, and compromise can be reached.

While the Senate continues into a new year debating the relative merits of the competing commodity support progams, the goal is the same: Federal farm legislation should offer consistent, dependable support for America's farmers. The Senate will continue to debate the details of how to best allocate the $170.5 billion committed to by the Administration. I believe that an acceptable compromise is attainable, and the way to accomplish that is to take the best elements of both the Harkin bill and the Cochran-Roberts bill.

Professor Won W. Koo, Director of North Dakota State University's Center for Agricultural Policy and Trade Studies, and research associat Richard Taylor shed some light on how a compromise might be achieved. Their analysis of the Cochran-Roberts bill, now known as the Agriculture Conservation Rural Enhancement (ACRE) Act of 2001, reveals that the projected net income of small, medium and large farmers over five years will actually be higher under ACRE than under either the Harkin bill of the House bill. The element lacking in the Cochran-Roberts version is counter-cyclical payment, and that the feature could be creasted in a compromise version by moving the Marketing load payment in Harkin and the Fixed decoupled payment in Cochran-Roberts to meet in the middle, creating a counter cyclical payment.

In December, I sent a letter to Senate Majority Leader Daschle, Senate Minority Leader Lott, Agriculture Committee Chairman Harkin, Ranking Agriculture Committee Member Lugar, and Committee members Conrad, Cochran and Roberts. I also contacted Democratic Policy Committee Chairman Senator Dorgan. In that letter, I urged the senators to acknowledge each other's position and strive to reach a compromise.

I am here today, to urge you to find common ground. If both parties can make necessary and prudent concession between the competing versions of the farm legislaton in the Senate, we can have a new farm bill in time for planting. Both the Senate bill and the House bill passed last October allocate the same amount for a farm safety net. Both parties will have to compromise in the conference committee, anyway. It's time to come together in a bipartisan manner and get the job done for our farmers.

Chairman CONRAD. Thank you very much, Governor. Thank you for your active involvement in this fight. It has been very helpful, and we appreciate it very much.

We are next going to call on Roger Johnson, our Commissioner of Agriculture, for his testimony. Again, welcome, Roger. Roger has played a key national role as well. He has brought the commissioners of agriculture around the country together around a plan that has been a very strong plan. I would love to see us be able to write that plan into law because there would probably be no stronger plan for North Dakota than the one Roger Johnson has led the State agriculture commissioners around the country to endorse. So, Roger, that was exceptionally well done, and I know there were long days and nights of negotiation to get that result. It had a big impact in the Senate Agriculture Committee, because when the agricultural commissioners of the country are united and send a clear message, that has an impact on our colleagues and it really did make a difference.

I want to say one thing for the record with respect to the Governor's testimony. The Cochran-Roberts bill was considered in the Senate, and it only received 41 votes. So it is now history. It is off the map. It lost. So now the question is, the bill that came out of the Senate Agriculture Committee, whether that bill passes the Senate. We have got 55 votes. We have got a strong majority in the Senate for that bill. But as all of you know, Senators can filibuster. A minority can try to stop the will of the majority. That is what is happening in the U.S. Senate. On three separate occasions we had a vote to bring debate to a close and to set a time certain for a final vote, and each and every time we had a majority of the Senate who was in favor of doing that, a minority said no. A minority said no. A minority said no. That is the problem. We have got to light a fire under those folks and get them to move because the option that is before us is the bill that came out of the Senate Agriculture Committee.

All of the other Republican substitutes have been defeated. The Lugar bill was defeated on an overwhelming vote, and he is the ranking Republican on the Senate Agriculture Committee. I don't think he got more than about 20 votes. Then we had the Cochran-Roberts bill. It, too, was defeated overwhelmingly. And then we had the Hutchison substitute, which was a version of the House bill, a pale version of the House bill. But obviously we believe we are better off in the conference committee if the Senate has stronger provisions on loan rates so that we can negotiate a better result for the Northern Great Plains than the Southerners who dominate the Agriculture Committee than the House wrote into that bill. That is the key test for us, what leverage are we going to have for negotiation.

The Governor referenced that very accurately. We need to have leverage in those negotiations to get a better result for the Northern Great Plains. The only way we do that is to have provisions that are different in the Senate bill than in the House bill, to have higher loan rate provisions, to have other provisions that are more attractive to us so that we have room to negotiate and get a better result.

Again, nobody has been more helpful than our own Secretary of Agriculture, Roger Johnson. Welcome. It is good to have you here.

STATEMENT OF ROGER JOHNSON, COMMISSIONER OF AGRICULTURE, STATE OF NORTH DAKOTA

Mr. JOHNSON. Thank you, Senator. I am going to try and shorten my remarks from what has been printed and ask that they all be a part of the official record, just in the interest of time.

I think it is important for us to recognize a couple of historical facts that are, I think, really important right now, and the first one is everyone understands how important agriculture is to North Dakota's economy. I mean, it far and away drives our State's economy. It is the No. 1 industry, the No. 1 sector of our economy. And so what happens in Congress with respect to the farm bill is of huge interest. And so for that reason I am very thankful that you have taken the time and the effort and the energy that you have to not only pull this hearing together but other hearings and to do the work that you have done in moving that bill through the Senate Ag Committee.

There is another premise that I think we need to understand that is different today than it was the last time the farm bill was being debated. If you will remember, the last time the farm bill was being debated, the premise was that Government is all done with agriculture, we are going to get out of the business. And the premise of that whole debate and of that whole farm bill that we are currently operating under was called transition payments, AMTA payments. They go by different names, but essentially the idea was we are going to move Government out of this and we are going to survive in this free trade environment, prices will be forever higher, and it is sort of a fairy tale kind of thing.

Well, the premise is much different today. Everybody recognizes that that is not going to happen, that that never will be the case, and that we have to have some sort of the same policy that protects our family farmers in this country and that guarantees a safe, affordable supply of food as a matter of national security. So we ought to be thankful that the premise has changed.

As a result of the premise that was in place back then—and as you mentioned in your opening remarks, Senator Conrad, the high prices lasted about a quarter of a year and they started heading south. And what happened next was a whole series of ad hoc disaster payments, which all of us supported because they absolutely were essential to stem the flow of blood that you demonstrated in your chart on net farm income earlier. But it was the wrong way, really, for farmers to operate and for Government to run a policy because it was not predictable, it had no relationship to what farmers were doing on their land, and it was just—it was not a well-thought-out policy. So it is good that we are entering this debate a bit earlier.

The third point I want to make is the issue about money, and let me just give you a couple of very simple numbers. OK. If we are able to maintain the budget authority that is in the resolution currently in front of Congress, that is about $17 billion a year to write a farm bill. OK. The last 4 years on average we spent $20 to $30 billion a year. So make no mistake about this, this is not a big pile of money you are trying to write a new farm bill in. It is less than what we have been getting in the last 4 or 5 years. OK.

The third number I want to give you in this equation is what happens if the resolution goes away. And every day that goes by, in my judgment, it is more likely that it is going to go away. In spite of whatever commitments might be made for the money being there, that number goes from $17 billion a year down to $10 billion a year, and you try and figure out how to write a decent farm bill with that, and you just have lots and lots of trouble. This is a very difficult, a dire situation that we have gotten ourselves into with this filibuster that has occurred in the Senate.

Now, let me make a couple of brief comments about the House bill and then about the Senate bill, and I am not going to talk much about the Cochran-Roberts bill because, frankly, I think that missed the mark pretty much entirely with respect to what we ought to have in a farm bill. The Cochran-Roberts bill was really nothing more, in my judgment, then a continuation of Freedom to Farm without any sort of countercyclical feature to it. And if there is one thing that everybody has come together on, everyone from Farm Bureau to Farmers Union to commodity groups across the board in this Nation, it is that we need a countercyclical feature to a farm bill, and the Cochran-Roberts bill didn't provide it so take it off the table. I am glad it failed. I am glad it was offered. I wish it would have been offered earlier because it likely would have set the stage to break the filibuster before recessing for the holidays.

So let's talk about the House bill. To its credit, the House deserves lots of accolades in the face of administration opposition for voting overwhelmingly in a bipartisan fashion to move the bill out of the House that contained a countercyclical feature. In my judgment, not the best countercyclical feature, but a countercyclical feature. Nonetheless, it is something that at least was what we need in a new farm policy.

The shortcoming of the House farm bill is it did nothing to rebalance loan rates. Everybody knows what has happened as we have seen wheat and barley acres plummet in this State, in spite of a recent editorial some of you may have read in the Tribune. We have seen acres of those cereal crops plummet. Why? Because prices and loan rates were so horribly low for them relative to the oilseeds, and we have seen oilseed acres skyrocket in this State as a result, as has happened around the country.

So we need to have some feature to bring balance back to these commodities, and the most logical way of doing that, in my judgment, is to rebalance loan rates, to do something that is based on the farmers' actually producing instead of what they don't do.

The other problem that I think I see with the House bill is that it leaves payments decoupled from production. The countercyclical feature in the House bill has nothing to do with what you do on your farm this year or next year or the year after. It has everything to do with what you used to do on your farm 10 and 20 years ago and prices that may move today. That is how it makes it countercyclical: prices go down for wheat today, and if you used to plant a lot of wheat, you get a wheat payment even though you are planting all soybeans today. And in my judgment, that is just—it is goofy, it doesn't make any sense. So we need to have some feature that brings some connection back to what producers are doing

and the payments that are being received if they can't be delivered through the marketplace.

And, last, I think a problem with the House bill is it really does not do an effective job of targeting benefits to family farm producers.

The Senate bill, let me talk briefly about that. I think it is substantially better than the House bill. I commend Senator Conrad for the work that you have done to try and bring the loan rates up. If you could have brought them all the way, the way all the ag commissioners around the country unanimously asked that they be brought to, I would be delighted, but you moved a fair distance. You brought the cereal grains up so that they are closer to the cost of production relative to soybeans. Historically our wheat loan rate, for example, right now is about half the cost of production. Soybeans are running at about 80 percent. So it is no secret where farmers are going to plant. I mean, we are not dummies. So that is where the plantings are going to go. So you made the right moves to move them as far as you could. It would be delightful if you could move them even further higher in conference. To your credit, you included pulse crops. I think you made that point. Very important for us to give more opportunities for our producers to diversify and to have a feature that would allow them to do that, and hopefully the Senate bill, as it gets passed, perhaps as it gets to conference, we will have some sort of a feature that deals with a meaningful payment limitation.

I have got a lot of other stuff here but my time is—I am cognizant of folks who may want to talk here, Senator. I want to just make a final comment about loan rates and countercyclical payments because in my mind they are the same thing. What a loan rate does, really, is it provides a level of price protection that is established, and if you move marketing loan rates up, producers are either going to get it by putting it under loan or they are going to take an LDP, and that is the countercyclical payment. It is the best mechanism that we have got right now in any of the versions to give a countercyclical feature to farmers based on what they actually do, and I think it is important that you couple what the payments are to what farmers do so that there is some sense of rational farm policy behind this thing instead of having things just entirely decoupled.

I want to make a last comment about trade because——

Chairman CONRAD. Before you do that, could I just interrupt and ask you—this may sound like an odd request but I would like you to just explain for the record how a marketing loan works.

Mr. JOHNSON. Sure.

Chairman CONRAD. Because, I tell you, one of the things that I have found is that most people really don't know. What I have found is even leaders of farm States don't know. I have seen people make comments that the last thing a farmer needs is another loan because the name "loan" misleads people as to how a marketing loan actually functions. And I think it confuses the public because they hear, gee, you are going to make more loans to farmers who are losing money, what sense does that make? And so I think part of the problem here is a problem of language because it misleads people. And maybe, for the record, I think it would be useful for

our colleagues and their staffs, who are the ones who will read this testimony, if you would just explain for the record how a marketing loan works.

Mr. JOHNSON. Thank you for the question. Let me give you a very oversimplified answer, but it is so important to this whole debate.

If the market price for wheat happens to be $.250, that is probably not a whole lot different than that today, depending on where you are at. And if the marketing loan rate were set at $3 a bushel, I can sell my wheat at $2.50, and I can collect a payment, if you will, an LDP, a loan deficiency payment for fifty cents. So the net effect is that the wheat that I produced that I sold for $2.50—I got $2.50 from the market, 50 cents from the Government payment, the net that I get—the gross that I get, I should say, is $3 a bushel. That is how it works, very simply.

It is interesting that you raise this question because it is a common misunderstanding. In the 2 years that I spent chairing the committee that developed our recommendations of all the ag commissioners across the country, we have had lots of discussions where folks in our own group didn't understand how market loans really worked. And there is a lot of confusion because a lot of folks used to farm and used to be under the old loan system, which were nonrecourse loans and they were different. I am not going to explain how they work because I don't want to confuse the record.

What we have today and the only thing on the table today is marketing loans and they work just the way I have said, pretty much. OK. I mean, there are some nuances here, but that is the idea generally.

What we agreed as ag commissioners——

Chairman CONRAD. If I could just interrupt one more time, because I think this is also critically important for the record. Isn't it true that this makes us fully competitive in the world because we can sell our grain for whatever the market price is and still get the difference between the marketing loan rate and what we actually get in the marketplace? Doesn't it strengthen our competitive position as well?

Mr. JOHNSON. Absolutely. That was the theory behind the marketing loan concept, that is, to put into Freedom to Farm—in fact, the mistake that was made with Freedom to Farm is the loan rates were set so horribly low that there was no sort of countercyclical mechanism that kicked in except in the case of oilseeds.

Chairman CONRAD. Maybe we could just establish this for the record as well, because I think these are critically important points. The marketing loan rate in the current farm law for wheat is $2.58 a bushel, but at the initiation of the Secretary of Agriculture, she is able to actually adjust that loan rate downward, downward. She can do that not only for wheat, but she can do it for the other crops as well that have marketing loans. Is that not the case?

Mr. JOHNSON. That is absolutely true.

Chairman CONRAD. And the House bill that passed left the marketing loan rate at $2.58. Isn't that the case?

Mr. JOHNSON. That is right.

Chairman CONRAD. And the Cochran-Roberts bill left the loan rate at $2.58. Isn't that the case?

Mr. JOHNSON. And both of them also left the discretion for the Secretary to lower them even further.

Chairman CONRAD. And isn't it the case that the Senate bill has a marketing loan rate of $3.00?

Mr. JOHNSON. That is right.

Chairman CONRAD. And has an all-barley loan rate of $2.00 and the House counterpart is $1.65. These are critically important differences between the House bill and the Senate bill. And people say to me, Senator, you are going to be a top three. I am going to be one of the five representatives of the Senate—I have already been notified that that is the case, one of the five representatives of the Senate to work out the differences between the Senate bill and the House bill. I have been given that responsibility.

How do I get a better result for our State than what is in the House bill? How do I do that? The only way that I can do that is if I have got provisions in the Senate that are different, that are stronger than the provisions in the House.

If you think about it, I think you will realize what I am saying is true. The only conceivable way I can get a better result for our State when I go into those negotiations with the House is if we have provisions that are stronger, that are more about beneficial to our State than the provisions that are in the House bill. I have got to go with some ammunition to that conference. And I think this is the point that you have made to me repeatedly. You have told me, Senator, you have got to set yourself up for that conference in a way that you can negotiate a better result.

Mr. JOHNSON. Let me put an exclamation point on that issue. Roughly—and I said this earlier—the oilseed loan rate has been established at about 80 percent of cost production. The ag commissioners across the country unanimously advocated that there would be a countercyclical payment mechanism tied to production, like marketing loan rates, that would establish the countercyclical payments at about 81 percent of cost of production. OK. The formulas across the board.

If we follow that formula for wheat, for example, we would come to $3.45. So even going to three, which you managed to get in the Senate—and I know it was a huge struggle to get in the Senate Ag Committee. It doesn't take us as far as we ought to go. So you are absolutely right to be insisting on keeping in the Senate bill for final passage, increasing these marketing loan rates. That is just an essential element, in my judgment, to farm policy.

If I could conclude with one final point, I opened my remarks by talking about the premise of Freedom to Farm being trade was going to be our salvation. I know that soon after you get back, the Senate is likely to be faced with the issue of fast-track legislation, which the House has passed. I would encourage you, before that is even considered, that there are some things that need to be done first:

First, we need a responsible domestic farm policy passed. The farm bill absolutely ought to be passed before you even talk about fast-track authority.

Second, we have done a lot of work in this State. You have been very helpful. The Governor's office has recently entered into this issue as well on the Pesticide Harmonization Act. Congressman

Pomeroy alluded to about a $40 million loss that would come just as a result of the Secretary reducing the loan rates by her discretionary authority in North Dakota. We annually lose about $30 million a year to disparate pricing packages for pesticides as compared to our farmers versus the Canadian producers. That act needs to be passed, in my judgment, to help level that playing field.

And, finally, I think some of the inequities from earlier trade agreements, CUSTA, NAFTA, need to be resolved before we take up fast track.

Recently the administration was successful in launching a new round of WTO talks. What troubles me is that the way they were successful in doing that is they put on the table—and we better understand this as producers. They put on the table our export credit programs which we use to sell our commodities to countries that can't afford to buy them for cash. They put on the table our ability to use counterveiling and anti-dumping actions, to take action against countries that are using unfair trade practices against us, and, most troubling, they put on the table the ability for us to even do countercyclical kinds of support programs which are the guts of the kind of farm policy, in my judgment, that we need in this country. We had best be real careful before we simply give carte blanche to the administration to execute removal of these tools from us, or we are going to have a huge problem, much larger than what we have today in front of us as an ag country.

So with that, Senator Conrad, and Mr. Chairman, thank you for the opportunity to testify. I am delighted with the work that you have done here and thank you very much.

[The prepared statement of Mr. Johnson follows:]

Testimony of
Roger Johnson
North Dakota Agriculture Commissioner

Introduction

Good morning. My name is Roger Johnson and I'm the North Dakota Agriculture Commissioner. I appreciate the opportunity to testify on farm bill issues today and I would like to thank Senator Kent Conrad for his work not only in organizing this hearing, but in his unwavering support for North Dakota agriculture.

Background

The importance of agriculture to North Dakota's economy, families, and communities can not be overstated. Agriculture is the engine of our economy and the mainstay for the hundreds of towns that dot our 44 million acre landscape.

Nationally, North Dakota is the leader in the production of nine different commodities and North Dakota farmers, ranchers, agriculture distributors and processors are revered both domestically

and internationally as the producers of some of the highest quality food products in the world.

Consumers here and abroad can choose from an unending supply of high quality, low cost food stuffs. Unfortunately, farmers and ranchers have not reaped the benefits of profitable or even break-even prices for the high quality products they produce.

Premise of farm bill debate

When farm legislation was debated and passed in 1995-96, the premise of the debate was much different than it is today. Then, the premise was that the government was going to get out of the business of providing domestic farm support and the legislation was designed to "wean" producers for the programs.

Now, the premise is much different. We've learned over the last half-dozen years that providing an adequate safety net for the producers of our food is important, especially in times of prolonged economic downturn and natural disasters. So, this time around, the agriculture community and Congress are working to enact farm policy based on the assumption that our country must support agriculture. That is as it should be.

Recent history

We are considering farm legislation one year before the expiration of current farm legislation – that is good news. The pressure to write a new farm bill comes because the 1996 farm bill hasn't worked. Period.

Congress has had to cobble together emergency bills each year for the last four years to try to provide a safety net for producers that doesn't exist in the Freedom to Farm bill.

The bottom line is that producers and the bankers that finance their operations need to know if a reliable farm policy is going to be in place for the next growing season. The grass roots demand for new farm policy isn't a foul cry for unneeded or unwarranted action. The need is immediate in farm country, as producers of most every

commodity have been suffering the effects of sustained, historically low prices for their products.

The failure of the current farm bill to address the needs of agriculture in times of economic crisis has prompted many to re-think and analyze policy options for agriculture. National and state agricultural organizations, such as the National Association of State Departments of Agriculture, have been working for more than two years on developing agricultural policy recommendations for a new farm bill.

Early on in the farm bill debate, the large majority of these organizations made clear to Congress that a counter-cyclical means of delivering support to producers was desirable in the next farm bill. Many in the agricultural community also support equalizing loan rates up to the oilseed rate as a method of providing counter-cyclical support.

It is interesting that the Administration chose to remain largely silent on farm policy issues until September of last year. Further, it is disturbing that the positions they have taken in no way reflect the thoughtful recommendations from national agricultural organizations that represent the cross-section of agriculture.

Money

The sense of urgency to pass a farm bill now also exists because new money was authorized for agriculture in the current – but soon to expire - Congressional budget resolution. That budget resolution – and the surplus that existed when the resolution was written – very likely won't be there for much longer. New federal budget forecasts are expected to be released at the end of this month.

What does the money in the budget resolution mean for agriculture? It means that agriculture will have around $17 billion per year for the next ten years. That is still significantly less than the $20-30 billion per year that agriculture has been receiving the last four years when including all ad hoc payments annually approved by Congress – usually under the guise of natural and economic disasters. If the budget resolution is allowed to expire with no farm bill action by Congress, agriculture may only have $10 billion per year.

House Bill (H.R. 2686)

Earlier this fall the House of Representatives passed a farm bill – H.R. 2686. This legislation is certainly better than the current farm bill. To its credit, it does contain a countercyclical support mechanism, but it does contain three major flaws. I think many of the bills supporters have come to realize that improvements need to be made to the legislation.

- It doesn't rebalance loan rates to an acceptable level.
- It leaves payments decoupled from production.
- It does nothing to target benefits to family farmers.

The House considered and passed this bill in spite of the efforts of the Administration to block its passage.

Senate Bill (S. 1731)

Now, the Senate is considering legislation. This legislation is also an improvement over current farm policy.

S. 1731:

- Has higher loan rates - $3.00 Wheat, $2.00 Barley, $2.08 Corn, $9.35 Minor Oilseeds, $5.20 Soybeans;
- Includes pulse crops (dry peas, lentils, chickpeas) for recourse commodity loans;
- Offers farmers the option to update bases and yields during 98-2001 or use old bases plus oilseed acres;
- And hopefully, it will include meaningful payment limitations – without them, our days of public support are clearly numbered.

In recent weeks, many of those opposed to S. 1731 have tried to claim that it is simply a "partisan bill" and an effort by the "democrat-controlled Senate" to ram through farm legislation.

Truth be told, S. 1731 is none of those things. The reality is that the legislation is very similar to the House-passed version of a farm bill.

The impacts of both pieces of legislation are very similar for North Dakota agriculture.

Farm Policy Fundamentals

I've said all along and I firmly believe that we need to keep two fundamental questions in mind as we continue this process of developing a farm policy for our country:

Do we care if our food is produced in this country? And, if so, do we care if family farmers and ranchers produce it? As a country, we should care and our farm and trade policies should reflect that. We must craft a farm policy that is predictable, dependable, and that provides an adequate safety net to allow well-run family farms and ranches to survive and prosper.

I will continue to work with NASDA, our congressional delegation, and others to enact an adequate, responsible farm policy.

I am hopeful that the Senate will pass a farm bill yet this month. If they do and it reaches conference committee, I hope some improvements are made to the legislation:

- Despite the Administration's resistance, loan rates need to be rebalanced – and I believe they should be rebalanced based on cost of production.
- Payments to producers need to be based on what they are actually producing, not on what they produced ten or twenty years ago.
- The benefits of a farm bill need to be targeted to family-sized farm operations.

Trade

It looks as if Congress may soon give the Administration fast-track authority (Trade Promotion Authority) in trade negotiations. Fast, Slippery Track might be a better term.

The last time the White House could negotiate trade agreements without congressional consultation, they came up with the U.S.-

Canada Free Trade Agreement and the North American Free Trade Agreements. The results of those agreements have not been favorable for North Dakota farmers. Trucks filled with Canadian wheat and barley are pouring across the border, while American grain was virtually banned from import into Canada.

Estimates also show that our producers are losing more than $30 million per year because of the disparity in pricing and availability of crop protection products between the US and Canada.

We should not pass any new trade legislation until we:

- enact a responsible domestic farm policy,
- pass the Pesticide Harmonization Act, which would address the inequities in chemical availability and pricing. The legislation was introduced by Rep. Earl Pomeroy and Sen. Dorgan and cosponsored by Sen. Conrad; and
- fix the trade inequities that resulted from earlier fast track agreements.

But my big fear about fast track is simply this. The Bush Administration, in their successful effort to launch a new trade round, put on the table all of the remaining tools this country has for family farmers. Tools like:

- export credit programs, which we use to sell our commodities to countries who are not wealthy,
- countervailing duties and anti-dumping authorities which we use to deal with patently unfair trading practices of other countries,
- farm program payments which are the guts of farm legislation now pending before Congress – even our ability to deliver effective counter-cyclical support payments.

The Administration does have a fast-approaching opportunity to show their support for American farmers and ranchers. United States Trade Representative Robert Zoellick must make a decision on the pending Section 301 investigation into the unfair trading practices of the Canadian Wheat Board.

I strongly urge the Administration to hold the Canadian Wheat Board accountable and put in place trade mechanisms that will protect the interest of American wheat producers and stop further economic harm.

Conclusion

Farm policy is at a crossroads, and we have many choices before us. Do we continue down the path of primary reliance on trade and a friendly marketplace, in keeping with the philosophy of "getting government out of agriculture"? Or, do we recognize the importance of supporting family farmers and ranchers and rural America and craft a new, responsible public policy for agriculture? I choose the latter.

I look forward to continuing debate on farm policy and to working with Congress, agricultural organizations, farmers and ranchers, and others as we develop the next farm bill for our country.

Thank you again for this opportunity to offer testimony on the farm bill. I would be happy to answer any questions you may have.

Chairman CONRAD. Thank you very much. We appreciate all that you have done and especially your work with the commissioners of agriculture across the country.

We are now going to call our second panel who represent agricultural lenders, because we think there is no group that can speak with better credibility with respect to the need for new farm legislation than those who make loans to farm producers. And I would call to the witness stand Roger Monson, a member of the Agriculture Committee of the American Bankers Association and a resident of Finley, North Dakota. Roger, welcome. It is good to have you here. And Michael O'Keeffe of the Farm Credit Administration from Mandan, North Dakota.

As they are coming to the witness stand, I just want to make the point that, as we considered new farm legislation, I had dozens of bankers and lenders across North Dakota call me and say, Senator, many of our farm lenders are not going to cash-flow under the last year of the old farm bill because that is the weakest year of the farm bill. There is no disaster assistance payment put in place, so all we can look to to recover on loans is the provisions of the last year of the old farm bill. Those are too weak to allow many of our farm borrowers to cash-flow. And so we want to make that point for the record and make it clearly here today, and so we especially welcome Roger and Michael.

Roger, why don't you proceed.

STATEMENT OF ROGER D. MONSON, PRESIDENT, CITIZENS STATE BANK, FINLEY, NORTH DAKOTA

Mr. MONSON. Thank you, Senator Conrad, for this opportunity to testify at your hearing, and I appreciate the fact that you have asked rural financial institutions to also have a voice in this.

Given the dramatic slump in commodity prices since 1997, the need to carefully craft a new farm bill that affords protection to production agriculture from economic disaster is now more urgently needed than ever before. Rural counties in Midwestern States, all the way from North Dakota to Texas, are suffering from double-digit population declines resulting from out-migration to urban centers, resulting in the decline in the farm profitability. The trend of fewer and larger farms in the 1980's has continued on through the 1990's.

As you know, production agriculture is capital intensive with farmers annually risking a large percent of their balance sheet equity each year. Agricultural lenders must make their lending decisions based on projected cash-flows and profitability. How does a lender or a borrower project emergency or supplemental Government payments before the crop year even begins? Farmers can't be caught in a guessing game as to whether they will be operating under the final year of the existing farm bill or working under a new farm program. Producers need that information now, not 4 or 5 months from now.

There also needs to be some sort of a safety net or price floor. Due to a combination of excessive moisture and poor commodity prices, borrowers at my bank typically received 20 to 30 percent of their gross income in Government payments in 2000, much of which came from emergency legislation that was enacted by Con-

gress. That percentage is not expected to change materially in 2001. Now, if my customers removed 25 percent of their gross income from their income statements, virtually none of them could cash-flow their debt for next year or any year after. Production agriculture must be financed through cash-flow. It cannot be financed by asset-based or collateral-based lending. We all learned that very painful lesson in the 1980's.

Very early last year, 2001, the American Bankers Association's Division of Agriculture and Rural Banking held a series of town hall meetings with ag bankers all over the country to formulate some ideas and thoughts about the prospect of a new farm bill. There was uniform consensus from these bankers, whether they were in cotton, corn and soybean, or wheat areas that farm producers needed some sort of price protection, such as a countercyclical mechanism, especially when commodity prices plummet.

And, Senator, if I can interject here, as I mentioned, I serve on the ABA's Ag Committee, and one of the things we do at each of our meetings is we go around the table and give a regional report. It is called "bears in the buckwheat," which is a strange statement, but the story was, there was a farmer who came in to see his lender and the lender asked him how the crop year went. And he said, well, he said, it was great, he said, it was really great, it was great weather, good price, but the bears got into the buckwheat, which meant there wasn't any buckwheat.

And as we go around that table, I am always surprised, sometimes we think that here in upper Midwest that our problems are unique and that no one else has the cash-flow issues. It is uniform across this country whether it is cotton or rice or whatever. Everyone has a problem and it is related to the dramatic rise and fall of commodity prices.

And that brings me to the point of commodity loan rates. There has already been discussion on this this morning about the potential, anyway, for commodity loan rates, especially wheat, to fall. And I guess I would just say that if the loan rates were to fall, where we are well below the cost of production already, that farmers are going to be forced to do an obvious thing—that is, they are not going to raise wheat. They don't want to promise themselves a loss. And if that were to happen on a national basis, that would be a self-fulfilling prophecy that we would be dependent upon foreign wheat.

If you think about that, it would be similar to relying on foreign oil, and I don't think anybody wants that kind of reliance when we can grow it here.

I would also like to touch, just for a moment, on conservation that has not been discussed today, but there are some conservation issues surrounding the bills. I guess I would say the conservation of our soil and our water are very important, and programs that encourage and assist farmers in improving their land should be encouraged. I would caution, however, that I think Congress needs to avoid creating situations where the U.S. Government actually becomes a competitor for farmland and thereby exacerbating the outmigration and creating additional economic distress to our rural communities.

In closing, Senator, I would urge that this Congress develop a farm bill immediately that would incorporate a rural development and a revitalization policy as well. I mentioned earlier the ongoing problem of out-migration in rural America. America's farmers need to get beyond the commodity production level in agriculture if they are going to survive. Federal resources must be channeled into developing successful value-added agricultural products such as ethanol, bio-diesel, and soy ink, as an example, and then providing the opportunity for the farmer/producer to own that enterprise.

Federal dollars also need to be made available to rebuild the electrical energy transmission grid in this country that will allow us to utilize the natural wind energy right here in North Dakota and up and down the Midwest that could help alleviate the energy issues in this country. Congress needs to invest in programs that will aid in the development of rural infrastructure and create jobs in rural areas. If we can create additional and reliable sources of income for our farm families and provide good-paying jobs for our youth, who presently have to leave this area in order to pursue the American dream, rural America could be on its way to becoming far less dependent on Federal farm subsidies and going a long way in developing sustainable agriculture.

[The prepared statement of Mr. Monson follows:]

The Honorable Kent Conrad
U.S. Senate Farm Bill Hearing
Bismarck Civic Center, Bismarck, ND

Senator Conrad:

Thank you for the opportunity to share my views as a rural North Dakota banker concerning important issues surrounding the proposed farm bill in Washington, D.C.

Given the dramatic slump in commodity prices since 1997, the need to carefully craft a new farm bill that affords protection to production agriculture from economic disaster is more urgent now than ever before. Rural counties in midwestern states from North Dakota to Texas are suffering from double-digit population declines resulting from out-migration to urban centers. The trend of fewer and larger farms in the 1980's has continued on thru the 1990's.

Production agriculture is capital intensive with farmers annually risking a large percentage of their balance sheet equity each crop year. Agricultural lenders must make their lending decisions based on projected cash flows and profitability. How does a lender or a borrower project emergency or supplemental government payments before the crop year even begins? Farmers can't be caught in a guessing game as to whether they will be operating under the final year of the existing farm bill or working under a new

program. Producers and lenders need that information now - not in 4 or 5 months. There also needs to be some sort of safety net or price floor. Due to a combination of excessive moisture and poor commodity prices, borrowers at my bank typically received 20-30% of their gross income in government payments in 2000 - much of which came from emergency legislation enacted by Congress. That percentage is not expected to change materially in 2001. If my farm customers removed 25% of their gross income from their income statements, virtually none of them could cash flow their debt for an extended period. Production agriculture must be financed by cash flow. It cannot be financed by asset-based or collateral lending. We all learned that painful lesson in the 1980's.

Very early in 2001, the American Bankers Association's Division of Agriculture and Rural Banking held a series of town hall meetings with ag bankers all through the country. There was uniform consensus from these bankers whether they were in cotton, corn & soybean or wheat areas that farm producers needed some sort of price protection - such as a counter-cyclical support mechanism - when commodity prices plummet.

Commodity loan rates, especially for wheat, also need to be addressed in the new farm bill. Current loan rates for wheat as a percentage of cost of production are too low and to drop further would be disastrous. If that were to happen, wheat production would fall dramatically and the U.S. would develop a dependency on foreign grain that would mirror our reliance on foreign oil - something that no U.S. citizens should support.

Conservation of our nation's soil and water is important and programs that encourage and assist farmers in improving their land should be encouraged. Congress needs to avoid creating situations where the U.S. Government becomes a competitor for farmland and

thereby increasing out-migration and creating additional economic distress to our rural communities.

In closing, I would urge this Congress to develop a farm bill that incorporates a rural development or revitalization policy as well. I mentioned earlier the on-going problem of out-migration in rural America. America's farmers need to get beyond the commodity production level in agricultural if they are to survive. Federal resources must be channeled into developing successful value-added agricultural products such as ethanol, bio diesel or soyink and then providing opportunities for these enterprises to be farmer-owned. Federal dollars need to be made available to rebuild the electrical energy transmission grid in this country that will allow us to utilize the natural wind energy that could alleviate much if the energy shortage in this country. Congress needs to invest in programs that will aid in the development of rural infrastructure and create jobs in rural areas. If we can create additional and reliable sources of income for our farm families and, just as important, provide good paying jobs for our youth who presently have to leave in order to pursue the American dream, rural America could be on its way to becoming less reliant on federal farm subsidies and developing more sustainable agriculture.

Sincerely,

ROGER D. MONSON
PRESIDENT

RDM/gh

Chairman CONRAD. Thank you very much for that thoughtful testimony.

I might just say on one of the last points you made, I will be making an important statement with respect to wind energy and incentives for the development of wind energy in the marketplace on Thursday in Grand Forks, and we are going to have an interesting display there from the West Fargo company that produces these large-scale wind generators. And there are very exciting developments in that area that have enormous implications, substantial opportunity for North Dakota, and we will be talking more about that Thursday.

Again, thank you so much for your testimony.

Now we are going to turn to Michael O'Keeffe, who represents the Farm Credit Administration, because as I have indicated, I have heard from lenders all over North Dakota telling me thousands of farm families in North Dakota will not cash-flow under the terms of the last year of the old farm bill. That is one reason Commissioner Johnson and others, all of us, have been pushing to get a new farm bill in place.

Michael, thank you so much for taking the time to come.

STATEMENT OF MICHAEL O'KEEFFE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, FARM CREDIT SERVICES, MANDAN, ACA

Mr. O'KEEFFE. Thank you, Senator Conrad, Congressman Pomeroy. On behalf of myself and the 3,800 customers of Farm Credit Services of Mandan, I would like to thank you for bringing this Senate Budget hearing to North Dakota and rural America. We appreciate that you recognize the important role that lenders play in rural America and welcome this opportunity to provide comments.

As CEO of Farm Credit Services of Mandan, I can best give my perspective relating to the agricultural producers of southwest and south central North Dakota in the area that we service. However, on the broader North Dakota scope, the four Farm Credit Services associations headquartered in North Dakota had outstanding at year end 2001 $1.9 billion in loans and leases to farmers, ranchers, and agribusinesses. Those farmers, ranchers, and agribusinesses are dependent on a sound national farm policy that can provide agriculture the opportunity to secure the needed access to operating and capital credit. They are dependent on the farm bill that will provide producers needed risk management tools, and those farmers and ranchers deserve the public's interest to provide timely farm policy and program information, allowing producers, as business managers, the ability to make timely and sound business production and marketing decisions.

These North Dakota producers are part of the food basket of America, and I think you will see by the underlying theme of my testimony that what is good for the farmers' bottom line is good for everyone, both rural and urban.

Obviously, the lending community has an interest in issues facing farmers and ranchers. Over the past months you have heard from countless individuals, farm organizations, and conservation groups with suggestions and recommendations, and I by no means am an expert on those issues or recommendations. But what has become clear is that you cannot separate the important issues of

affordable and accessible credit, cash-flow in agriculture, and the ability of producers to manage risks from the broader issues of commodity programs, conservation, trade or rural development. And also what is clear is we should not be asking farmers, as business managers, to make yearly planting and production decisions and longer-term/multiple-year business decisions without some certainties of the support they have from the American public regarding national farm legislation.

While we would all like to see profit in agriculture coming from higher commodity prices and not cash-flowed by Government payments, the reality is that we do have depressed commodity markets, and farm legislation is required to sustain agriculture.

Producers in other parts of the Nation have already had to make farm business decisions without knowing details around the farm bill. Farmers in southwest North Dakota are also beginning to make those decisions. Every spring brings uncertainty to North Dakota's agriculture, but it also brings hope and opportunity. And although timely passage of the next farm bill would be one less thing for producers to worry about, we do have a farm bill which can serve as the basis for these critical business decisions, but it may not be the basis for sound future decisions. Farmers are renewing or seeking operating lines of credit without knowing with certainty what crops they may finally seed. They want to clean seed, but don't know if that is the seed that they are going to be finally planting. They may want to or need to make long-term investments in equipment or resources but don't know if there is a sustainable profit or cash-flow for their farm operation. The prospect exists that they may have to select crop insurance options or make advanced marketing decisions before they know what the crop support levels or loan rate will be. This prospect would exist, as we talked about earlier, if a decision on the next farm bill isn't made or if the Secretary of Agriculture doesn't use the existing authorities to announce 2002 loan rates before the March 15th crop insurance deadline for the North Dakota crop producers. If farmers don't have the information or don't know the rules for those decisions by a prompt passage of the next farm bill, it becomes increasingly difficult for farmers to request lines of credit that they need, and it becomes increasingly difficult for lenders to analyze those credit needs.

In the mid-1980's, farmers and lenders were caught in a situation of falling collateral values and inadequate cash-flow to sustain debt servicing. That credit crisis, which was the result of producers borrowing on collateral and lenders lending on collateral, was devastating; and for those of us who lived through that process, that experienced those times, we do not want to experience those again.

Over the last 15 years, lenders, Farm Credit, and bankers alike have moved to making lending decisions based on earnings and cash-flow. And admittedly, much of the net earnings and cash-flow of the last few years has come from Government farm programs and insurance payments. Crop producers in southwest North Dakota have been building equity through these earnings and cash-flows, and they have been able to upgrade capital and make loan repayments. But in 2001, even with good crop production yields in our area, producers in southwest North Dakota showed less earn-

ings due to the continued low commodity prices and less Government payments.

For 2002, we are making loan decisions based on the overall increased balance sheet strength of the recent past years. Making decisions on cash-flow and earnings capacity aren't as clear. The crop producers will seed a 2002 crop and the credit will be available for the 2002 year. But what has the potential for disaster is the continued lack of profits and cash-flow in agriculture. That potential that after the 2002 crop year, if we don't have above average yield or without a sound farm policy offsetting depressed commodity prices, we will see some producers exiting agriculture because they do not want to relive the collateral lending experiences of the past. They will not want to use up their balance sheet equity to remain in farming. And lenders, not wanting to experience those times again, will likely trend toward restricting credit to agriculture because of the inability of producers to repay debt from cash-flow. If we can't sustain the current agriculture producers, how can we expect young, beginning farmers to enter agriculture? These potential young, beginning farmers need access to affordable credit, which is another primary issue facing agriculture and rural America, but more importantly, they need agriculture and commodity prices to be supported at levels that can keep them in business.

Another important factor in this whole farm bill debate is the need for, and use of, risk management tools. Congress took a step toward completing the unfinished agenda begun in 1996 with the passage of the Agriculture Risk Protection Act. This provided much needed reform to the Federal crop insurance and provided an enhanced tool for producers in managing their operation. Of value are the risk management and marketing options contained in farm bills, providing opportunities that assist farmers in enhancing their marketing skills and managing their risks.

Farm Credit has been a partner with farmers for four generations and has been there for good times and bad. While it is true that the terms of loans might be somewhat impacted, we continue to work with producers to mitigate uncertainty by encouraging the use of crop insurance, marketing plans, and future contracts; and although the lack of a new farm bill does not preclude us from continuing to work with our customers, removing the uncertainty as soon as possible is in the best interest of North Dakota's farmers and ranchers—and the Nation as a whole.

Mr. Chairman, although many farmers and ranchers remain optimistic there will be additional dollars "above the baseline" for agriculture, as you had indicated, there will be and are many demands in the Nation's budget. The key for the future of agriculture, which feeds both rural and urban America, will be the level of additional funding through a farm bill and how it is distributed.

Finally, I would like to note that farmers and ranchers, by tradition, are good stewards of the land. It provides their livelihood, and any conservation measures contained in the next farm bill must empower farmers and ranchers to make decisions on how to best utilize these resources. Decisions cannot be driven down on them, but must be the product of careful consideration as to a policy's impact on both the environment and the farmer's ability to manage his or her business.

Again, it is critical that credit and support levels be addressed as Congress considers the next farm bill, and as a primary source of credit, the Farm Credit System is an integral part of our rural communities, and many times lenders are left out of the debate and the issues that are raised. And I thank you and commend you for including us in today's hearing.

Thank you.

[The prepared statement of Mr. O'Keeffe follows:]

Testimony of

Michael O'Keeffe

President and Chief Executive Officer
Farm Credit Services of Mandan, ACA

Before the

United States Senate
Budget Committee Field Hearing
Senator Kent Conrad

Bismarck, ND
January 8, 2002

Mr. Chairman and committee members, on behalf of myself and the 3800 customers of Farm Credit Services of Mandan, I would like to thank you for bringing this Senate Budget hearing to North Dakota and rural America. We appreciate that you recognize the important role lenders play in rural America and welcome the opportunity to provide testimony regarding the impact of farm policy on North Dakota's farmers and ranchers.

As you know, Farm Credit Services of Mandan is part of the Farm Credit System. Congress created this nationwide financial cooperative in 1916 to provide American agriculture with a safe and dependable source of credit. Unlike commercial banks, Farm Credit System banks and associations do not take deposits. Rather, loanable funds are raised through the sale of System wide bonds and notes in capital markets and are channeled back to rural America through a nationwide network of Farm Credit lending institutions. We are a private, farmer-owned cooperative, which serves a public good.

Farm Credit Services of Mandan as a farmer-owned cooperative offers farm operating, equipment, and real estate loans and a variety of financial management services. We serve producers in a twenty county area in southwest and south central North Dakota and our mission is "to be the first choice of eligible customers by promoting and providing dependable sound credit and related services that will meet or exceed their expectations."

As CEO of Farm Credit Services of Mandan, I can best give my perspective relating to agricultural producers in southwest and south central North Dakota. However on the broader North Dakota scope, the four Farm Credit Services associations headquartered in North Dakota had outstanding at 2001 year end, $1.9 billion in loans and leases to farmers, ranchers and agribusiness. Those farmers, ranchers and agribusinesses are dependent on a sound national farm policy that can provide agriculture the opportunity to secure needed access to operating and capital credit. They are dependent on a farm bill that will provide producers needed risk management tools. Those farmers and ranchers deserve the public's interest to provide timely farm policy and program information allowing producers, as business managers, the ability to make timely and sound business production and marketing decisions. These North Dakota producers are part of the food basket of America and I think you will see that the underlying theme of my testimony is that what is good for the farmers "bottom-line" is good for everyone, both rural and urban.

Obviously, the lending community has an interest in issues facing farmers and ranchers. Over the past months you have heard from countless individuals, farm organizations and conservation groups with suggestions and recommendations. Members of the Senate Agriculture committee and your colleges in the House of Representatives have evaluated a wide variety of programs ranging from coutercyclical payments and target prices to conservation and trade. I, by no means, am an expert on these issues and recommendations. But what has become clear is that you can not separate the important issues of affordable and accessible credit, cash flow in agriculture and the ability of producers to manage risks from the broader issues of commodity programs, conservation, trade and rural development. And what is also clear, is we should not be asking farmers,

as business managers, to make yearly planting and production decisions and longer term/multiple year business decisions without some certainties of the support they have from the American public regarding national farm legislation. While we all would like to see profit in agriculture coming from higher commodity prices and not cash flowed by government payments, the reality is we have depressed commodity markets and farm legislation is required to sustain agriculture.

Producers in other parts of the nation have already had to make farm business decisions without knowing details around a farm bill. Farmers in southwest North Dakota are also beginning to make those decisions. Every spring brings uncertainty to North Dakota's agriculture; it also brings hope and opportunity. Although timely passage of the next farm bill would be one less thing for producers to worry about, we do have a farm bill which can serve as the basis for these critical business decisions, but it may not be the basis for sound future decisions. Farmers are renewing or seeking operating lines of credit without knowing with certainty what crops they may finally seed. They want to clean seed, but aren't sure if that is what they will finally plant. They may want to, or need to, make longer term investments in equipment or resources but don't know if there is a sustainable positive cash flow for their farm operation. The prospect exists they may have to select crop insurance options or make advanced marketing decisions before they know what the crop support levels or loan rates will be. This prospect would exist if a decision on the next farm bill isn't made or if the Secretary of Agriculture doesn't use existing authorities to announce 2002 loan rates before the March 15th crop insurance deadline for North Dakota crop producers. If farmers don't have the information or know the rules to make those decisions by a prompt passage of the next farm bill, it becomes increasingly difficult for the farmer to request the lines of credit they need and increasingly difficult for lenders to analyze those credit requests.

In the mid-1980's, farmers and lenders were caught in a situation of falling collateral values and inadequate cash flow to sustain debt servicing. That credit crisis, which was the result of producers borrowing on collateral and lenders lending on collateral, was devastating. Those of us who lived and worked through those experiences did not want to experience those times of collateral lending again. Over the last 15 years, lenders, Farm Credit and bankers alike, have moved to making lending decisions based on earnings and cash flow. Admittedly, much of the net earnings and cash flow in recent years has come from government farm program payments and insurance payments. Crop producers in southwest North Dakota were building equity through these earnings and cash flows. They have been able to upgrade capital and make loan repayments. But in 2001, even with good crop production yields, producers in southwest North Dakota showed less earnings due to continued low commodity prices and less government payments.

For 2002, we are making loan decisions based on the overall increased balance sheet strength of the recent past years. Making decisions on cash flow and earnings capacity aren't as clear. Crop producers will seed a 2002 crop and the credit will be there. What has the potential for disaster is the continued lack of profits and cash flow in agriculture. The potential that after the 2002 crop year if we don't have an above average yield or without a sound farm policy offsetting depressed commodity prices, producers will exit

agriculture because they do not want to re-live the collateral lending experiences of the past. They will not want to use up balance sheet equity to remain in farming. And lenders, not wanting to experience those times again, will likely trend to restricting credit to agriculture because of the inability of producers to repay debt from cash flow. If we can't sustain the current agricultural producers, how can we expect young/beginning farmers to enter agriculture? These potential young/beginning farmers need access to affordable credit, which is another primary issue facing agriculture and rural America, but more importantly they need agriculture and commodity prices to be supported at levels that can keep them in business.

Another important factor in this farm bill debate is the need for – and use of - risk management tools. Congress took a step toward completing the unfinished agenda began by the 1996 Farm bill with passage of the Agriculture Risk Protection Act. This provided much needed reform to federal crop insurance and provided an enhanced tool for producers in managing their operations. Of value are the risk management and marketing options contained in farm bills, providing opportunities that assist farmers in enhancing their marketing skills and managing risks.

Farm Credit has been a partner with farmers for four generations and has been there through the good and bad times. While it is true that the terms of loans might be somewhat impacted, we continue to work with producers to mitigate uncertainty by encouraging the use of crop insurance, marketing plans, and futures contracts. Although the lack of a new farm bill does not preclude us from continuing to work with our customers, removing as much uncertainty as soon as possible is in the best interests of North Dakota's farmers and ranchers – and the Nation as a whole.

Mr. Chairman, although many farmers and ranchers remain optimistic there will be additional dollars "above the baseline" for agriculture, there will be, and are, many demands on the nation's budget. The key for the future of agriculture, which feeds both rural and urban America, will be the level of the additional funding through a farm bill and how it is distributed.

Finally, I would like to note that farmers and ranchers are, by tradition, good stewards of the land. It provides their livelihood and any conservation measures contained in the next farm bill must empower farmers and ranchers to make decisions on how best to utilize these resources. Decisions cannot be driven down on them, but must be the product of careful consideration as to a policy's impact on both the environment and the farmer's ability to manage his or her business.

Again, it is critical that credit and support level issues be addressed as Congress considers the next farm bill. As a primary source of credit, the Farm Credit System is an integral part of our rural communities. However, many times lenders are left out of the equation when issues affecting rural America are debated in the halls of Congress and at 1600 Pennsylvania Avenue. That is why I commend you for listening to the lender's perspective and thank you for holding this hearing in North Dakota to discuss the issues facing farmers and our rural communities.

Chairman CONRAD. Thank you very much, Michael.

You made a point that I think has gotten missed repeatedly in this farm bill discussion, and that is the connection between the loan rate levels and crop insurance elections. Could you just repeat that point? Because I want to make it clear in the record and draw some of my colleagues' attentions to that point.

Mr. O'KEEFFE. Well, the comment that I said is that producers are going to have to make crop insurance selection choices or make advanced marketing decisions without knowing what the loan rates are, and because of that uncertainty—and if that uncertainty isn't cleared before—for North Dakota producers—the March 15th crop insurance deadline, their choice of what crops they will seed may change because of whether or not they will buy added coverage or not seed a particular crop because of going with crop insurance selections on another crop. And my point is that the March 15th deadline faces them.

Chairman CONRAD. It is a very important point. It is a technical point, but it has real-world implications. That is, if a farmer doesn't know, because he does not know what program he is going to be under, has a difficult time making a decision by the March 15th deadline with respect to the elections under the crop insurance law. That is the point. And it really goes to the heart of the uncertainty that we have been concerned about. It is one of the issues. Obviously there are others as well, but I think it makes the point very well.

Roger, you have been a leader on the national scene in terms of rural lending in the banking industry. What would be your message, if you had across from you 20 Senators listening to your testimony, with respect to how important is it that we have funding over the baseline for agriculture? That is, the money that was approved in the budget last year, that $17 billion, if we would lose that and we would go back to the level under the previous farm law, which would be, instead of $17 billion a year, roughly $10 billion a year, even somewhat less than that, what would be the consequence?

Mr. MONSON. Well, Senator, the consequence to that would be a wholesale exodus by many, many farmer/producers. As I indicated before, without those previous support payments, my farmers wouldn't have cash-flowed, they could not have serviced their debt, and, of course, it would be a domino effect. As soon as you started having farmers withdrawing and having sales, then the values of capital assets decline even further and rural agriculture would be—we would be in a terrible, terrible slump, just awful.

Going back to your question about the baseline, anything less than what we have had is disaster.

Chairman CONRAD. I hope that point is being heard loud and clear. It is very important that that point be understood in Washington. We are not talking about, you know, bells and whistles here; we are not talking about, you know, somebody's wish list. We are talking about economic survival for a big part of our economy and anybody that doesn't understand what Mr. Monson has said here, I think it is important to understand. It echoes a comment made by the head of the North Dakota Grain Growers in our previous conference or previous hearing. I asked him what would be

the consequence if we lost that additional funding provided for in last year's budget. His reaction was, it would be a race to the auctioneer and I think you stated it in a different way, although just as compelling, that you would have a wholesale exodus from production agriculture.

I hope people understand these aren't scare tactics. We are not overstating the case. This is reality. This is the truth and the reality is even under this additional money, agriculture will be getting less than we have received each of the last 4 years. And the reason for that is each of the last 4 years we have passed an economic disaster plan for agriculture that has added $7, $8 up to $10 million over that so-called baseline. So actually the new money that is in this farm bill is not new money compared to what we have been getting. It is actually less money than we have been getting the last 4 years but substantially more money than would be provided for under existing farm law. That is a critical point to understand and I want to thank you.

Congressman Pomeroy?

Mr. POMEROY. Just one brief question. Each of you mentioned the uncertainties presently surrounding the financing of agriculture and the difficulties it gives lenders to try to evaluate whether or not an operation is going to cash-flow. I would like to direct my question specifically to be announced by the Secretary of Agriculture on Friday that she would refuse to set loan rates at the highest rate allowed under the statute, as has been done in each of the last 5 years, the years of the present farm program. Does that make your job more difficult as you look at the proposal for financing of the upcoming crop year; and if so, how?

Mr. O'KEEFFE. Well, I think certainly it makes challenges to our loan officers' process to work with customers because of the uncertainty of where those rates are. The fact that they aren't announced, that they aren't set at the highest level, and they aren't able to use those higher levels to work into the projected budgets and that for the coming year; and as I said, Congressman, for 2002, producers in North Dakota are going to put a crop in, it is just it has got so much uncertainty to where do they go to the future and even so many of the decisions that they have to yet make for 2002. So it certainly challenges our job.

Mr. MONSON. If I could just add, I totally agree with Mike on that. As a lender, you know, commodity loan rates tend to be somewhat of a floor, as it were, as was alluded to in earlier testimony. And if we take away even that piece of it, you have no assurance, absolutely none, and so your cash-flow projections become somewhat blue sky or meaningless, and everyone is at risk. Farmers are in the business of risk management, lenders are in the business of risk management, and you just took away a basic tool.

Mr. POMEROY. I think it is going to be very important to push back on this very hard. As I mentioned, I sent a letter yesterday to the Secretary. I hope that she hears from all stakeholders, farmers, lenders, farm organizations, commodity groups, everybody. She owes it to rural America to put a marketing loan schedule out there, and it isn't even very hard. Just look at what they did each of the last 5 years under the Freedom to Farm program. This is no time to start reducing the support that has been provided to add

additional uncertainty to an already incredibly uncertain environment under the state of the farm bill debate. So I think what she did was really deeply disappointing, extraordinary, and a hard push-back, and I would certainly hope the finance community would be a big part of that. Maybe we can reverse this position.

Mr. Chairman, I have to go. I have another scheduling commitment. I want to thank you for your ongoing leadership in this area and for holding this hearing. I particularly commend this panel, which, I think, has been excellent.

Chairman CONRAD. Thank you. Thank you so much for being here as well, Congressman, and thanks for the excellent work you did over on the House side getting that bill advanced. I mean, it was very important. You know, the administration said don't do it, and thank goodness the House paid no attention and did do it.

I want to thank both of you as well. I very much appreciate you taking the time to be here. These are important messages, and you have got special expertise that I think will be useful to my colleagues and again my personal thanks.

Mr. O'KEEFFE. Thank you.

Chairman CONRAD. Next we are going to do something a little different than we have done at previous hearings. As you know, 6 months ago when the Budget Committee held a farm bill hearing in Fargo, North Dakota, we had the leaders of all the North Dakota farm organizations or the major farm organizations testify. Today we have asked individual producers to come and give their story because we thought perhaps that would add a new dimension in terms of persuading some of our more recalcitrant colleagues as to the need, that maybe if they just heard directly from not leaders of farm organizations but people who are out there, farm families from every kind of philosophical background, that this would be helpful. So I want to call to the witness stand Sue Christiansen of Bowbells, North Dakota; Fred Keller of Bisbee, North Dakota; Ward Eichhorst of Coleharbor, North Dakota; Dan Stewart of Carson, North Dakota; and Tim Erlandson of Oakes, North Dakota, for their testimony, and again I want to say special thanks to all of them. They don't have, you know, some staff to support them in their preparation of testimony. They have come here to give their stories, and I really appreciate it very much.

And maybe as you each testify, if you could just give a little background about your family, what kind of a farm operation you have, and if you want to discuss your farm group affiliations that is fine, or not, if that is your wish. I do want the audience to know we have not weighted this by some kind of philosophical test. These are people who have affiliations with most of the major farm organizations in North Dakota, whether it is Farm Bureau or Farmers Union or the Grain Growers or people who are interested in oilseeds. We have tried to get a broad, representative group here of North Dakota agriculture.

So, Sue, since you are our only woman, I think it is most fitting that you go first.

STATEMENT OF SUE CHRISTIANSEN, BOWBELLS, NORTH DAKOTA

Ms. CHRISTIANSEN. Thank you, Senator Conrad, for having me here today and giving me the opportunity to address you. My husband, Randy, and I have a family farm operation. We farm on our own around 3,100 acres of small grains and oilseeds. We also help with his father's operation of another 900 acres. We are a self-contained farm; we do everything on our own. My husband does all of the welding, all of the seed cleaning. I do all of the grain hauling, and I work in the fields every spring with the cultivation and anhydrous. So we truly are a family farm operation on our own working to succeed. Thank you, again, for having me here.

Chairman CONRAD. I read that background and I don't know if we have met before, I don't recall it, but I thought, boy, that is representative of North Dakota. It really is a family farm operation.

Ms. CHRISTIANSEN. Thank you. I would also like to thank Congressman Pomeroy for being here today, Governor Hoeven, and Commissioner Johnson. I appreciate also their efforts that they do to help support family farmers in our efforts. We are very lucky in North Dakota to have the representation that we do.

In my perspective I see members of the House, the Senate, and the Secretary of Agriculture who are disputing our needs by saying the farm bill is not an issue that needs to be addressed at this time. They are telling us that we can wait, that national security has been brought to the forefront and that that is where we need to be looking. I agree, we have national security issues and, yes, we do need to have that be at the forefront but wait and see what to do about farm policy, that is not what we need. Our country's No. 1 concern must always be the security—defense of our country but, second, second only to the defense, must be our safe food supply.

The key element to this equation is the support of Congress to enact farm policy that secures this country's safe food supply. This is where legislation has to be built with a farm bill that allows the family farmer to function with prices for our commodities that support income beyond expense of the production.

We are losing the American public's approval because they do not know the farming industry. They see our story and they see a farmer's story receiving outrageous Government payments and they believe we are all looking for a handout. Payment limitations must be set. This picture to the American public must be changed.

In the business of farming, the commodities we raise are at market—are influenced by the market and by Government policy on foreign trade, and the Government sets our market price. Therefore, just like people working in industry go to their unions for salary increases and employees go to their bosses negotiating their wages, we as farmers must negotiate with the Government to set our earnings. It is not asking for welfare; it is not asking for a handout. It is receiving income earned for our labors. Agriculture subsidies should be viewed as agricultural earned income.

Even before September 11th consumers were becoming aware of food supply concerns and issues of mad cow disease in Britain and Europe. Now with the threat of agri-terrorism, the American taxpayers must be more willing to spend tax dollars to keep American

family farmers on the land to produce the world's safest food supply.

My sister lives in Tulsa, Oklahoma. She has called me several times, and being a good North Dakota girl, graduating from UND, we talk about what is happening back at home. And even though she is in another agricultural State of Oklahoma, it is a very diversified and urban community that she is in. And as she speaks with people there, they don't understand the need of knowing where their food supply is coming from. She talks with them and continually tells them about supporting family farms and they feel that the farmer is his own business and, therefore, he should take care of himself. Until a recent phone call from a friend in the city, the woman was unconcerned about where her food choices and supplies came from and then this happened to her:

The woman has a small labrador retriever puppy, and she had been keeping it in a box in the bedroom next to her to sleep at night. Well, in a few weeks, as the puppy got older, the box became too small for the puppy to stay in. She went to her local grocery store and picked up a larger box, brought it home, put the puppy to bed that night. But in the morning when she awoke and looked down at her puppy, his head was swollen twice the size of normal; the bottom of the puppy was also swollen and sore. She was petrified. She didn't know what to do. She called her veterinarian but since it was a Sunday, he told her to go ahead and give it an antihistamine, come and see me in the morning. Go back to the bedroom, get your puppy and get it an antihistamine. As she picked the puppy up out of the box, she looked at the box, and what did it say? "Product of Mexico."

Immediately she referred back to my sister having a conversation with her about where does your food supply come from. Why do you feel that everything you eat in this country is safe and where should you be eating food from what country? So she called my sister and told her the problem, and the next morning when they went to the veterinarian with the puppy, he checked the dog over, and after an antihistamine and removing the box from her house, the puppy was back to normal. But the veterinarian did find that the puppy did lick on the box some type of a chemical substance that caused the swelling.

A light came on for this woman, a light that all of America needs to become known. We need to educate the public on the importance of our food supply and the importance of family farmers supplying our food supply. Our country prides itself on being the leader in technology, the leader in advanced science. All of those accomplishments come with a price tag, and being the leader of the highest-quality, safest food source in the world comes with a price tag, too. A farm bill that supports a family farm income at a fair profit level to secure every American family's safe food supply.

My husband and I participated in the Rally for Rural America. It was a cold, wet trip, and it turned out to be yet the boost that we needed to feel strong again by being family farmers. The rain didn't matter. The experience was beyond the rain. We really did do good there with all the representation from across the country. And as we walked outside of the big tent that kept us inside, warm, from the rain, I looked around and began to wonder, here

we are, here in the capital of the United States and yet we are under a tent. Everyone inside of that tent knew why we were there but those outside of the tent walking by, going to meetings, visiting the capital had no idea what the enthusiasm was inside, had no idea who was represented underneath of that tent, and that is what is happening with family farms. We are inside of our own tent, and we are not showing to the American public how important we are to every single one of their lives.

Randy and I walked out from the tent and went over to get a cup of coffee from a vendor, and there was a woman standing there with two young boys about 12 and 9 years old and I said hello to her and asked where she was from. And she said, "Well, originally I am from South Dakota, but I live in Virginia now." And I asked if she was there for the rally; and she said, "Actually, my parents wanted to come, but the bus trip would be too much for them, so I decided it was really important for my sons to see where I came from and what my family stands for."

That touched my husband and I to see that somebody in urban America knew what we are fighting for, and yet we need to get it out so it is more broadcast between all of urban America.

As we began visiting more about North Dakota and back in the Midwest, a group of inner-city kids that were touring the capital stopped by to grab themselves something to eat, and I asked them where they were from and, yes, they had come down from, I believe, Maine. And I said, "Do you know where North Dakota is?" "No," they said; they really didn't have any idea. And I said—well, I explained on the map, you know, where you would find us at and I said, "We are North Dakota farmers. You see that big tent over there?" And they looked, well, yeah, they saw the tent. I said, "That tent is full of American farmers. We produce the food that you eat."

You know, it really wasn't a big deal to them. I said to them, "We grow wheat and durum. We grow the wheat that is turned into flour which is turned into the bread that you eat." Still I had no reaction. I thought, How do you get to these kids?

So I said, "Do you guys like macaroni and cheese?" And their faces lit up. "Macaroni and cheese, yeah, yeah, we like macaroni and cheese." And I said, "Well, we make macaroni and cheese." "Wow, cool." You know, suddenly we were important to them, they knew, but how many kids in urban America, how many parents and grandparents think you just go to the grocery store and buy that food supply and of course it is safe because it is here in America?

The reality is we need to educate before we get to all of the perspective of what to do with the farm and how to make it work on paper. We have to educate so that the American public stands behind us and that as we said, for Senators and Congressmen that aren't from agricultural States, to understand what we stand for.

It is time to turn the light on. It is time to be promoted as true providers of the world's safest food. We deserve the respect and we deserve to be treated fairly at the marketplace. We deserve a farm bill that works to keep us operating for every American's well-being. Congress cannot be allowed to ignore our importance. The administration and the Secretary of Agriculture cannot afford to

leave us on hold without an effective farm program; and if we let them, if we let them do this to us, we will all regret the day that our country's food supply is no longer provided by American family farmers.

Thank you very much.

[The prepared statement of Ms. Christiansen follows:]

FARM BILL HEARING
BISMARCK, ND
JANUARY 8, 2002 SUE CHRISTIANSEN

Senator Conrad, Governor Hoven, Commissioner Johnson, thank you for the opportunity to participate in today's proceedings. I would like to thank each of you for your support and continued work towards solving the problems we face in family farming, thank you very much.

In my perspective I see members of the house and senate who are disputing our needs by saying; the farm bill is not an issue that needs to be addressed at this time... we have national security issues that have changed our direction and we will just "wait and see" what happens with farm policy "at another time."

How can congress support such a decision? Our countries number one concern must always be our security and defense system but second to that MUST be OUR SAFE FOOD SUPPLY.

The key element to this equation is the support of congress to enact farm policy that secures this country's safe food supply. This is where legislation to build a farm bill that allows the family farmer to function with prices for our commodities that support income beyond expense of production.

We are loosing the American public's approval because they do not have the knowledge of the farming industry. They see a story on a farmer receiving outrageous government payments and they believe we are all looking for a hand out. Payment limitations must be set. This picture must be replaced.

In the business of farming, the commodities we raise are influenced at market by government policy on foreign trade and the government sets our market price. Therefore, just like people working in industry go to their unions for salary increases and employees go to their bosses for negotiating wages, we as farmers must negotiate with the government to set our earnings. It is not asking for welfare, it is not asking for a hand out, it is receiving our income earned for our labors.

Even before September 11, consumers were becoming aware of food supply safety issues with mad cow disease in Britain and Europe. Now with the threat of "agri-terrorism", the American taxpayer must be more willing to spend tax dollars to keep American family farmers on the land to produce the worlds safest food supply.

My sister lives in Tulsa, OK. She has called me several times and we have discussed how many people she and I know who are so unaware of where their food supply comes from and the importance of buying American grown foods. With her living in a diverse urban community she repeatedly discusses with friends the importance of supporting family farmers. Until a recent phone call from a friend in the city, the woman was unconcerned about her food choices.

The woman has a small Labrador-Healer puppy. She had been keeping the puppy in a box next to her bed for a couple of weeks and as it grew she decided she would stop at the grocery store and pick up a lager box so the puppy had more room. That night she put the puppy in the new box

by her bed. The next morning she woke up and her puppy's head was swollen to twice its normal size and his bottom was also swollen and sore. She called the vet's office whose assistant suggested giving the puppy an antihistamine until the following morning's appointment. When she went back to the room to pick up her weak little puppy, she looked at the box and it said "Product of Mexico" on the side. She immediately took the box to the dumpster and called my sister to tell her what had happened. The doctor concluded the puppy must have licked some type of substance from the box that caused the swelling. A light was turned on. It took her pet getting sick, but she finally realized what Diane had told her about the safety of US grown products and their importance.

It's time the light was turned on for all of America. We need to educate the public on the importance of our food supply and the importance of the family farmers supplying that food. Our country prides itself on being the leader in technology, the leader in advanced science. All of those accomplishments come with a "price tag" and being the leader in the highest quality, safest food source in the world comes with a "price tag" too...a farm bill that supports family farm income at a fair profit level to secure EVERY FAMILIES safe food supply.

The farm bill we are currently under does not allow profit to be made beyond expense. We need help now before planning with our banker for an operating loan for this year. A farm plan needs to be in place with loan rates set at a higher level to meet the true cost of production.

My husband and I participated in the Rally for Rural America. It was a cold, wet trip that turned out to be the boost we had booth needed to feel strong again about our family farm operation. The rain didn't matter, the experience was beyond the rain. We accomplished many tasks, but I wondered one thing while standing "outside" of the big white tent where all of the enthusiasm was. The general public that was walking by was curious perhaps, but had no idea who was under that big white tent. There were no signs, no big banners stating we were American Family Farmers. We all knew what we were there for under the tent, but OUTSIDE of that tent we were just a group. That is where, I think, Family Farmers need to look. We're there but we don't promote ourselves. We aren't marketed to the public in all our importance to their world. Maybe if they new more about our business they would understand our role in their lives.

Randy and I walked outside the tent to get a cup of coffee from a vender close by. A woman was standing there with her two sons about twelve and nine years old. She asked where we were from. We told her we were North Dakota farmers. She lives in Virginia now but grew up in South Dakota. She said her parents were farmers but decided not to make that long trip on the bus for the rally. She brought her boys there because she wanted them to see what she was once a part of. It truly touched us. As we were standing there a group of inner city students who were touring the capitol came up and heard us talking about being from North Dakota. I asked them if they knew where North Dakota was, of course they didn't. I told them why we had come to Washington, DC and that we were farmers. We grow wheat and durum. "Oh" they said with no expression. "Our products are used to make flower and bread and..." "oh" they replied. I asked, "Do you like

macaroni and cheese?" Their eyes lit up and they were finally in conversation, "Yeah Yeah! I like macaroni and cheese." Well I said, "WE MAKE MACARONI and CHEESE." "Wow, Cool!" they replied with enthusiasm.

IT'S TIME THE LIGHT IS TURNED ON. It's time to be promoted as the "true providers of the worlds safest food". We deserve the respect and we deserve to be treated fairly at the world market place. We deserve a farm bill that works to keep us operating for every American's well being. Congress cannot be allowed to ignore our importance. The administration cannot afford to leave us on hold without an effective farm program. And if we let them...we will all regret the day that our countries food supply is no longer provided by the American Family Farmer.

Chairman CONRAD. Thank you. That was truly powerful testimony. I wish every member of the Senate could have heard what you said. It so obviously came from the heart and it was powerful. Thank you very much. We are going to have you to Washington to testify. I really do wish every member of the Senate could hear that because I think it would make a difference. I wish the broader American public could hear that message because it does make a difference.

You know, when we had the rally in Washington, I found that one of the most moving experiences I have had in the 15 years I have been in the Senate, because you had farmers from all over the country sending a common message and, you know, there were results.

The very next day Senator Kerrey of Nebraska and I were named to the conference committee on the disaster assistance bill and the crop insurance bill, and we got a historic improvement in crop insurance and we got a very significant disaster assistance program out of that conference committee. And I know we would never have been named as conferees without that Rally for Rural America. So thank you for that as well.

Now, I thought I would just go in alphabetical order, if that is OK. I don't know if there was some other arrangement, but I think that is the fairest way to proceed. That makes you, Mr. Eichhorst, the next witness, and Ward is from Coleharbor of North Dakota, and please give us a little of your family background, if you would, too.

STATEMENT OF WARD EICHHORST, COLEHARBOR, NORTH DAKOTA

Mr. EICHHORST. Thank you, Senator Conrad, for the opportunity to be here today at the Senate Budget Committee Hearing.

I was originally raised in North Dakota, graduated from Washburn, went to school at NDSU where I earned a bachelor and masters degree in agricultural mechanization. I then moved to Minnesota, and I began my career with USDA where I worked as a loan officer with Farmers Home Administration through 1994 and then as a mortgage underwriter for USDA Rural Development until 1999 when I moved my family home. I am currently farming with my father-in-law, Don Paulson, at Coleharbor, and we have been farming for 3 years now. So I don't have a lot of experience under my belt but the learning curve is progressing rapidly. I have two children, two 3-year-old twins. So outside of farming I have them to keep me quite busy as well, and we are glad that we are back home here in North Dakota.

Chairman CONRAD. Well, we are glad to have you home.

Mr. EICHHORST. Thank you. To explain what commodities are produced or where they are produced in our State, we all have a common denominator. It is to make and keep agriculture alive and well in North Dakota and the United States. I still believe that agriculture is the engine that pulls the economic train in North Dakota. We must all work together here to make sure the engine stays on the track.

I am here to say that I had fun farming in 2001. It was by far the best of the 3 years since my family moved back to North Da-

kota. Everything did not go perfectly but we had a good year. It could have been better if grain markets would be stronger. Therefore, I would like to comment on five areas pertaining to the next farm bill that may enable farmers to have subsequent better use.

No. 1, family farm. During my tenure with USDA, I had the opportunity to work with many family farms that varied in size. Farm legislation is essential for the survival of the family farm more than ever. However, if the objectives of the new farm bill are to be realized, I believe that a family farm needs to be identified and, more importantly, defined. The U.S. public or the consumer does not understand how or why Scottie Pippen, a professional basketball player with Portland Trailblazers, who earns about $18 million a year, receives USDA payments for land that he owns in Arkansas. Therefore, Senator Conrad, I pose this question for your thoughts: What would be your definition of a family farm?

Two, exports. Recently Trade Promotion Authority passed in the House by a slim 215- to -214 margin. TPA has not been brought to the Senate floor as of yet. I would like to share with you the following numbers: Estimated 2001–2002 world wheat production about 21 billion bushels, its usage about 22 billion bushels. This will be the fourth year in a row that consumption will be greater than production, 2001–2002 world wheat stocks should be about 5 billion bushels. I have listed four countries: Europe, United States, Canada, and Australia. Exports as a percentage of their production: the EU, about 15 percent; United States, about 52 percent; Canada and Australia, 75 and 78 percent of their production is being exported. Percentage of world stocks: the EU, 9.3 percent; Canada, 4.8 percent; Australia, 2 percent; the United States has 13 percent of the world stocks in its possession or pipeline.

I am sure that others have considered the advantages and/or disadvantages of Trade Promotion Authority to North Dakota and the United States. I do not have time to discuss those here today. Some are not pleased with the results of NAFTA, and a strong U.S. dollar now is not encouraging trade either.

In lieu of these and other factors, I am convinced that TPA should be approved for President Bush and that the U.S. must be at the trade table. Without TPA, the U.S. will continue to have the title "World's Warehouse of Wheat" for another year.

Number 3, price. Based on my export comments, one can assume that I am not in favor of raising the loan rates even with production costs continuing their upward trend. I feel that this ultimately will lead to overproduction of commodities—soybeans, as an example—and reduce their respective prices. This will result in the increase of the U.S. ending stocks and put more economic pressure on the United States Treasury. I feel that exports are the key to any future commodity price increase. The inequity between commodity loan prices is another concern, especially with wheat and oilseeds. This is a topic that Senator Byron Dorgan has addressed. Wheat is now in a precarious situation due to its low price. Many wheat acres have transferred to soybeans and corn in this State. I myself planted soybeans and corn in 2001 at the expense of wheat. How many more wheat acres, even with higher loan rates, are we going to be losing to an oilseed commodity due to the disparity? However, if wheat has weather problems and the so-called

expected 40-plus per bushel acre yields that we have become accustomed to over the last 5 years are not there, we have a problem of not having enough product to even export. A strong dollar may continue to suppress sales of the wheat on hand in this country today.

On my farm we found ways in 2001 to cut wheat production costs per bushel by 46 percent in comparison to 2000. The re-up costs of 2002 are locked in at a rate 33 percent less than what we paid in 2001 which will help this year's overall production cost. There is still a pressure that one has to become more efficient and produce a product cheaper because of the price you receive when that product is marketed. However, the bottom line must remain in the black in order for that family farm to be profitable.

Number 4, crop insurance. When I look at my crop expense ledger and see the figure associated with crop insurance, I become more than discouraged. It is the one expense that I feel that provides little or no value or no return versus the dollar spent. Certainly no one goes out and purchases life, home, or auto insurance at 50 to 85 percent levels. Yet this is what we are dealing with today regarding crop insurance.

During my first 2 years of farming, 1999 and 2000, our farm was subjected to more hail than my father-in-law encountered in his first 35 years. That is the nature of this business. We did not have hail insurance those 2 years, and that was a management decision. However, if cost of production insurance was available in those years, then a majority of the hail-related losses could have been recovered.

Other factors that contribute to loss would also be included in this policy. Let me explain. If a farmer spends $250,000 per year on inputs with the cost of production insurance, he can manage his risk by selecting a percentage of those inputs that he wants to protect. Let's say he selects 20 percent. Now he has $50,000 of input coverage across his whole farm. It is not commodity specific, and it makes no difference if you plant one crop or six crops. You can eliminate the issues involving price, yield base, and perhaps farm numbers in the event you farm in more than one area or county of the State. Assuming a cost of $17 for every $100 of coverage, one insurance cost for this $50,000 of input coverage would total about $8,500. In other words, I today cannot go out and buy CRC wheat coverage for my wheat and durum or multiple peril for my soybeans and sunflowers and canola and buy hail insurance on top of that and do it for $8,500. It can't be done.

I would also like to see this insurance expanded to allow coverage upgrades for mid-season inputs. This could be Folicur on durum, Ronilan on canola, or a side dressing of corn or soybeans due to favorable growing conditions. These costs need to be covered in the event of weather-related problems down the road. If low prices are going to continue to dictate how gross income is determined, then as producers we need to find and develop the tools to manage the expense side of production. I see cost of production insurance as one of those tools. I want to say thank you to Senator Byron Dorgan for his work regarding the quality of loss program for our year 2000 crops. That program picked up where Federal crop insurance left off.

Wheat research, fusarium head blight, commonly known as scab, has left its mark on this State the past 3 years. Many fields across the State have been decimated by the disease. It takes about 7 to 10 years to develop a wheat variety from start to finish. Ten years ago there was no need to address scab in wheat after the dry years of the late 1980's. After battling with this disease for 2 years, our farm has just now learned how to cope with it in 2001 with the help of crop rotation, delayed seeding, and cost of fungicide. I would hope that we could soon take advantage of some of the technology advances enjoyed today by soybeans, canola, and even corn.

Senator Conrad, this concludes my comments. I want to thank you again for the opportunity to participate at this hearing.

[The prepared statement of Mr. Eichhorst follows:]

TESTIMONY OF
WARD EICHHORST
FARMER/RANCHER
MCLEAN COUNTY

I want to say thank you to Senator Conrad for having this hearing of the Senate Budget Committee in North Dakota. Despite what commodities are produced or where they are produced in our state, we all have a common denominator. It is to make and keep agriculture alive and well in ND and the US. I still believe that agriculture is the engine that pulls the economic train in ND. We must all work together here to make sure the engine stays on the track.

I am here today to say that I had fun farming in 2001. It was by far the best of the three years since my family moved back to ND. Everything did not go perfectly, but we had a good year. It could have been better if grain markets would be stronger.

Therefore, I would like to comment on five areas pertaining to the next farm bill that may enable farmers to have subsequent better years.

1. Family Farm

During my tenure with USDA, I had the opportunity to work with many family farms that varied in size. Farm legislation is essential for the survival of the family farm more than ever. However, if the objectives of a new farm bill are to be realized, I believe that a family farm needs to be identified and more importantly, defined. Senator Conrad, I pose this question for your thoughts – what would be your definition of a family farm?

2. Exports

Recently, Trade Promotion Authority passed in the House by a slim 215-214 margin. TPA has not been brought to the Senate floor as of yet. I would like to share with you the following numbers:

Estimated '01-'02 World Wheat Production	= 21BB	
Estimated '01-'02 World Wheat Usage	= 21.8 BB	4th year in a row consumption
Estimated '01-'02 World Wheat Stocks	= 5 BB	is greater than production

	'01-'02 Prod. Est.	Exports	Exports as a % of Prod.	% Of World Stocks
EU	3.4 BB	496 mB	15%	9.3%
US	2.0 BB	1.02 BB	52%	13%
Canada	761mB	569 mB	75%	4.77%
Australia	753mB	588 mB	78%	2.17%

I am sure that others have considered the advantages and/or disadvantages of TPA to ND and the US. Some are not pleased with the results of NAFTA and a strong US dollar now is not encouraging trade either. In lieu of these and other factors, I am convinced that TPA must be approved for President Bush and that the US must be at the trade table. Without TPA, the US will continue to the have the title "World's Warehouse of Wheat" for another year.

3. Price

Based on my export comment, one can assume that I am not in favor of raising the loan rates even with production costs continuing their upward trend. I feel that this will lead to overproduction of commodities (soybeans are an example) and reduce their respective prices. This will result in the increase of the US ending stocks and put more economic pressure on the US Treasury. I feel that exports are the key to any future commodity price increase.

The inequity between commodity loan prices is another concern, especially with wheat and oil seeds. This is a topic that Senator Byron Dorgan has addressed. Wheat is now in a precarious situation due to its low price. Many wheat acres have transferred to soybeans and corn in this state. I, myself, planted soybeans and corn in 2001. However, if wheat has weather problems and the "expected" 40 plus bu/acre yields are not there, we have a problem of not having enough product to export! A strong dollar may continue to suppress sales of the wheat on hand in this country.

On my farm, we found ways in 2001 to cut wheat production costs per bushel by 46%, compared to 2000. Urea costs in 2002 are locked in at a rate 33% less than 2001, which will help this year's overall production costs. There is still the pressure that one has to become more efficient and produce a product cheaper because of the price received when the product is marketed. However, the bottom line must remain in the black in order for the family farm to be profitable.

4. Crop Insurance

When I look at my crop expense ledger and see the figure associated with crop insurance, I become discouraged. It is the one expense that provides little or no return versus the dollars spent. Certainly, no one goes out and purchases life, home or auto insurance at 50-80% levels. Yet this is what we are dealing with today regarding crop insurance. During my first two years farming (1999 & 2000) our farm was subjected to more hail than my father-in-law encountered in his first 35 years. That is the nature of this business. We did not have hail insurance those two years. That was a management decision. However, if cost of production insurance was available in those years, then a

majority of the hail-related losses could have been recovered. Other factors that contribute to loss would also be included. Let me explain.

If a farmer spends $250,000 per year on inputs, with cost of production insurance he can manage his risk by selecting a percentage of those inputs he wants to protect. Let's say he selects 20 percent. Now he has $50,000 of input coverage across his whole farm. It is not commodity specific and it makes no difference if you plant one crop or six crops. You also eliminate the issues involving price, yield, base and perhaps farm numbers in the event you farm in more than one county. Assuming a $17 cost for every $100 in coverage, one's insurance cost would total $8,500.

I would also like to see this insurance expanded to allow coverage upgrades for mid-season inputs. This could be Folicur on durum, Ronilan on canola or side-dressing corn due to favorable growing conditions. These costs need to be covered in the event of weather-related problems.

If low prices are going to continue to dictate how gross income is determined, then as producers we need to find and develop the tools to manage the expense side of production. I see cost of production insurance as one of those tools.

I want to say thank you to Senator Byron Dorgan for his work regarding the Quality Loss Program for our year 2000 crops. That program picked up where federal crop insurance left off.

5. Wheat Research

Fusarium head blight, commonly known as scab, has left its mark in this state the past three years. Many fields across this state have been decimated by this disease. It takes about seven to ten years to develop a wheat variety from start to finish. Ten years ago there was no need to address scab in wheat after the dry years of the late 80's. After battling with this disease for two years, our farm has just learned how to cope with it in 2001 with the help of crop rotation, delayed seeding and costly fungicide.

I would hope that wheat could soon take advantage of some of the technology advances enjoyed today by soybeans, canola and even corn.

Senator Conrad, this concludes my comments. I want to thank you again for the opportunity to participate at this hearing.

ADDITIONAL TESTIMONY OF WARD EICHHORST

During the hearing I did state that I was not in favor of raising the wheat loan rate. My statement and position was made solely to make a connection to the sluggish wheat exports of the past couple of years. I should have added that more needs to be done with our export programs to get our country's exports as a percentage of total wheat production up from 52% to something close to the 75% that Canada exports. I feel programs like EEP and others are not being utilized to their full extent.

If exports of that magnitude could be realized then we have a wonderful case for requesting a HIGHER wheat loan rate. If 75% of the 2.0 BB US wheat crop were exported, it is likely there would not be enough bushels to meet domestic usage. A higher loan rate would then be necessary to get back those wheat acres to meet domestic and foreign demand. This is what I needed to say to clarify my position. If this scenario were to come about, I feel Senator Conrad could go back to the US Senate and make a justifiable claim for a $3.50/bu wheat loan rate and I would support him 110 percent.

Chairman CONRAD. Thank you, Ward. It was excellent testimony and certainly useful to the committee, and we appreciate your taking the time to prepare it and the thoughtfulness of the presentation as well. Thank you very much.

Next we are going to hear from Tim Erlandson from Oakes, North Dakota. Welcome, Tim. Good to have you here.

Mr. ERLANDSON. Thank you, Senator.

Chairman CONRAD. As with the other witnesses, I would just ask you to just tell us a little bit about your personal family situation in agriculture, about your own farming operation and, please proceed.

STATEMENT OF TIM ERLANDSON, OAKES, NORTH DAKOTA

Mr. ERLANDSON. If I had known you were going alphabetical order, I would have changed my name to something in Z, but thank you very much for having me here.

I am from Oakes, North Dakota. We are a row crop and small grain farmer. We are very fortunate in that part of the State to have an option to plant many different crops, whereas other areas here, they are pretty much stuck to the same rotation. A graduate from NDSU, the only college in North Dakota, is it?

Chairman CONRAD. My wife would claim that is the case.

Mr. ERLANDSON. My wife, Barb, is a dietician. I have a son who is a freshman at NDSU this year also and two daughters in high school yet. Don't worry, I am not going to filibuster.

Scott told me to be concise and precise and everything, but I can't even walk across my farmyard and not do ten different things, so please bear with me, too. Also hearing some of the things that have been already said today, I would like just to comment to Mike and Mr. Larson that I would really hate to go and sit in front of my loan officer—it is getting kind of sad to say, but our Government, we have become very dependent on payment as far as the financial statement. If it wasn't on there, it would look very sick. That is something I hate to say but there is a different sound to it. We all know that there is a difficult task ahead for you in the Senate for you to pass and finish a farm bill so we can have it for this year's crop. I wish you luck on that.

I guess speaking as a farmer and a producer today, I somehow feel our industry is probably being taken for granted. We, as producers, we are very good at what we do. We can see that in the abundance of supplies and everything. Like I said, we are good at what we do but we are not really being paid for it.

What is the answer to this problem is a very sound farm bill. The economy that we, as producers, work in is dictated that we be efficient and we are—as you have shown on your chart there, our costs, I mean, it is—you didn't have to show me that chart. I knew what was going on. Expenses are higher than income. The environment that we farm in dictates that we are conservationists, and I believe in North Dakota we are very good conservationists, and it is just something that is probably taken for granted that we do produce the safest food supply anywhere and our shelves are always full. You see some of the pictures of when Russia was having their food supply problems and those shelves were empty. I hope

we never come to that here, but it would take that to show that we are good producers and need to be paid for that.

Chairman CONRAD. Could I just stop you on that point? Because it reminds me of a visit to Russia. I was in the Soviet Union, and we went into this town, and there was a line of people around the block. And I inquired of the people that were with us, you know, why are those people lining up; and they said, well, there is a rumor that there are some oranges coming in and the people have lined up around the block on the basis of a rumor that there might be some oranges for sale. I mean, it was absolutely pathetic to see their situation.

Mr. ERLANDSON. And that is something we have never had to experience and, like I say, I hope we don't. I mean, we experienced 9/11 which really jeopardized our security, but we do have a good, safe food supply. And because we do have a cheap food supply and safe food, we need help to offset the cost of that. The old saying that farmers are price takers and we are—it seems like we cannot pass our cost of production off to our product. I guess I always—my dad and my grandpa farmed, and we always thought, man, that loan price means that these end users cannot buy that product for less than that, but that sure went out the window the last few years.

I believe the farm program will now have to let producers update their yields. We have been stuck since 1985 with the yields that we use for program payments. Is there any other industry in this whole United States that base their numbers on 17 years ago? I mean, it is a very easy thing to be done because with the LDP program and with the crop insurance, we have had to prove our yields and they are right there so that is very simple to do, and I am glad to see that that is being considered. I know in our area we have had abundant moisture, but we have also raised our best crops with that moisture. So, yes, our yields have risen dramatically, if not even in some cases doubled due to technology and genetics. We are not dealing with 17 years ago, so that does have to be looked at. Also there are crops being raised in our area that have not been common. I mean, let's look at soybeans, for example, that are spreading out over the whole State that, I mean, we do not have a yield for that, I mean, and now we are proving that. So that is something else that needs to be considered.

About loan rates. Raising the loan rates, target prices, at least to cover the cost of production, that is not going to be very easy because cost of productions vary from area to area and it is also said that doing that is going to cause a surplus of some crops. Well, look what we are dealing with now, we have had low loan rates but I would like to comment, too, on payment limitations. I guess that is a tough area because there are large farms now—I mean, it is just the way things have gone in our industry. Yes, I believe that family farms should have some definition to payment limitation. I have had people come and talk to me about the so-called list that is probably—I thought they were talking about the most-wanted list, but I wish they would have put our expenses beside that money. That would have been good; and also we are not the only ones receiving Government payments. There is the Medicare indus-

try and all that. Should they print a list of that, too? And the airline industry and the trucking industry.

Chairman CONRAD. And the railroad industry and the highway industry. It is a long list.

Mr. ERLANDSON. It really caused some discussion. In fact, reading in one of the papers a farmer went into the business—this was in South Dakota—and the businessmen jumped him about it, and he basically said, well, if you don't like my spending those moneys here, I will go across the street, which is true.

My Government payments go for expenses for loan debt repayment, for hopefully updating some equipment, and without those payments, none of that—like I said, I would hate to be sitting by my loan officer and try to explain how I am going to do that. So a sound farm policy is what we need.

As far as there was some talk about a savings account, I don't know how many farmers—we would love to have a savings account, but those dollars that we get do have to go for our operations.

So thank you very much for this time.

Chairman CONRAD. Thank you, Tim. I appreciate that testimony.

Let me just say with respect to the savings account idea, it may have some merit, but I would say this to you, to say you had $10,000 as it comes from USDA to match what a farmer puts away. So many of our farmers right now can't put aside $10,000 and it is almost reverse target, it goes to those who are the most well off; and my biggest objection aside from that one is, can you imagine USDA starting to administer a program like that without any records upon which to base a determination?

You know, that program was introduced on the basis that it would be administered by the IRS. Well, of course, they would have the information. Now they have transformed it because the Senate could not have jurisdiction over a program that would be run by the IRS. That legislation has to start under the committee in the House of Representatives. So they changed the administration of the program to USDA. USDA has over 100,000 employees, isn't that correct, Tim? How many employees? 120,000. I would venture to say they would have to add 40,000 to 50,000 employees to administer such a program because now they would have to determine the financial condition and the contributions to these farm accounts, they don't have any of the information. Just as an administrative matter, that would create a bureaucracy of really stunning proportion. You think about all of a sudden people start to send in claims, I have got X number of dollars in a savings account, but they don't have any of the information with respect to that.

You know, you talk about an invitation to scandal, that would be it, and that is the last thing we need. I would very much like to have something along these lines, especially if it was conceived in a way that it didn't benefit just those who are the most successful, wealthiest farmers today because, frankly, they are not the ones who need the help.

Mr. ERLANDSON. If I may interject one more thing, of course, I have a son at NDSU that is just chomping at the bit to get farming, of course, and all these programs they are—it requires us a lot of time to think them through so we don't miss any of them. He might have to take a class to come back because, I mean, there is

a lot of things we, as producers, we probably put as much time—we are out there putting in a crop and everything and taking it off there are a lot of things that we also have to be thinking about as far as the farm program goes, too.

Chairman CONRAD. It has become incredibly complex—I mean really, to manage a farm operation today takes a level of sophistication and knowledge that I think would have been really amazing to people even 20 years ago. I mean, you think about what is required by way of record keeping, by way of analysis of the market, and understanding of all the tools that are available to a modern farmer, you have to be a very sophisticated business person today.

Next we are going to hear from Fred Keller of Bisbee, North Dakota. Fred, welcome. It is good to have you here. If you could, as I have indicated with the other witnesses, give us a little of your personal background and what your family is involved in, I think that would be of interest to the committee and the audience as well.

STATEMENT OF FRED KELLER, BISBEE, NORTH DAKOTA

Mr. KELLER. Thank you, Senator. I would like to thank you for the opportunity of inviting me to these hearings. I farm in Bisbee. It is in Towner County. I have been a farmer for 36 years. My son farms with me, and my wife teaches science at Bisbee High School. My son would like to carry on farming after I retire, but in order for my son to be able to continue farming, I realize it is obvious that the farm economy is going to need some financial insurance. This financial insurance seems to be a fair and worthwhile Federal farm program.

Coming from a small rural community, I have had the opportunity to watch the effects of poor crops and prices of the community. We have lost—our historic homes that were once occupied now stand empty, thus destroying part of the tax base that support our schools, fire departments, et cetera. Our churches are kept functioning by traveling ministers.

When I hear a discussion on the farm bill, I realize that it may be a farm bill, but it is really a rural community bill which is necessary for the farming community to survive. I feel a good farm bill should address a number of issues which are one of the most important that provide a increase in loan rate that brings it closer to the cost of production.

Two, it should provide a fair market price for our products so that dependence on the Government is less. A bill should include a safety net that will support the falling economy in times of disaster and low commodity price. The bill should address the expansion of potential agriculture-based industries such as ethanol, wind power, and fuel additives to cut the petroleum needs and strengthen the farm economy in the areas of oil-producing crops. It should provide a fair conservation base for the lands that are threatened by erosion, but I do not feel that CRP should be expanded, as the expansion will remove more people from the farming communities which rural North Dakota can't afford.

To be fair, the bill should place a maximum on the number of acres eligible to participate in the program, but that is going to be awful hard to figure out those things.

Going back to the immediate future, which is getting the crop in the ground for the 2000 growing season, without an improved farm program, a lending institution may find it difficult to justify a sizable loan with little or no feeling of security on the value of the harvested crop. I realize a good farm bill is a non-realistic dream. However, the Senate bill proposes a good start and would allow farmers to get the seed in the ground next spring. We can't wait too long because the spring is quickly approaching.

Thank you.

Chairman CONRAD. Thank you very much. Fred, you mentioned something that nobody else has, and I think it is very important for the record to make the connection here. You said a farm bill, as you see it and as you have come to understand it, is really a rural community bill. Would you just explain what you meant by that?

Mr. KELLER. Well, our small communities are made up mostly of farmers or involved in agriculture some way and if we are not there, the small communities aren't going to be there. And as a small community, everyone in my community goes to the bigger town to the doctors and the banks. Well, if we are gone, then slowly they are going to go and pretty soon I think North Dakota will be gone.

Chairman CONRAD. I just hope that the importance of that statement is not lost because what is at stake here is enormous. The implications of a failure to have a strong farm bill are huge.

I would like to go back to one point that I tried to make earlier because I think it is too often lost on people. Can you put up that chart, Tim? That shows what Europe is doing for their producers versus what we are doing for ours. I really want to emphasize this because I have spent a lot of time with the Europeans, the chief trade negotiator for the Europeans. If there was no other point made here today, if people left this room with no other thought in their head about this farm bill, I personally hope this is the point that they would remember: That red bar shows what Europe is doing for their producers, $313 an acre of support every year. That blue bar is what we are doing, $38. And I can understand somebody in an urban area wondering why are we giving $38 an acre here if they don't know what our major competitors are doing. But that is a fact. These are not Kent Conrad's numbers. These aren't even USDA's numbers. These are the Organization for Economical Cooperation and Development, the so-called OECD. They are the international scorekeeper. They are the ones that have responsibility to come up with comparable numbers for all parts of the world with respect to agricultural support. This is a fact. We have told our farmers, you go out there and compete not just against the French farmer and the German farmer, but you go out there and take on the German Government and the French Government as well. That is not a fair fight.

Now, we can take on the French farmer, the German farmer. We can do that, but we are being asked to take on the French Government and the German Government as well. That is not a fair fight,

and that is why I believe it is so critically important to level the playing field.

There has been some discussion of loan rates. Ward, you made the point you are reluctant to see loan rates go up because it leads to more production. I understand that point. The point I make back is, if we don't send a message to our European friends that we are not going to abandon our production, then they won't discipline their efforts here in a world agricultural export subsidy. After being sent in to negotiate with the Europeans in Seattle, I was asked by our trade representative to go debate the Europeans at Seattle on the question of agricultural support. I tell you it was an eye-opener. I wish every North Dakotan could have been there and heard the argument coming from the Europeans as to how this was fair. I wish you could have heard it. It is not fair and we can't survive with this kind of difference. You can't survive. And we have got to level the playing field, and the only way, I believe, we are ever going to negotiate a fair playing field in world agriculture is if we stand up for our farmers and give them a fair, fighting chance. I don't know of any other way, and the only way I know how to do it is to put money on the table.

This is a fight. I can tell you what the chief negotiator of the Europeans told me. Senator, he said, we believe we are in a trade war in agriculture with the United States. We believe at some point there will be a cease-fire in this trade war. We believe it will be a cease-fire that will hold everybody where they are. A so-called cease-fire in place and what is in place, it is market share. And that is why, Senator, we for 20 years have been on a strategy of building market share because we want to dominate world agricultural trade. You look at what they have done. You don't have to wonder about the rhetoric. Go look at the record.

They have gone from being the biggest importing region in the world 20 years ago, and they are on the brink of becoming the biggest exporting region today, and they did it the old-fashioned way, they bought these markets—$90 billion a year. That is what they are spending, $90 billion a year. How can they afford it when we are spending $25 billion, how can they afford that difference? Well, we provide the defense umbrella for them. We save them over $100 billion a year there, and they take the money and they put it right here. I mean it is just as clear as a bell. It is as clear as a bell for anybody that wants to look and what are the implications of this.

You look at what happened in the last trade round, what did they negotiate? Equal percentage reductions in the level of support. Equal percentage reductions from unequal basis. Europe is here, we are down here. You get equal percentage reductions, what happens? They are up here, we are down here, equal percentage reductions. You know what the former chief trade representative for the Europeans told me? He said, Senator, we believe we can always get equal percentage reductions in the levels of support. It sounds fair, we will be able to argue we are giving up more than you are giving up and you know what, Senator, we believe at some point as we keep ratcheting down, getting equal percentage reductions at some point you will fall off the cliff. You will fall off the cliff. As you ratchet down your loan rate, it will become so far below the cost

of production that we will drive people out of production agriculture in America, that we will make parts of America unable to be productive and we will then dominate world agricultural trade.

Now, how could you be more clear than that? Does anybody not understand that strategy and that threat? And is that in America's interest to have Europe be the world's agricultural dominant agriculture producer? Is that in our interest? Is it in our interest to have any of our food supply coming from other countries? I tell you, they have made a decision it is not in their interest to do so, and they have experienced hunger twice and they have determined never, ever to be hungry again and never, ever to be reliant on somebody else for their food supply again. I believe at some point America will make that conclusion and that determination. I just hope it is not too late.

With that I want to go to Mr. Stewart. Dan, welcome. Dan is from Carson, North Dakota. Let the record show he is wearing his hat. I tell you it is good to have you here. Please proceed.

STATEMENT OF DAN STEWART, CARSON, NORTH DAKOTA

Mr. STEWART. Thank you, Senator. You know, I thought about taking this off and I thought, well, you wanted people from the farm and the ranch and, by God, you have got them.

Chairman CONRAD. All right. That is good.

Mr. STEWART. And I am comfortable in it, too. I would be less comfortable with my bald head showing. I will get to my family as I get started here.

As I think about the reasons that I was asked to be one of the panelists—and I am honored not only to be with you today, Senator, but with my fellow farmers and ranchers today—I wondered if I was qualified. And after I spoke to Scott Soverign, I thought about that as I was out feeding that morning after I had already said yes, and I got to thinking about that and thinking about my goals and my experiences and the things that I have done in my community and the State experiences that I have had, and I guess maybe the approach that we need to influence the uneducated members of Washington—not yourself, Senator—is maybe this grass-roots approach.

My life has revolved around the livestock business since I was born 40 years ago. I am a fourth-generation rancher. We live 20 miles south of Carson on the Cannonball River. My wife, Jackie, and I have been married for 21 years. We have four children. The oldest boy is in college studying to be a history teacher. The second boy is a junior in high school. My only girl is a fifth grader. And my youngest son is 5 and is in kindergarten. And this last year was interesting because I had a boy who went to start college and a boy start kindergarten on the same day. So that is truly a family farm.

Chairman CONRAD. That is what we call a caboose.

Mr. STEWART. My wife and I graduated together from Carson High School in 1979, and I graduated from BSC with a Bachelor's of Science degree in 1981. At that time my wife and I took residence on our family farm.

I am currently the Chairman of the Grant County Commission. I am in my fourth year, and in my sixth year as a school board

member for the Carson School. I am a member of the Grant Hettinger County JDA for the Job Development Association which focuses on bringing new businesses to our counties and helps sustain our current businesses. I am a member of the North Dakota School Board Association Governmental Affairs Committee which manages current policies and monitors new concerns to North Dakota education. I was previously a 6-year board member of the Dakota Plains Federal Credit Union of Lemmon, Hettinger, Faith, and Bison, and I am a member of the grass-roots organization R-CALF. My family and I are active in Saint Teresa's Catholic Church in Carson.

Being a fourth-generation farmer, I think it is very, very important. I look back at the history of our family and our ranch celebrating 100 years in 2001, and it has been a struggle. At this point we are about 5,400 acres. That has been built up throughout those four generations. We raise about 400 cows and have a background program. I watched my father—and I heard the people from the lending institutions talk about the 1980's—and I watched my father struggle in the 1970's and 1980's when the farm crisis was probably more visible and more publicized at that time. That was a very painful time. Very hard times. We survived them and my wife and I were able to purchase the ranch in the early 1990's. So I guess in my eyes I am qualified to speak today, but everyone has to draw their own conclusion.

I live and breathe my community, the farmers, the ranchers, the business people, everyone. Is an aggressive farm bill important to my community? Undoubtedly yes. Almost every conversation with my fellow ranchers eventually ends up talking about income, expenses, the price of fat cattle, the cost of corn, cattle on feed reports, packer concentration, Government programs, et cetera, et cetera. The unpredictability of our business is sometimes too much to stand as many of our friends and neighbors have sold out to the wealthy, nonresident hunter.

The livestock industry needs some simple protection out of this farm bill as we do not have the equivalent of an LDP. Price supports do not apply to beef.

One of the things that our industry is asking now is country of origin labeling, just exactly as it is written in the current farm bill today, without changes, clearly stamped USDA, including ground beef. After the realization of 9/11 that we can be easily targeted, shouldn't our people be assured that they are being fed clean, safe food? I don't believe that today many people would eat an imported steak from Afghanistan. The risks are just as real coming from places like Brazil, Australia, Mexico, Canada, and elsewhere because the trade doors are wide open with little or no tariffs and little or no health inspection. This country could be devastated by contaminated imported food. We have strived for decades to produce a better product for the consumer, and today we can't even tell them if they are getting it.

Just recently in New York and New Jersey, 461 tons of canned corn beef was recalled by USDA's Food Safety and Inspection Service. The product contained ingredients that are prohibited in the United States such as lungs and oral mucosa. Sounds pretty appetizing. The recalled cans were stamped "Brazil Inspecionado" on

the bottom of the can. Brazil's cattle herd has been infected with foot and mouth disease for the past several years and is prohibited from exporting fresh, chilled, and frozen beef to the U.S. so they have canned it.

Another segment of the farm bill that my fellow ranchers and I would like to see stay just the way it is is the ban on packer ownership, which does not allow packers to own cattle 14 days prior to slaughter. Packers have used captive supplies to prevent demand signals to reach the live cattle market for years. This prevents the market from responding favorably to increased demand. There is safe language in the amendment to protect farmer-owned cooperatives and small private packers; and I am aware that Senator Craig from Idaho has plans to try to weaken or even eliminate this amendment by turning it into a study on packer feeding. We don't need a study on something that can be verified with 10 minutes of phone calls.

And, again, our trade deficit continues with our neighbors to the North. Canada's imports are up 6 percent from last year and our exports are down 6.5 percent—I am talking livestock. That leaves this year's tally at a deficit of 1.45 billion pounds, that compared to 300 million pounds in 1987 just before the Free Trade Agreement was signed, and this has obviously been very, very good for them.

And our friends in Australia have filled their beef quota for the second year in a row. The U.S. allowed 378,214 metric tons of beef to be imported annually. Further imports are subject to a 26.4 percent tariff. Australia earlier this year introduced a U.S.-Australia Free Trade Agreement to the Senate, which would create a NAFTA-type trade agreement. They are interested in increasing import quotas and also being allowed to bring in live cattle. Last year Mexico signed a bilateral agreement with Australia to import 100,000 Aussie cattle that most likely are bound for the U.S. Senator, we cannot allow these type of expanded imports.

Senator Conrad, the livestock industry is not looking for big bucks from the farm bill. We are asking for protection from out-of-control competition from home and abroad. We are asking for the ability to give to our people and the people abroad a safe, certified food supply provided by dedicated farmers and ranchers across the United States. Please continue to fight to give us the tools we need to accomplish this, and further generations of healthy, well-fed people will thank you for your efforts.

Before I finish, I want to agree with the sentiments given today about the Ag Secretary. I have had severe disappointments in the actions that have taken place with her, and I think that something needs to be done as that is such a major portion of creating farm policy and farm bills. Also, I would like to thank our Ag Commissioner for being here today and all the hard work that he has done. He has done wonderful work for us.

Last night on the way home from town, I picked up my daughter and my little guy and we are heading home and I was explaining to them what I was going to be doing today, why I wasn't going to be home and I had to leave before they got up; and when I got done explaining what I was going to do, talking about the farm bill, my 9-year-old daughter said, and I quote, "Dad, isn't that why we

raise cattle so we can pay our farm bill?" And I said, "Yes, that is exactly what I am going to talk to Senator Conrad about, paying the farm bill."

Thank you.

[The prepared statement of Mr. Stewart follows:]

DAN STEWART

SENATOR CONRAD, PANEL MEMBERS, GUESTS,
AS I THINK ABOUT THE REASONS THAT I WAS GIVEN THE OPPORTUNITY TO SPEAK TODAY, I QUESTIONED AS TO WEATHER I WAS QUALIFIED OR THE PROPER CHOICE. AS THERE ARE SO MANY WELL VERSED ADVOCATES OF ALL ASPECTS OF AGRICULTURE WHO ARE UNDOUBTABLY MORE WELL SPOKEN THAN I AM. BUT THEN AS I WENT ABOUT MY BUSINESS FEEDING CATTLE THAT MORNING I BEGAN TO REFLECT ON MY GOALS IN LIFE, MY EXPERIENCES IN MY COMMUNITY AND STATE , AND I DO BELIEVE THAT MAYBE A GRASSROOTS APPROACH MAY BE JUST WHAT IS NEEDED TO INFLUENCE THE UNEDUCATED MEMBERS OF WASHINGTON. (NOT YOU SENATOR) MY LIFE HAS REVOLVED AROUND THE LIVESTOCK BUSINESS SINCE I WAS BORN 40 YEARS AGO, I AM A FOURTH GENERATION RANCHER, WE LIVE 20 MILES SOUTH OF CARSON ON THE CANNONBALL RIVER. MY WIFE JACKIE AND I HAVE BEEN MARRIED FOR 21 YEARS, WE HAVE FOUR CHILDREN, THE OLDEST BOY IN COLLEGE STUDYING TO BE A HISTORY INSTRUCTOR, THE SECOND BOY A JUNIOR IN CARSON HIGH SCHOOL, MY ONLY GIRL IS A 5TH GRADER, AND MY YOUNGEST SON IS 5 AND IS IN KINDERGARTEN, MY WIFE AND I GRADUATED FROM CARSON HIGH SCHOOL IN 1979, AND I GRADUATED FROM BSC WITH A BACHELOR OF SCIENCE DEGREE IN 1981 WHEN MY WIFE AND I TOOK PERMANENT RESIDENCE ON OUR FAMILY FARM.

I AM CURRENTLY THE CHAIRMAN OF THE GRANT COUNTY COMMISSION IN MY FOURTH YEAR, AND IN MY 6TH YEAR AS A SCHOOL BOARD MEMBER FOR THE CARSON SCHOOL, I AM A MEMBER OF THE GRANT AND HETTINGER JDA WHICH FOCUSES ON BRINGING NEW BUISNESSES TO OUR COUNTIES AND HELPS

SUSTAIN OUR CURRENT BUSINESSES. I AM A MEMBER OF THE NDSBA GOVERMENTAL AFFAIRS COMMITTEE WHICH HELPS MANAGE CURRENT POLICY AND MONITOR NEW CONCERNS TO ND EDUCATION, I WAS PREVIOUSLY A 6 YEAR BOARD MEMBER OF THE DPFCU IN LEMMON -HETTINGER-FAITH-AND BISON SD, I AM A MEMBER OF THE GRASSROOTS ORGANIZATION R-CALF, MY FAMILY AND I ARE ACTIVE IN ST THERESAS CATHOLIC CHURCH IN CARSON,

MY GREAT GRANDPARENTS CAME TO AMERICA IN 1890 FROM SCOTLAND AND WORKED VARIOUS STATES SLOWLY BUILDING A COW HERD AND FINALLY IN 1901 SETTLED ON THE RANCH WHICH MY FAMILY AND I NOW OWN. WE PROUDLY CELEBRATED 100 YRS OF RANCHING IN 2001. THE RANCH CONSISTS OF 5454 ACRES, WE RAISE CORN AND ALFALFA TO SUPPORT OUR 400 COW HERD AND BACKGROUND PROGRAM, MY WIFE LIKE ALL THE OTHER FARM AND RANCH WIVES IN OUR AREA, WORKS AWAY FROM HOME MANAGING THE LOCAL FARM STORE, I WATCHED MY FATHER STRUGGLE IN THE 70'S AND 80'S WHEN THE FARM CRISIS WAS MORE HIGHLY PUBLICISED, I LIVED THAT PAINFUL TIME WITH HIM ON A DAILY BASIS UNTIL WE PUT TOGETHER A PLAN FOR MY WIFE AND I TO PURCHASE THE RANCH IN 1991.

SO AM I QUALIFIED TO SPEAK TODAY? YOU DECIDE!!!!! I LIVE AND BREATH MY COMMUNITY , THE FARMERS, THE RANCHERS, THE BUISNESS PEOPLE, EVERYONE. IS AN AGGRESSIVE FARM BILL IMPORTANT TO MY COMMUNITY? UNDOUBTABLY YES..... ALMOST EVERY CONVERSATION WITH MY FELLOW RANCHERS EVENTUALLY ENDS UP TALKING ABOUT INCOME- EXPENSES-THE PRICE OF FAT CATTLE-THE COST OF CORN-CATTLE ON FEED REPORTS-PACKER CONCENTRATION-GOVERMENT PROGRAMS - ECT.. ECT....ECT.....THE UNPREDICTABILITY OF OUR BUSINESS IS SOMETIMES TOO MUCH TO STAND AND MANY OF MY FRIENDS AND NEIGHBORS HAVE SOLD OUT TO THE WEALTHY NONRESIDENT HUNTER.

THE LIVESTOCK INDUSTRY NEEDS SOME SIMPLE PROTECTION OUT OF THIS FARM BILL, AS WE DO NOT HAVE THE EQIVILANT OF AN LDP, PRICE SUPPORTS DONT APPLY TO BEEF.

ONE OF THE THINGS THAT OUR INDUSTRY IS ASKING NOW IS COUNTRY OF ORIGIN LABELING, JUST EXACTLY AS IT IS WRITTEN IN THE CURRENT FARM BILL TODAY, WITHOUT CHANGES, STAMPED USDA, INCLUDING GROUND BEEF. AFTER THE REALIZATION ON 9-11 THAT WE CAN BE EASILY TARGETED, SHOULDN'T OUR PEOPLE BE ASSURED THAT THEY ARE BEING FED CLEAN SAFE FOOD? I DON'T BELIEVE THAT TODAY MANY PEOPLE WOULD EAT AN IMPORTED STEAK FROM AFGANISTAN. THE RISKS ARE JUST AS REAL COMING FROM PLACES LIKE BRAZIL, AUSTRALIA, MEXICO, CANADA AND ELSWHERE, BECAUSE THE TRADE DOORS ARE WIDE OPEN WITH LITTLE OR NO TARIFFS AND LITTLE OR NO HEALTH INSPECTION, THIS COUNTRY COULD BE DEVISTATED BY CONTAMINATED IMPORTED FOOD, WE HAVE STRIVED FOR DECADES TO PRODUCE A BETTER PRODUCT FOR THE CONSUMER AND TODAY WE CANT EVEN TELL THEM IF THEY ARE GETTING IT ..

JUST RECENTLY IN NEW YORK AND NEW JERSEY 461 TONS OF CANNED CORN BEEF WAS RECALLED BY USDA'S FOOD SAFETY INSPECTION SERVICE (FSIS). THE PRODUCT CONTAINED INGREDIENTS THAT ARE PROHIBITED IN THE UNITED STATES SUCH AS LUNGS, AND ORAL MUCOSAL... YUM--- YUM,,, ALL THE RECALLED CANS WHERE STAMPED BRAZIL INSPECIONADO,,, ON THE BOTTOM OF THE CAN. BRAZIL'S CATTLE HERD HAS BEEN INFECTED WITH FOOT AND MOUTH DISEASE FOR THE PAST SEVERAL YEARS AND IS PROHIBITED FROM EXPORTING FRESH, CHILLED, AND FROZEN BEEF TO THE U.S. SO THEY CAN IT.

ANOTHER SEGMENT OF THE FARM BILL THAT MY FELLOW RANCHERS AND I WOULD LIKE TO SEE STAY JUST THE WAY IT IS IS THE BAN ON PACKER OWNERSHIP. WHICH DOES NOT ALLOW PACKERS TO OWN CATTLE 14 DAYS PRIOR TO SLAUGHTER. PACKERS HAVE USED CAPTIVE SUPPLIES TO PREVENT DEMAND SIGNALS TO REACH THE LIVE CATTLE MARKET FOR YEARS,,,, THIS PREVENTS THE MARKET FROM RESPONDING FAVORABLY TO INCREASE DEMAND, THERE IS SAFE LANGUAGE IN THE AMENDMENT TO PROTECT FARMER OWNED COOPERATIVES AND SMALL PRIVATE PACKERS. I AM AWARE THAT SENATOR CRAIG FROM IDAHO HAS PLANS TO TRY AND WEAKEN OR

ELIMINATE THIS AMENDMENT BY TURNING IT INTO A STUDY ON PACKER FEEDING,,, WE DONT NEED A STUDY ON SOMETHING THAT CAN BE VERIFIED WITH ABOUT 10 MINUTES OF PHONE CALLS. SENATOR ,,WE NEED THIS PROTECTION.

AND AGAIN OUR TRADE DEFICIT CONTINUES WITH OUR NEIGHBORS TO THE NORTH, CANADA'S IMPORTS ARE UP 6% FROM LAST YEAR AND OUR EXPORTS ARE DOWN 6.5%. THAT LEAVES THE YEARS TALLY AT A DEFICIT OF 1.45 BILLION POUNDS. THAT COMPARED TO 300 MILLION POUNDS IN 1987 JUST BEFORE THE FREE TRADE AGREEMENT WAS MADE, OBVIOUSLY IT HAS BEEN GOOD FOR THEM.

AND OUR FRIENDS IN AUSTRALIA HAVE FILLED THEIR BEEF QUOTA FOR THE SECOND YEAR IN A ROW. THE U.S. ALLOWES 378,214 METRIC TONS OF BEEF TO BE IMPORTED ANNUALLY. FURTHER IMPORTS ARE SUBJECT TO A 26.4% TERRIFF. AUSTRALIA EARLIER THIS YEAR INTRODUCED A U.S. AUSTRALIA FREE TRADE AGREEMENT TO THE SENATE WHICH WOULD CREATE A NAFTA TYPE TRADE AGREEMENT, THEY ARE INTERESTED IN INCREASING IMPORT QUOTAS AND ALSO BEING ALLOWED TO BRING IN LIVE CATTLE. LAST YEAR MEXICO SIGNED A BI-LATERAL AGREEMENT WITH AUSTRALIA TO IMPORT 100,000 AUSSIE CATTLE THAT MOST LIKELY ARE U.S. BOUND. SENATOR WE CANNOT ALLOW THESE TYPES OF EXPANDED IMPORTS.

SENATOR CONRAD..... THE LIVESTOCK INDUSTRY IS NOT LOOKING FOR BIG BUCKS FROM THE FARM BILL, WE ARE ASKING FOR PROTECTION FROM OUT OF CONTROL COMPETITION FROM HOME AND ABROAD. WE ARE ASKING FOR THE ABILITY TO GIVE TO OUR PEOPLE AND THE PEOPLE ABROAD A SAFE, CERTIFIED FOOD SUPPLY , PROVIDED BY DEDICATED FARMERS AND RANCHERS ACROSS THE UNITED STATES, PLEASE CONTINUE TO FIGHT TO GIVE US THE TOOLS WE NEED TO ACCOMPLISH THIS ,,,, AND FUTURE GENERATIONS OF HEALTHY WELL FED PEOPLE WILL THANK YOU FOR YOUR

EFFORTS. WHEN I WAS EXPLAINING WHAT I WAS GOING TO DO TODAY TO MY 9 YEAR OLD DAUGHTER SHE TRANSLATED THE WORDS FARM BILL JUST AS THEY SHOULD BE,,, WHEN I CONCLUDED WHAT WE WOULD BE TALKING ABOUT SHE SAID,,,,,, DAD ISNT THAT WHY WE RAISE CATTLE SO WE CAN PAY OUR FARM BILLS???? I SAID YES BABE THATS WHAT I'M GOING TO TALK TO SENATOR CONRAD ABOUT.. PAYING THE FARM BILLS.

I WOULD LIKE TO THANK MR STOFFERAN FOR GIVING ME THIS OPPORTUNITY, AND TO YOU SENATOR FOR LENDING ME YOUR EAR,,

THANK YOU!!!! DAN STEWART

Chairman CONRAD. Thank you very much for really excellent testimony. I tell you, you are fully qualified. This has been a wonderful panel. I wish so much my colleagues could have heard this.

You know, in the previous hearing we had farm group leadership of North Dakota, and it was terrific, it was an outstanding panel. When we were starting to formulate this hearing, we were asked by some to repeat that. And I said, you know, I don't think that is what we should do. I think we should try to hear from the grass roots because I think these individual stories might make a different kind of impact on our colleagues; that it was critically important to hear from our farm group leaders in the previous hearing, but in this hearing I think if we could have some individual stories that we could take back, sometimes it is more meaningful and in the big picture story, that our current group leaders are able to provide so well, that to have individual stories of families and what their life is like and what this means to them sometimes makes more of an impression. It is more understandable to people then, you know, the charts that I use, for example, and try to make the big point that maybe it brings to life for them how a decision made in Washington actually impacts the lives of farm families out here; and to understand we are not talking about the Scottie Pippens—goodness knows Scottie Pippen can take care of himself, he doesn't need any help. He is a great basketball player. I certainly admire his basketball. I played high school basketball, and I like to say Michael Jordan learned a lot of his moves from me. I don't think that is true, unfortunately.

But you said a number of things, Dan, that I really want to rivet the point on. I believe in free trade; as a principle, I think it makes sense. But the devil is in the details. Let me just talk for a minute about the Canadian Free Trade Agreement. They called it a free trade agreement, but with respect to durum, it has got nothing to do with free trade. Nothing to do with free trade. Canada went from zero percent of our durum market to 20 percent of our durum market after the passage of the Canadian Free Trade Agreement—not because they are more efficient, not because they are more competitive, but because of a loophole in that trade agreement when, on the face of the agreement, it says no side shall sell below its cost in the other's market, but in a secret side deal the then-Secretary of Agriculture entered into an agreement with the Canadians that said when you establish your costs, you don't have to count the interim and final payments of the Canadian Government to Canadian farmers. You don't have to count it. So now what appears to be a free trade agreement is not one. We can't export to them; they can export freely to us. That is not free trade. That is a perversion of free trade.

NAFTA, what happened there? I opposed both of those agreements, although I supported the gap, I supported the larger movement because I think it is the right principle, but the devil is in the details. What happened to NAFTA? In NAFTA we negotiated a 10 percent reduction in their tariffs to improve our access to their market. Almost immediately thereafter they devalued their currency by 50 percent. So you know what? We were 40 percent worse off than when we began. We then went from a trade surplus with Mexico to a significant trade deficit with Mexico. Was that because

we were less competitive? No. It is because they devalued their currency.

Let me just say if the free trade agreement with Argentina that was being sought was in place before this devaluation they are undergoing, a 30 percent devaluation, the exact same thing would have happened to us in Argentina. We would have negotiated maybe a 10 percent reduction in tariffs, they devalue by 30 percent. Are we in a better position or worse position? I say to you the devil is in the details.

Dan, I just wanted to report to you, on January 1st the European Union just implemented stringent country-of-origin trace back requirements for all meat. January 1st. They have done it. The question is: Will we do it? I would say we would be fools not to do it. Can you imagine what would happen if there was a threat to our food supply? Can you imagine what would happen if a terrorist organization introduced adulterated meat into the U.S. food supply? Just think in hamburger alone, if they introduced something that is commonly occurring already, we all know, in hamburger that kills people, that can kill people, we have got no ability to trace that back. You know what Europe has done, they are going to put in place a system that will allow them to trace back any package of meat. Not just to the country, they are going to trace it back to the farm where it was produced. That is what they are going to do. I think that is what we ought to do.

Now, we can't do this overnight, they can't do it overnight, but they have started with stringent country-of-origin labeling and trace-back for all meat. And I can tell you, I have met with their people, they fully intend with the new technology to be able to take it back to the individual farm where that has been produced because of hoof-and-mouth, what they now call foot-and-mouth—I don't know when that ever changed. When we were growing up, it was hoof-and-mouth—and mad cow and because of this terrorist threat.

Now, I just say to you, that is the direction we ought to be going. We have got a good start on it in this bill, in the Senate bill, and it ought to be kept just as you have stated.

Mr. STEWART. They are smart enough to learn from their mistakes.

Chairman CONRAD. Well, they certainly have.

Mr. STEWART. They have starved to death so they are paying their farmers and ranchers well. They know the importance of food. They have had the terrible health risks. They have buried and piled and burned hundreds of thousands of animals. They know the risks, so they are doing something to solve the problem. We have an opportunity to solve the problem before it has happened to us. We have the easy way to do it. We have got to look over the fence and see the wreck; now we can avoid doing it ourselves. It is very simple and maybe it is too simple.

Chairman CONRAD. It couldn't be any better stated than that. It couldn't be any better stated than that.

I know that we have run out of time. I apologize to others who are here. I am going to do this: I have got another obligation I have to go to, but there are a list of organizations who have indicated an interest in providing testimony. I will hold the hearing record

open for 10 days, I can do that under the rules of the committee, hold the record open for 10 days. Anybody that wants to submit other written testimony—we already have a long list of organizations who intend to do so. I honor all of those requests.

[The prepared statements follow:]

Testimony before the United States Senate Budget Committee
Regarding federal farm policy and the farm bill
Bismarck, North Dakota
January 8, 2002

Donny Nelson, Rancher
Keene, North Dakota

Senator Conrad and members of the committee, thank you for holding this hearing and for your attention to these crucial issues. North Dakota farmers and ranchers have worked for years to address the disturbing lack of competition in agricultural markets.

North Dakota farmers and ranchers are deeply concerned about concentration in agriculture. As a rancher, I worry most about the lack of competition in our cattle markets.

The use of captive supplies and in particular, formula pricing, in concentrated cattle markets are destroying the marketplace. Allowing packers to utilize anticompetitive methods of procurement such as this gives them enormous power over the market, to the detriment of farmer, ranchers and consumers.

Senator Conrad, I urge you to take the lead in working with your colleagues in the Senate to pass an amendment to the farm bill that prohibits packers from procuring cattle and hogs for slaughter through the use of a forward contract, unless the contract contains a firm base price that can be equated to a fixed dollar amount on the day the contract is signed, and the forward contract is offered for bid in an open, public manner. (See WORC Petition, Federal Register, v. 62, no. 9. Jan. 14, 1997, pp. 1845-59).

The choice is clear and simple. Either we will side with family farmers and ranchers and work to make our livestock markets open and competitive; or we will side with the packers and continue to allow them to destroy our market and our farms and ranches in the process.

I implore you to sponsor an amendment to limit anticompetitive captive supply arrangements. By passing such an amendment you will be voting to protect the livelihood of every rancher and farmer with livestock in this country. You will improve the prices we receive by outlawing the manipulative use of captive supplies.

We must work to stop the domination of thousands of cattle producers across this country by the big packers. We must stop the windfall profits that the big packers extract from the blood and sweat of our family farmers and ranchers every year.

Many of my friends say there isn't much in this farm bill for the cattle producer. However, by standing up to the packers and limiting their manipulative use of captive supplies we can give ranchers in North Dakota and beyond a fighting chance to survive!

Testimony before the United States Senate Budget Committee
Regarding federal farm policy and the farm bill
Bismarck, North Dakota
January 8, 2002

Linda Rauser
Farmer, Rancher and
Dakota Resource Council Chair
Keene, North Dakota

Senator Conrad and members of the committee, thank you for holding this hearing and for your attention to these crucial issues. We encourage you to continue to work diligently to pass a new farm bill that does more to foster family farming and ranching and protect our markets from the rapid concentration that threatens every aspect of agriculture. We have waited for years for this moment and now is the time to press ahead, take bold action and stand up to those who would encourage further delay.

North Dakota farmers and ranchers are deeply concerned about concentration in agriculture and about losing access to our markets. We are particularly concerned about concentration in the beef industry.

This situation is not new. All of this was taking place in much the same way 80-85 years ago. These events produced a movement that culminated in a speech on the floor of the Senate in which Senator John B. Kendrick of Wyoming stated:

"It has been brought to such a high degree of concentration that it is dominated by a few men. The big packers, so called, stand between hundreds of thousands of producers on one hand and millions of consumers on the other. They have their fingers on the pulse of both the producing and consuming markets and are in such a position of strategic advantage they have unrestrained power to manipulate both markets to their own advantage and to the disadvantage of over 99% of the people of the country. Such power is too great, Mr.President, to repose in the hands of any men."

Over eighty years later, farmers and ranchers find themselves in the same situation again. The Dakota Resource Council urges you to support the following measures to help put competition ahead of concentration, farmers and ranchers on a more even footing with packers and to put the interest of people – farmers, rancher and consumers – ahead of giant, transnational agribusiness corporations.

We support the continued effort to address market concentration in agriculture and restore competition to agriculture and food production.

I. Regulating Captive Supplies

Use of captive supplies – control of livestock by packers through formula priced contract – and other anticompetitive agreements in highly concentrated markets have led to disastrous conditions in the markets for fed cattle. Captive supplies increase the potential for price discrimination and undue preferences, and the potential for intentional price manipulation. Congress should limit captive supply contracts and prohibit packers from procuring cattle and hogs for slaughter through the use of a forward contract, unless the contract contains a firm base price that can be equated to a fixed dollar amount on the day the contract is signed, and the forward contract is offered for bid in an open, public manner. (See WORC Petition, Federal Register, v. 62, no. 9. Jan. 14, 1997, pp. 1845-59).

We urge you to offer an amendment to the farm bill that would prohibit the use of secretive forward contracts that do not contain a fixed base price.

II. Country of Origin Labeling

In concentrated markets such as those for beef, pork and lamb today, meatpackers can use imported livestock, meat and produce to drive down prices in domestic markets by strategically drawing on imported supplies. Country of origin labeling would give U.S. consumers the knowledge and ability to choose U.S. beef, pork, lamb, or produce, and effectively create separate markets for domestic and imported goods. Congress should require mandatory labeling of meat and produce by country of origin and we urge you to support the current language on country of origin labeling that was added to the Senate farm bill by the Agriculture Committee.

Specifically, we strongly support the following key elements: 1) Mandatory country of origin labeling for beef, lamb, pork, fish, fruits, vegetables, and peanuts. 2) Only meat from animals exclusively born, raised, and slaughtered in the United States shall be eligible for a USA label. 3) The USDA Quality Grade Stamp cannot be used on imported meat.

III. Prohibition on Packer Ownership or Feeding

Packer ownership of livestock prior to slaughter results in less competition for all sellers in the market. Because packers have slaughter livestock supplies locked up, they do not have to bid competitively for all of their livestock needs. This depresses the market and restricts market access for other producers. It also increases the likelihood of price manipulation in the marketplace. Congress should prohibit ownership and control of livestock by packers for more than two weeks prior to slaughter. We urge you to fight to preserve the prohibition on packer ownership of livestock that passed the Senate in late December 2002.

Agricultural commodity markets and family farmers and ranchers are threatened by what Iowa State University agricultural economist Neil Harl calls "the deadly combination" of concentration and vertical integration in agriculture.

- In the 1960's, the top four beef-packing firms slaughtered less than 30% of all fed cattle. Today, three firms kill 80%.
- Three-fourths of all hogs are sold through secret contracts, instead of in the open market, up sharply from just a few years ago. Similarly, about half of all cattle slaughtered each week are sold through captive supply agreements, and in some weeks the figure is as high as 90%.

Let's say you had a used car and wanted to sell it. You go to a used car dealer and he tells you they will buy your car in about 30 days and at that time they will give you $100 over the "average price" of what that make and model is bringing across the country.

Sounds OK, sounds fair enough. Right?

But then you learn that four car dealers have bought out almost all the other car dealers

across the country and now they dictate the "going rate," because they now control about 80 percent of the car dealers across the country and thus 80 percent of the used car market. You're concerned about the price you've agreed to sell your car for... because you really don't know what price you're going to get. These four may decide to not "bid up" used cars a month from now, thereby causing the price to fall.

You've got reason to be concerned.

When it comes time for you to sell your car, you find out that these four car dealers bought the majority of the cars that are just like yours and the "going rate" has declined by $500 from what you thought it should be. You just received $400 less than what the car would have been worth had not these four car dealers controlled the market.

This is what is happening to farmers and ranchers. Packers push farmers and ranchers to sign agreements to sell their cattle through forward contracts without a fixed base price. They hold all the cards in the market and they expect farmers and ranchers to bet that at some (often undetermined) point in the future the "base price" will be at a profitable level, which of course is not usually the case so farmers and ranchers lose the most.

Another analogy:

Playing blackjack in Vegas is bad enough because the House has a built in advantage (ties to dealer, etc.). Imagine how difficult it would be if you had to begin each hand, look at your cards and make a wager – AND THEN the dealer would tell you whether you were playing to 20, 21, 22, etc.

The most crucial piece of information on whether to sell something is what price is being offered. That seems so obvious but it is the heart of the matter with formula pricing. The packer will tell you the basic rules of the transaction, how much of a "bonus" you will get (above the "base") and they might tell you when you would have to deliver the cattle... but they won't fix the "base" price.

In other words, they won't tell you what they are going to pay for your cattle. It is hard enough for farmers to negotiate with huge, powerful transnational corporations - it is impossible when those corporations are allowed to keep the price offered a secret (even from the seller) until after the transaction is complete.

It is time for this to be stopped. We urge you to fight to preserve the victory in the Senate on prohibiting packer ownership of livestock and to take bold action to preserve the integrity of our cattle markets by prohibiting captive supply agreements that fail to fix a base price when the contract is signed. Thank you again for your attention to this matter.

NORTH DAKOTA BARLEY COUNCIL

STATEMENT OF
JIM BROTEN
CHAIRMAN
NORTH DAKOTA BARLEY COUNCIL

Mr. Chairman, thank you for providing this forum today to present issues related to passage of a new farm bill. It is a privilege to present comments on U.S. farm policy and how it affects barley producers. I am Jim Broten, a farmer from Dazey, North Dakota, and chairman of the North Dakota Barley Council. The North Dakota Barley Council is charged by the North Dakota Legislature to represent the interests of the 10,000 barley producers in the state on issues affecting their economic welfare.

Immediate passage of a farm bill is vital to all agricultural producers in the state of North Dakota. Producers need verification for lending purposes that the federal government will remain a partner in agricultural production during these periods of extremely low commodity prices.

The House of Representatives, working in a bipartisan manner, concluded with passage of its version of a farm bill on October 5, 2001. Although the Council has reservations with support levels for the various commodities, we believe the House version contains three critically needed elements of any new commodity title: 1) Continuation of fixed decoupled payments over the life of the bill, 2) Continuation of the marketing loan program, and 3) A decoupled counter-cyclical safety net that is triggered when market prices fall below predetermined levels.

The Council also applauds Senate efforts to pass a bill right up until the Christmas recess. We wish to express our concern, however, in the strongest sense possible that producers in North Dakota cannot afford to lose the additional $73.5 billion added to the budget baseline. Should American agriculture be forced to go back to the original baseline, the Council fears a bill that would provide no meaningful support levels for agriculture. Congress must enact a new farm bill that captures the additional $73.5 billion with no less than $48.886 billion allocated to the commodity title.

The North Dakota Barley Council (Council) has a unique story to communicate today. Barley has become an "endangered" commodity in North Dakota and the United States. Barley acreage has steadily declined from 3.5 million acres in 1985 to 1.6 million acres today, a 54

percent decline over the past 15 years. Nationally, barley production reached a 25-year low in 1999 and acreage was the lowest in 100 years.

Barley is a food crop as well as a feed grain. Currently, about one half of U.S. barley production is used for malting. Malting companies pay a premium for this higher quality barley. Even with a premium price, however, malting barley production is decreasing due to higher loan rates for other program crops.

The infrastructure of the U.S. barley industry is threatened by this steady decline in acres. Malting barley demand remains constant at approximately 150 million bushels per year. Yet national barley production continues to decline. Producers are finding it increasingly difficult to market barley as fewer and fewer elevators willingly handle the crop due to declining supplies.

The Council is a strong supporter of the increased planting flexibility provided by the 1996 Farm Bill. However, planting flexibility combined with loan rate provisions in the 1996 legislation is resulting in a sharp downturn in barley acres. Specifically, freezing loan rates and tying barley's loan rate to its feed value relationship to corn have placed barley production at a competitive disadvantage with other crops. Barley producers need the next Farm Bill to restore equity to the barley loan rate.

Modification of the Marketing Loan Program must be a top priority for barley producers. Section 132 (b)(3) of the current Farm Bill requires USDA to set the barley loan rate in relation to only it's feed value in relation to corn. Since the current Farm Bill caps the corn loan rate at $1.89 per bushel, the barley loan rate is effectively capped at $1.68. This feed value relationship understates the market value of malting and food barley, which have averaged $0.57 per bushel higher than feed barley over the last ten years. As stated earlier, over half of annual U.S. barley production generates higher-value food quality malting barley.

Continuing to link the loan rates for barley and corn based on their respective feed value is inappropriate. The barley marketing loan must provide a safety net comparable to competing crops when prices fall below the loan level. The current feed-based linkage to corn is diverting acres from barley to oilseeds and other grains, which have higher relative loan rates.

The new farm bill needs to rebalance loan rates and safety net levels for all program crops so that farm program payments do not distort planting decisions. This can best be accomplished by setting loan rates and other safety net support mechanisms for each of the program commodities in relation to their historic relationships. Utilizing this mechanism would provide a barley-to-corn relationship of 1.07 to 1.00. In other words, if the loan rate and safety net for corn was set at $2.00 and $2.35 per bushel, respectively, barley should be set at $2.14 and $2.51 per bushel. Furthermore, the next Farm Bill should provide that loan rates be set as a floor, not a ceiling as is the case today.

The Council also supports using an "all-barley" price to determine loan repayment rates. Posted County Prices (PCPs) should be set at levels that do not encourage producers to forfeit feed barley in the event marketing loan gains would otherwise be higher than Loan Deficiency Payments (LDPs).

The North Dakota Barley Council supports a decoupled, guaranteed, and fixed crop payment for the life of the next farm bill. Similar to PFC payments, the crop payment should be extended without regard to domestic price fluctuations, and should be decoupled from current and future production to avoid influencing planting decisions. The aggregate level of the annual PFC-type payment should be no less than the $5.6 billion fiscal year 1999 level. The next Farm Bill should maintain the allocation among the seven so-called AMTA crops (wheat, corn, sorghum, barley, oats, upland cotton, rice) at the levels established in the 1996 Farm Bill. Likewise, Congress should restore the barley PFC payment for the period of the next Farm Bill to the 27.2 cents/bushel affiliated with the 1999 Agriculture Marketing Transition Act (AMTA) level. Finally, in the event Congress includes payments for loan-eligible crops not included in the original AMTA formula, the Council supports an offsetting increase in total annual funding.

Low commodity prices have brought out the inadequacy of the current farm program safety net, including AMTA payments and the Marketing Loan Program. Producers need an additional program that will provide income support payments when income or the per-acre return of a commodity sector declines. The recent emergency supplemental assistance programs have been extremely helpful – but they provide no long-term protection, which causes great uncertainty among producers and their lenders.

The North Dakota Barley Council supports creation of a counter-cyclical income support program based on projected shortfalls in commodity cash receipts. This program would replace current ad hoc emergency payments, and funding for this program should be in addition to the previously mentioned modifications to the Marketing Loan Program and continued AMTA-type payments.

The North Dakota Barley Council supports a counter-cyclical program proposal put forth by the North Dakota Grain Growers Association and the National Association of Wheat Growers. The program would trigger commodity-specific payments when market prices (including per-bushel or per-unit farm program payments) are less than an established Market Support Level for each commodity. Once the Market Loss Support Payment is triggered, per-bushel or per-unit payments would equal the difference between (1) the established Market Support Level for a commodity, and (2) the per-unit PFC-type payment and the higher of either the national average marketing loan level or the forecasted national average market price.

The Council opposes updating of program payment yields. Analysis indicates doing so would result in a significant transfer of federal funds from small grain producing areas of the country into the major corn and soybean production regions where there is less likelihood of production shortfalls. The Council also believes that producers should be required to maintain their current program base plus be allowed to add the average of the 2001-oilseed payment acreage, not to exceed the total cropland acreage of the farm.

Domestic farm policy and income support programs are only part of the solution to the challenges facing barley growers. While recognizing the scope of today's hearing, some mention must be made of needed changes in trade policy. Even if barley growers receive higher

loan rates and supplemental income assistance, these supports will not resolve long-term restraints on our export competitiveness, including the strength of the U.S. dollar, unfair foreign subsidies, false phytosanitary non-tariff barriers such as TcK, and unfair practices of monopolistic State Trading Enterprises. Barley growers understand the United States will never convince foreign competitors to reduce subsidy levels and tariffs without reducing our own trade distorting supports. However, when past agreements bind us to unfair levels relative to their spending limits, the rules must be changed.

In summary, the North Dakota Barley Council supports continuation and reformulation of the non-recourse marketing loan program giving barley a more equitable loan rate, continuation of annual decoupled PFC-type payments at no less than the fiscal year 1999 level, and development of a counter-cyclical program to supplement low market prices and farm income when needed.

Thank you for the opportunity to submit testimony at today's hearing.

Dear Senator Conrad:

I am writing on behalf of members of the Northern Plains Soil and Water Conservation Society (SWCS) representing MT, WY, CO, NE, SD, and ND to express our deep concern on the 2002 Farm Bill provisions. I represent more that 900 professional society members in the Northern Plains. Members of the society are strong supporters of the ecosystem approach of caring for our soil, water, plants, and animals in natural resource settings. We understand competition for federal funding is fierce.

We are pleased that the 2002 farm bill has a substantial increase in spending for conservation programs. Funding in SB-1731 from the Senate Committee should be maintained at the proposed level. You recall Mr. Craig Cox, Exec. V. P., SWCS, met with your committee on March 1 and June 28. On July 31, Bob Eddleman, SWCS President, provided testimony and recommendations to the Senate Committee on Agriculture, Nutrition and Forestry. I want to build on that testimony.

We believe that the next farm bill should add balance to conservation policy. The present bill relies too much on programs that take land out of production. Your committee was provided a copy of Seeking Common Ground Report –An Agricultural Conservation Policy Report which contained 22 recommendations based on five regional workshops, in which the society solicited public input. The recommendations represent the society's best judgment on policy reform.

Agriculture cannot escape the consequences of its environmental effects anymore than agriculture did in the 1930's land degradation effects. That is not because agriculture is bad, but because it is big and complex. To meet the challenge, they must be updated and strengthened. Our workshop participants agreed that expanding the reach of existing USDA conservation programs is priority to overcoming the assistance gap. Increased funding and program reform will achieve this objective.

The focus of the 2002 farm bill should be to working lands. Working lands are more complex than taking land out of production. Working lands need science-based technical services – research, education, and technical assistance. Existing USDA programs use only a small portion of the technical management and practices available through NRCS. We recommend funding for conservation programs be doubled to $5 billion annually with most going into technical services and financial assistance to working lands.

The technical services infrastructure is the greatest impediment for landowners to meet conservation needs and the publics desire for environmental quality. Conservation is ecological and economic knowledge applied to the design and management of farm and ranch systems. Farmers and ranchers apply conservation to the landscape, programs do not. Timely, accurate, and appropriate technical advice by trained advisors in the public/private sector is the key to successful conservation application. In the long run, conservation does not cost, conservation pays in environmental quality.

Technical assistance is at the heart of working land conservation. For this to happen, the section 11 cap on technical assistance must be fixed. Each program should be mandated to carry its own technical assistance funding for producers to receive financial assistance from that program. This is currently not the case. Too often people think of technical assistance as simply a cost of delivering financial assistance –that is wrong.

We need to invest in technical services as the fundamental conservation program. We recommend farmers and ranchers have direct technical assistance for conservation.

The SWCS applauds the increase in EQIP funds. We do not support moving EQIP to USDA-FSA. This is poor policy. We believe that conservation programs should be in the hands of scientists and trained technicians with background and experience based on sound science. On-site technical assistance is the heart of the EQIP conservation program. We need $1 billion for EQIP, triple current funding. This will help farmers produce a better environment at the same time they produce our food and fiber. EQIP, if properly structured, has the potential of being the biggest, most cost-effective agricultural water quality program in the U.S.

The House bill provided more money but not better policy. We urge you to correct this. The conservation tool box needs a balance between technical services, financial assistance on working lands, and financial assistance for land retirement and restoration. Land retirement and restoration accounted for 85 cents of every USDA financial assistance dollar spent in 2000. Most of that assistance went to crop producers in the Great Plains. New investments in conservation should be used to reach those producers who want to keep working the land, not retire it.

Reforming conservation programs is our first priority. At present, most money going to working land, goes through traditional farm programs, not conservation programs. They do not do as much for conservation as they could or should. A tool is needed that merges economic support with conservation, rewarding a farmer or rancher for good stewardship, rather than producing a particular commodity.

We recommend $3 billion dollars for a new stewardship program that would pay farmers for services as land, water, and wildlife managers. This program would reward producers for their commitment to resource stewardship. This would level the playing field for those farmers and ranchers doing a good job, not just those facing conservation challenges.

Conservation is dependent on local leadership. State and local leaders need authority over USDA programs to operate in their state. The CREP and WHIP programs could allow the Secretary to enter into agreements with states. Such agreements, would pull conservation programs together. NRCS does this with tools in the toolbox, which provides technical services in planning. Conservation plans should be the focus, not the program.

We are pleased with the added conservation investment, but think several critically important adjustments must be made to ensure that the investment pays the greatest dividend possible to producers, taxpayers, and the environment. I would be pleased to provide the report to you. Thank you for your time and attention.

Sincerely,

Myron P Senechal

Myron P. Senechal
Director Northern Plains
Soil and Water Conservation Society

1816 Heritage Ave.
Bismarck ND 58501-2116

Statement of Lloyd Klein, President

Good morning, Mr. Chairman, and distinguished leaders. I am Lloyd Klein, a sunflower, canola, wheat and corn farmer from Elgin, North Dakota. I also serve as President of the National Sunflower Association, headquartered right here in Bismarck.

I would like to commend you, Senator Conrad, for holding this hearing, and for your leadership on agricultural issues in the Congress. North Dakota's farmers and rural communities are well served through your senior position on the Senate Agriculture Committee as well as your Chairmanship of the Budget Committee.

Family farmers, the National Sunflower Association, and the rest of the minor oilseed industry are disappointed and concerned that the Congress has not passed new farm legislation locking in the budgeted resources that you – Senator Conrad – worked so hard to secure. At the same time, I am still encouraged and optimistic that the Senate can thoughtfully debate and deliberate on a new farm bill that can be passed, and conferenced with the House, and signed by the President before the current budget resolution expires.

Minor oilseed producers and our industry partners look forward to continuing a working relationship with you and your staff in developing a new farm bill that maintains the positive aspects of current policy, and corrects its shortcomings. Incidentally, we believe the bill passed by the Senate Agriculture Committee and authored by you, Chairman Harkin, Majority Leader Daschle, and others did just that.

Specifically, I urge you to stay on course in including oilseeds as program crops under the next farm bill. Under any new program, the terms and the amount of support provided must be balanced and equitable.

Further, it is essential that minor oilseeds maintain their competitiveness for acreage under the marketing loan program. Sunflowers and other alternative crops must attract acres to preserve industry infrastructure or to expand to meet growing demand. A farm program that reduces marketing loan levels in order to raise decoupled income support may increase overall benefits, but it could also result in acreage losses for crops that cannot afford it. For this reason, if required to choose, minor oilseed crops would strongly favor keeping loan rates at current levels rather than shifting to programs that provide decoupled income support. (An example of this is the House farm bill that provides support levels that are not equitable between crops, and would severely disadvantage sunflowers by arbitrarily cutting the minor oilseed loan rate under the guise of loan rate "rebalancing.")

I appreciate the difficulties facing the Budget Committee as well as the Agriculture Committee as the Senate continues a farm bill debate during the next Session. Even out here in Rural America we have witnessed the growing debate in Congress over the "incredible shrinking budget surplus" since enactment of the Administration's tax cut only several months ago. We know that the additional funds provided by the Budget Committee for writing effective long-term farm legislation are in jeopardy as a result of reduced revenues, rising outlays for other programs, and support for the war against terrorism.

However we earnestly hope enough Members of Congress realize that production agriculture is too important to be short-changed in the budget process. The needs of our industry for additional assistance due to low crop prices and farm income in each of the past four years have been only too clear here in the countryside. We look to you, Senator Conrad, and to your colleagues on the Budget and Agriculture Committees to place these concerns in perspective so the next farm bill can reflect sound policies for the future of U.S. agriculture.

Thank you for the opportunity to appear before you today.

Statement of Craig Halfmann
President, Red River Valley Sugarbeet Growers Association
Field Hearing, Bismarck, North Dakota
January 8, 2002
Hosted by Senator Kent Conrad

On behalf of the Red River Valley Sugarbeet Growers Association we deeply appreciate the fact that you are taking the time to get input from farmers here in North Dakota regarding the farm bill. You have worked very hard not only for our sugarbeet growers but for all of our farmers across this state and I want to thank you for that effort.

Our Association represents nearly 2,500 sugarbeet growers from eastern North Dakota and northwestern Minnesota. We are grower-owners of the American Crystal Sugar Company, a cooperative that we formed nearly 30 years ago. The sugarbeet industry contributes an economic impact of about $2.5 billion annually to this region, according to an economic study prepared by the Department of Agricultural Economics located at North Dakota State University in Fargo.

We cannot stress enough how important it is to get the farm bill passed as quickly as possible. Our industry worked very closely with both Democrats and Republicans in the House and Senate to develop a sugar policy proposal as part of the 2002 Farm Bill. It would provide a minimal safety net for growers, improve sugar selling prices from some of the lowest levels in 20 years by bringing supply and demand back into balance and even more importantly to the American taxpayer, it would operate at no cost. We know that any sugar policy proposal must be responsible and reasonable.

But we risk losing all of that if the U.S Senate fails to act quickly. Certainly there are differences between the Senate and House versions of the Farm Bill but we believe those differences can be ironed out in conference committee.

The sugar provisions contained in the House bill were welcomed and supported by our industry but they left some important issues to be resolved. The Senate Agriculture Committee has had the opportunity to make some additional improvements including: Re-instating grower bankruptcy provisions to protect growers in the event a sugar processor fails, revising the minimum grower payment provisions to enable full participation in the CCC loan program by sugar processors, and elimination of the one cent per pound penalty paid by sugar marketers to the federal government if sugar under loan is forfeited. The beet sugar industry recently provided additional legislative language to be added to the Senate Committee's bill that will clarify the division and transfer of beet allocations making it much clearer and easier for the Administration to operate the program. It is essential for the Senate to adopt these additional provisions so that both the Administration and the industry can easily implement this policy.

We are extremely concerned that if the Senate does not act quickly we risk not only losing sugar policy but valuable farm policy benefits for all of the other crops that our growers also raise.

Thank you for giving us the opportunity to explain our views before you today.

North Dakota Dry Pea and Lentil Association

My name is Greg Johnson. I am a 3rd generation farmer from Minot, North Dakota. I produce hard red spring wheat, durum wheat, triticale, soybeans, sunflowers, barley, corn, dry peas, lentils and chickpeas on my farm in Roseglen, North Dakota. I am the President of the North Dakota Dry Pea and Lentil Association and serve as chairman of the North Dakota Grower Division of the US Dry Pea and Lentil Council. I would like to thank Senator Conrad for the opportunity to appear before you today.

The NDDPLA is a grassroots organization that represents growers, processors and other interested parties in the production and marketing of dry peas, lentils and chickpeas in North Dakota. Membership in our organization spans the entire state. Peas, lentils and chickpeas are grown on over 150,000 acres of land in North Dakota.

My statement today is a reflection of the NDDPLA's desire to be included as a full and equal program crop in the 2002 farm bill. We seek inclusion in the farm program because our industry is facing the most difficult time in its history. Historically low prices for the past three years are threatening the grower, processor and exporter infrastructure our industry has been developing since the 1970's. Our organization supports being included and equitably treated with other "program" crops in the next Farm Bill. Without inclusion of safety net provisions for peas, lentils, and chickpeas, US pulse acreage will continue to decline, and our industry's infrastructure will be unfairly affected by federal farm policies.

Currently, dry peas and lentils are eligible "program crops" in terms of there being no prohibition for planting on program crop acres. However, the farm bill does not take the next step and put pulses on an equal footing with other program crops that are eligible for marketing loans and fixed payments. By not authorizing a pulse crop safety net, the new farm bill will accelerate the current shift of acreage out of pulses and into crops that do have a safety net.

We believe pulse crops should be included in the proposed loan and fixed payment programs because of their positive nitrogen fixing and rotational benefits. Dry peas, lentils and chickpeas are grown in rotation with wheat, barley and oilseeds. These legume plants require no nitrogen or phosphate fertilizer. In fact these legumes fix nitrogen in the soil. They also help break weed and disease cycles in cereal grains like scab and root rot. These legumes also play an important role in accomplishing conservation goals. They are vital component of a no-till/direct seed/minimal till cropping system that vastly improves soil, water and air quality.

One of the major impacts that pulse crops have on North Dakota and the United States is it creates jobs in rural America. Shipment preparation of food grade pulse crops is a highly labor intensive practice that requires several year round employees to manage and meet shipping demands. North Dakota has processing plants in Ray, Crosby, Richardton, Minot, Bowman and others, which employ any where from 5 to 20 full time employees each. These jobs have brought renewed hope and money to several small town communities in North Dakota. These processors and jobs are in jeopardy of dieing if the next farm bill does not treat all crops on an equitable basis.

It is vitally important that growers have the option to include these environmentally friendly legumes in their crop rotation. Equitable treatment of all commodities under the new farm program will allow farmers to make agronomic planting decisions, not solely economic decisions based on government programs. Unfortunately, the current agricultural crisis is forcing farmers to move away from a sound crop rotation that includes legumes, in favor of "stacking" program crops that provide a safety net.

This concludes my prepared statement; I have provided a detailed explanation of our industry's request for your review. I want to commend you for your support of these crops in the recent past and look forward to working with you to ensure peas and lentils and chickpeas are included in the next farm program in a balanced and equitable fashion with other commodities.

USA Dry Pea & Lentil Council

Recommendations for the Next Farm Bill

Senator Kent Conrad
U.S. Budget Committee Hearing

January 8, 2002

1.0 Introduction

The USADPLC is a grassroots organization that represents growers, processors and exporters of dry peas, lentils and chickpeas in the United States. Membership in our organization spans the Northern tier states of Washington, Idaho, Oregon, Montana, and North and South Dakota.

The USADPLC is a diverse organization with a myriad of opinions and interests. We represent the interests of the producers who grow the crop, the processors who buy the crop and the exporters who sell the crop to our end users. This level of diversity requires our organization to seek consensus among all its membership before moving forward on any policy initiative.

The USDPLC seeks inclusion in the farm program because the industry is facing the most difficult time in its sixty-year history. Historically low prices for the past three years is threatening the grower, processor and exporter infrastructure our industry has been developing since the 1940's. Dry Peas and Lentils are an eligible crop under the farm program and face the same market volatility as current program crops without the benefit of a safety net in periods of low prices.

2.0 The Importance of Crop Rotation

Dry peas, lentils and chickpeas are a cool season legume. They are planted in the spring and are well adapted to the warm days and cool nights of those states along the Canadian border. These legumes provide a needed rotation crop for wheat, barley and minor oilseeds. They fix nitrogen in the soil, help with weed management and break disease cycles in cereal grains like scab and root rot. In addition, these legumes reduce the need for stubble burning, which has become a major environmental problem in the Pacific Northwest as farmers move away from a legume in their rotation to plant more spring wheat. It is important that growers have the option to include these beneficial legumes in their rotation. Unfortunately, in the current agricultural crisis we find ourselves in planting peas, lentils and chickpeas is becoming more difficult as farmers are choosing to plant program crops with a safety net.

3.0 Low Prices

Dry peas and lentils are facing historically low prices. Subsidized competition, trade sanctions, a strong dollar, the Asian flu, and favorable weather patterns for our competitors has sent our pea and lentil prices to the basement for the past three years. If our crops are not included in the 2002 farm bill our acreage will continue to decline and a once viable industry will no longer be an attractive option for growers when compared to program crops with a safety net.

4.0 Planting Flexibility-

One of the positive outcomes of the 1996 FAIR Act was increased planting flexibility. The USADPLC fought hard to include dry peas and lentils as an eligible crop under the 1996 Farm Bill. In fact, dry peas, lentils and mung beans were the, so called, fruits and vegetable crops that were eligible to be planted on contracted acres without penalty Under Subtitle B, Section 118 of the 1996 FAIR Act. We fought to be included as an eligible crop because we believed that farmers needed to have planting flexibility to respond to market signals and maintain a good crop rotation. Every crop our membership

can grow effectively is a program crop, except for dry peas, lentils and chickpeas. Our crops are subject to the same price volatility as the program crops except we don't have a safety net to assist us when times are tough.

5.0 Acreage Shifts Since the 1996 Farm Bill - Pacific Northwest

Farmers in the Midwest and the Pacific Northwest have been raising dry peas, lentils and chickpeas since the 1940's. These legume crops have become an important part of our crop rotation and rural economic development. Almost every dry pea, lentil and chickpea is cleaned, sized, bagged and put into a container or boxcar at a rural processing facility. We estimate that our industry pumps over $100 million dollars into the rural economy of the Pacific Northwest. The pea and lentil industry provides needed jobs in depressed rural communities. Unfortunately, this industry is fighting for its survival. The dry pea, lentil and chickpea industry competes with spring wheat, spring barley and spring canola for acreage. Table 2 shows that our industry is losing the fight despite a higher per unit grower price when compared to other spring crops (Table 1). Since the 1996 Farm Bill acreage has shifted away from legumes into spring wheat and canola. Agriculture loan officers are encouraging farmers to cover their risk by planting a program crop. **Many growers are reporting that bankers are refusing to loan money to plant dry peas because it does not have a Marketing Loan/LDP.** The USADPLC estimates that the acreage shift to Spring Wheat and Canola in the PNW has increased Loan Deficiency Payments by over $3.0 million. This shift is jeopardizing the infrastructure of the industry.

Pacific Northwest Spring Crop Acreage Shift Since 1997

(Data From Legume Growing Counties of WA & ID)

Crop Year	Spring Wheat	Spring Barley	Canola	Peas, Lentils Chickpeas
1997	204,600	433,400	11,718	362,701
1998	264,900	445,000	19,969	312,600
1999	351,600	391,000	35,422	317,200
2000	371,800	387,300	46,626	278,100
Acreage Shift	*167,200*	*(46,100)*	*34,907*	*(84,601)*

Higher Wheat & Canola LDP Cost $3,159,838

(Calculates a shift of 84,601 acres of Legumes to Spring Wheat with an average yield of 70/bu per acre and an average Wash/Idaho LDP in the year 2000 of $.54/bu.)

Source: USDA NASS, FSA

5.1 Acreage Shifts Since the 1996 Farm Bill – ND, MT

Dry pea, lentil and chickpea acreage increased in North Dakota and Montana due in part to the increased planting flexibility in 1996 Farm Bill. Farmers in the high plains are beginning to realize the benefits of having a legume in their crop rotation. However, the acreage shifts in North Dakota and Montana clearly favored the program crops with the largest support payments. Acreage went out of spring wheat and barley and into minor oilseeds and soybeans. Dry peas, lentils and chickpeas are at a disadvantage to those crops that have a Loan/LDP program. The truth is, in today's climate, dry pea, lentil and chickpea growers wish they could raise soybeans. Unfortunately, soybeans are a warm season legume

and don't work well in the areas that dry peas or lentils are grown. North Dakota has seen a huge increase in soybean production primarily in the southeastern portion of the state.

North Dakota, Montana Spring Crop Acreage Shift Since 1997
(Source: USDA NASS, FSA Statewide)

Crop Year	Spring Wheat	Spring Barley	Minor Oilseeds*	Soybeans (ND)	Peas, Lentils Chickpeas
1997	16,100,000	3,650,000	1,786,880	1,150,000	111,527
1998	13,950,000	3,350,000	2,680,000	1,550,000	196,257
1999	13,860,000	2,650,000	2,569,000	1,350,000	169,100
2000	13,880,000	3,150,000	2,905,300	1,900,000	200,800
Acreage Shift	*(2,220,000)*	*(500,000)*	*1,118,420*	*750,000*	*89,273*

*Minor Oilseeds- Canola, Sunflower-Oil, Flax, Safflower

6.0 Non-Recourse Marketing Loan/LDP for Dry Peas, Lentils and Chickpeas

The USA Dry Pea & Lentil Council urges Congress to create a Non-recourse Marketing Assistance Loan and LDP Program for dry peas, lentils, and chickpeas that is equivalent to the current cereal and oilseed Loan/LDP programs. A Marketing Loan/LDP program will allow U.S. pulse growers to continue good crop rotations with other program crops and maintain jobs in rural America. Without this program growers will continue to shift out of these legumes until the industry is no longer a viable crop to grow.

6.1 Dry Pea Loan Rate

The USADPLC supports establishing the dry pea loan rate based on feed peas with a minimum loan rate of $5.83/cwt. ($3.50/bu.). An increasing portion of U.S. dry pea production is being sold into the domestic and export animal feed ingredient market. Dry peas offer an attractive blend of protein, energy and essential amino acids (i.e. lysine & phosphorus). Based on the relative feeding value of dry peas to corn and soybean meal in swine rations versus current corn and soybean loan rates, the USADPLC calculated the feed pea loan rate should be established at $5.83/cwt ($3.50/bu.) At present the USDA only publishes prices for U.S. No. 1 Grade Green, Yellow and Austrian Winter Peas. However, the USDA does purchase U.S. No. 2 human consumption peas for the P.L. 480 program. See attachment A. Using P.L. 480 historical price data and USADPLC discount data we were able to establish a feed pea loan rate based on 85% of the five year Olympic average.

6.2 Lentil Loan Rate

The USADPLC supports establishing the lentil loan rate based on U.S. No. 3 grade lentils with a minimum loan rate of $11.00/cwt. The USDA buys U.S. No. 3 grade lentils under the P.L. 480 program.

6.3 Chickpea Loan Rate

The USADPLC supports establishing the chickpea loan rate based on a U.S. #1 chickpea over a 20/64ths round hole sieve with a minimum loan rate of $15.00/cwt. USADPLC supports a loan rate for small chickpeas (chickpeas that fall through a 20/64ths sieve) of $7.00/cwt.

6.4 Loan Rate Table

Crop	Five Year Olympic Avg. Price-1996-2000	Estimated Loan Rate (85% of 5 yr avg.)	Minimum Loan Rate (USADPLC Proposed)
Dry Peas (Feed Prices)	6.84/cwt.	5.81/cwt	$5.83/cwt. (3.50/bu.)
Lentils (US #3)	$13.05/cwt.	$11.09/cwt.	$11.00/cwt.
Kabuli Chickpeas (over 20/64ths sieve)	$21.96/cwt.	$18.66/cwt.	$15.00/cwt.
Desi or Kabuli Chickpeas(under 20/64th)	$9.23/cwt.	$7.84/cwt.	$7.00/cwt.

7.0 Loan Deficiency Payment Cost

The USADPLC supports the creation of a national LDP rate for dry peas, lentils, and chickpeas. The table below estimates the total cost of the Marketing Loan/LDP program to be $8,517,283. This assumes an LDP cost savings from lower spring wheat and minor oilseed acreage.

	A	B	C	D	
Commodity	Nat'l Loan Rate ($/cwt.) Proposed Minimum	Feb. 2001 Price ($/cwt.)	LDP Rate (A-B)	10 year Avg. Prod. (lbs.) *2000 Prod.	Total LDP Feb. 2000 (C x D)
Dry Peas (Feed)	$3.50/bu.($5.83/cwt.)	**$3.81/cwt.**	**$2.02/cwt**	**362,844,296**	$7,329,454
Lentils (US#3)	$11.00/cwt.	**$9.00/cwt.**	**$2.00/cwt**	**217,383,339**	$4,347,667
Chickpeas (Large)*	$15.00/cwt.	**$22.00/cwt.**	**$0.00/cwt.**	**94,877,844**	$0
Chickpeas (Small)	$7.00/cwt.	**$9.97/cwt.**		**1,800,000**	$0
Total Legume LDP					$11,677,121
Minus Wheat/Canola LDP Savings					*$3,159,838*
Total Est. Cost					$8,517,283

**Production statistics from the 2000 USA Dry Pea & Lentil Council Production Report*

8.0 AMTA payments for Dry Peas, Lentils and Chickpeas

The USADPLC supports being included and treated equally with other program commodities in the recalculation or reformulation of the Agricultural Marketing Transition Assistance (AMTA) payments in the 2002 farm bill. USADPLC recommends that the next Farm Bill include a guaranteed payment for dry peas, lentils and chickpeas equal to the value of these commodities compared to other commodities receiving an AMTA payment. We support the 1999 AMTA payment as a baseline. We estimate that our crops would increase the AMTA baseline by $15 million dollars.

Total Value of Dry Peas, Lentils & Chickpeas	Total Avg. Value of AMTA Crops (96-00)	Dry Pea, Lentil and Chickpea value as a % of AMTA Crops	AMTA Baseline 1999	**Dry Pea, Lentil and Chickpea AMTA Payment** (Estimated)
$142,000,000	53.056 Bil	.2676%	$5.6 Billion	**$15 Million**

9.0 Payment Limits

The USADPLC recommends the elimination of the payment limitation on all fixed support program payments in the 2002 Farm Bill. To maintain the current $40,000 payment limitation ignores the changes in US agriculture in the past 10 years. It only punishes those farmers who have survived the economic downturn in agriculture in order to keep their operations viable.

The USADPLC further recommends the elimination of the payment limitation on all Marketing Loan and LDP payments in the 2002 Farm Bill. The current $75,000 payment limitation does not take into account the changes in farm size to remain economically viable.

10.0 Market and Economic Loss Payment

Dry pea prices have dropped 49%, lentil prices 42% and chickpea prices 25% since 1996. This dramatic drop in prices is the result of a number of factors including: the strong U.S. dollar, the Asian economic crisis, favorable crop weather patterns in competitor countries, subsidized competition and trade sanctions. U.S. trade sanctions are especially upsetting to our growers in periods of low prices. Congress has made efforts to loosen trade sanctions against food and medicine but many restrictions remain and the cost to U.S. dry pea, lentil and chickpea growers is high. The USADPLC estimates imports of dry peas, lentils and chickpeas, in the U.S. sanctioned or restricted countries of Cuba, Iran, Iraq and Libya, to exceed 233,000 MT. The value of those imports is estimated to exceed $42 million dollars. Cuba, Iran and Iraq were all major customers prior to U.S. sanctions.

The USADPLC recommends a $20 million economic/market loss payment for U.S. producers of dry peas, lentils and chickpeas in recognition of economic losses and lost market share due to U.S. trade sanctions.

11.0 Counter Cyclical Payments

The USADPLC is not opposed to the concept of counter cyclical payments. If Congress decides to pursue this form of payment, the USADPLC recommends that dry pea, lentil and chickpea farmers be included and treated equitably with the other crops in the program.

12.0 Summary

I would like to thank you for taking the time to meet with our industry. The USADPLC feels it is necessary for our commodities to be included as a full and equal program crop in the 2002 farm bill.

North Dakota Lamb & Wool Producers

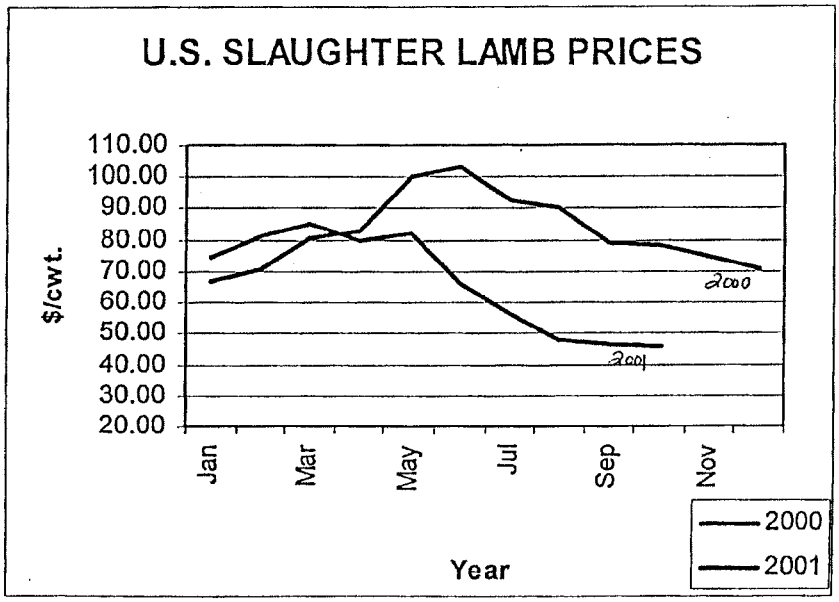
"The Sheep
Who Can Help
Feed and Clothe
Mankind"

The North Dakota Lamb and Wool Producers passed a resolution at our recent state convention addressing the current negative financial situation among domestic lamb markets. The following is the resolution:

> "The future of the sheep industry in the United States has never in the history of this country been as grim as it is now. The drastic decline of numbers of sheep is an indication of the increasing problems and negative financial return of those in the business. The few remaining producers are fighting for financial survival, and it has been a losing battle.
>
> This is an industry using the renewable resources of our great grasslands and farming communities to produce food and fiber not only for our own people, but also for the people of the world. It is an industry worth saving and in need of congressional assistance.
>
> The federal regulations on imported lamb have not only failed to protect our domestic market, but have guaranteed advantages for foreign competion by allowing a glut of imported lamb to displace American lamb in the market place. Domestic lamb prices have fallen 46 percent from a year ago while imported lamb has nearly tripled from 30,00 in 1992 to nearly 100,000 in 2000.
>
> We are in need of a variable quota system limiting the volume of imports based on a fair market value for our domestic products. Fair market value can be determined by using existing government parity figures that are published monthly and by lowering import volume when our domestic markets are below target prices. We seek the same safety net afforded to other produces irrespective of what commodity we produce.
>
> The NDLWPA requests that the North Dakota Congressional delegation actively sponsoror or support the passage of legislation to establish a fair market value for domestic American Lamb. We request this legislation implement a counter cyclical policy to limit import numbers in times of depressed domestic lamb prices.
>
> The NDLWPA requests the North Dakota Congressional Delegation actively sponsor or support legislation prohibiting USDA grading of imported lamb carcasses."

Sincerely,

Burton Pfliger
President North Dakota Lamb and Wool Producer

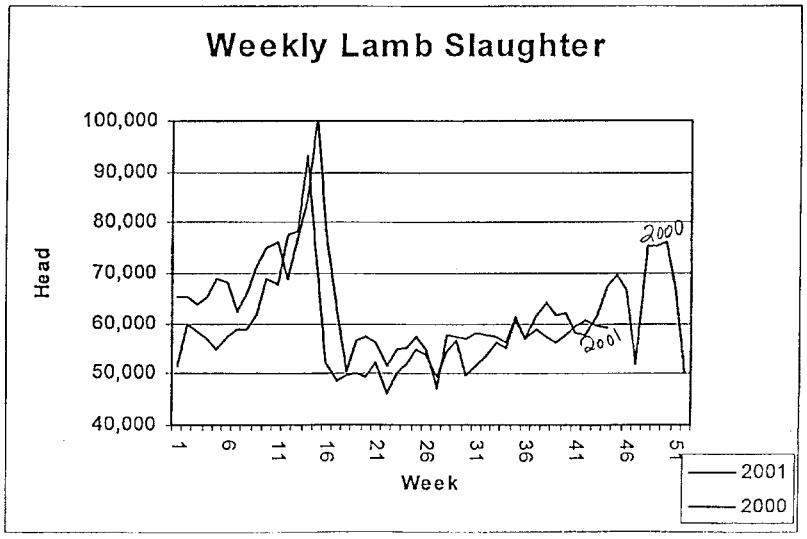

U.S. SLAUGHTER LAMB PRICES
110.00
100.00
90.00
80.00
70.00
60.00
50.00
40.00
30.00
20.00
$/cwt.
Jan
Mar
May
Jul
Sep
Nov
Year
2000
2001
2000
2001

Slaughter lamb prices fell 46 percent, from an average of $84.90 per cwt. in March to $45.53 per cwt. In October.

Reason for Lamb Market Decline

- ✓ Over finished lambs
- ✓ Lack of price reporting
- ✓ Imports
- ✓ Wide margins between live, carcass and cutout values

Slaughter is down 8 percent from 2000, while production is only down 4.3 percent.



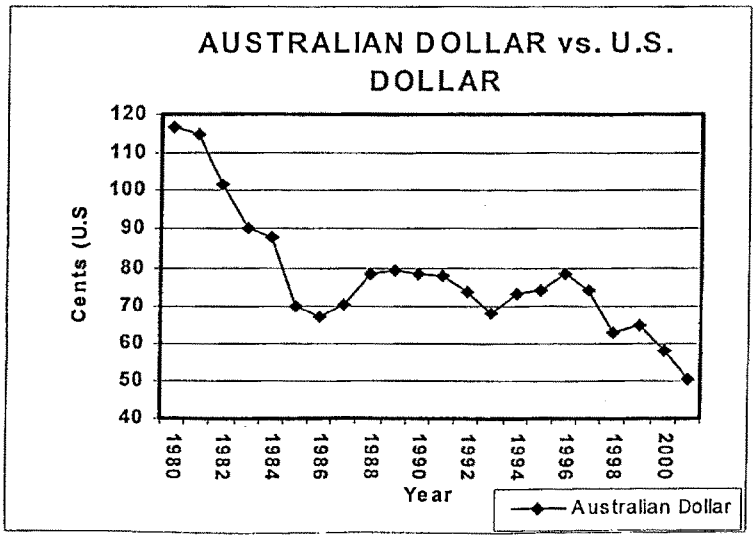
Mandatory Price Reporting was implemented in April 2001

- ✓ Industry has had no direct slaughter lamb trade reported since April.
- ✓ Lamb carcass prices have only been reported on a regular basis since August 17.
- ✓ Boxed lamb prices have only been reported on a regular basis since August.
- ✓ There has been no lamb cut-out value reported since April.

3/60 Rule

- ✓ USDA's implemented the 3/60 rule prohibiting the reporting of any market information unless 3 entities participated in the sale, and no one entity procured more 60 percent of the product.
- ✓ Because one entity controls 65 percent of the lamb industry, few prices were reported from April through August.

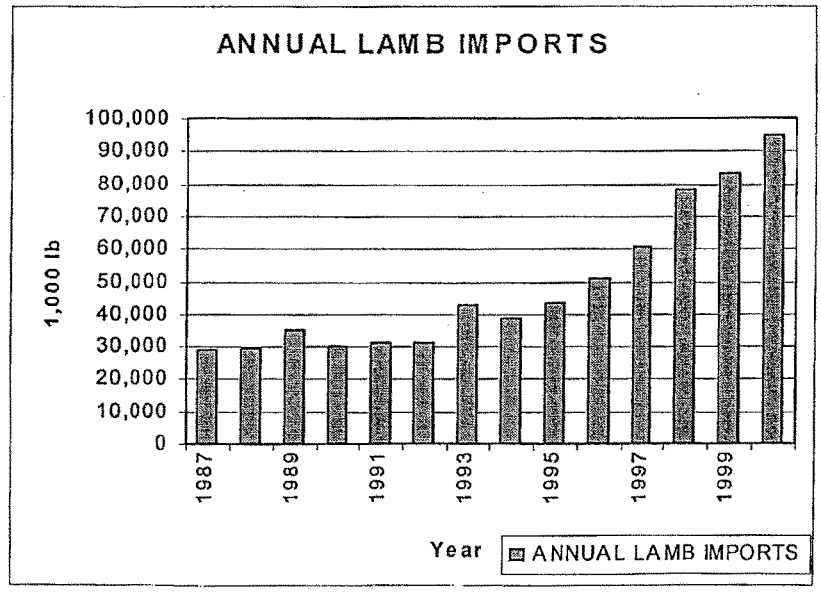
The U.S. strong dollar policy has made export impossible and created a flood of cheap lamb imports.



The Australian Dollar in relation to the U.S. Dollar fell from 86 cents in 1996 to 48 cents in 2001, a 44 percent decrease.

A one percent increase in the value of the U.S. Dollar is now twice as important to the bottom line of an Australian farmer as a one percent increase in the price of lamb itself.

Imported lamb has climbed from 8 percent of U.S. lamb consumption in 1991 to 34 percent in 2001.


ANNUAL LAMB IMPORTS
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
0
1,000 lb
1987
1989
1991
1993
1995
1997
1999
Year
ANNUAL LAMB IMPORTS

Lamb Imports are up 14 percent in 2001 as compared to 2000.

Lamb Imports

- ✓ In 2001, 99 percent of all lamb imports come from Australia and New Zealand.
- ✓ Australian lamb imports make up 62 percent of all lamb imports into the U.S.
- ✓ New Zealand controls 38 percent of the lamb import market.

Fresh and Chilled Lamb Imports

- ✓ Australia is importing 74.5 percent fresh and chilled lamb product into the U.S. compared to 26.3 percent fresh and chilled in 1994.
- ✓ New Zealand is importing 36.3 percent fresh and chilled lamb product into the U.S. in 2001 compared to 11 percent in 1994.

Lamb Market Situation

Imported Lamb Carcasses

- ✓ Lamb carcasses make up 13.8 percent of Australia's total imports into the U.S., up 60.3 percent from 2000.
- ✓ Once a carcass is fabricated in the U.S. it is considered American lamb by regulation.
- ✓ Since June, U.S. live lamb prices have had a higher correlation to fresh Australian carcass prices than they have to U.S. carcass prices.

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North Dakota Farm Bureau

www.ndfb.org

NORTH DAKOTA FARM BUREAU TESTIMONY ON THE FARM BILL

Submitted to

The Senate Budget Committee

January 8, 2002
Bismarck Civic Center

Thank you for this opportunity to provide a statement concerning the farm bill. It is very fitting to hold a hearing of this nature in our state. North Dakota is the number one producer of eleven different agricultural commodities. North Dakota Farm Bureau supports passage of legislation that will benefit North Dakota producers. However, we have concerns with the Senate Agriculture Committee version of the bill.

As the debate continues on the farm bill, we have three points that we think are crucial to North Dakota producers.

1. Rebalancing of loan rates and counter-cyclical rates on all program crops so they do not artificially distort planting decisions. If the loan and counter-cyclical rates for all program crops are equalized in proportion to the five-year olympic average price, then farmers will be more inclined to plant for the market, instead of basing planting decisions on which commodity has the greatest level of government support. A perfect example of how the current imbalance affects planting intentions is soybean

production in North Dakota. In 1995, North Dakota farmers planted 660,000 acres of soybeans. By 2000, this acreage had tripled to 1.9 million acres. During this same period, wheat plantings have decreased by 1.12 million acres and barley production has been cut in half. Certainly, other factors played a role in this shift, however the large imbalance of the loan rates was the major factor. We believe adjustments must be made to the loan rates and counter-cyclical rates. Consider the ratio of price supports of corn to wheat of 1.6:1 and 1.07:1 corn to barley ratio as compared to the five-year olympic average. These numbers are consistent with the figures from the North Dakota Grain Growers and the North Dakota Barley Council. Adjusting these numbers to a 1:1 ratio would greatly benefit North Dakota producers. North Dakota Farm Bureau is supportive of the effort made by these organizations in the development of farm bill legislation.

2. The option to update bases is supported by our producers. Keep in mind that the Midwest benefits greatly when we better reflect acreage-in-production now versus pre-1985. Updating yields as proposed in the Senate version of the Farm Bill does not benefit North Dakota as a whole, however. To illustrate this consider the differences in payments between the House and Senate versions:

House proposal for decoupled payments with updated bases:

Wheat	$1.24/bu
Barley	.63/bu
Corn	.76/bu
Soybeans	.81/bu

Senate version for decoupled payments with updated bases and yields:

Wheat	$.55/bu	(66% less)
Barley	.31/bu	(62% less)
Corn	.42	(45% less)
Soybeans	.84	(4% more)

Bear in mind that in the last 16 years, corn has made the largest advances in yield per acre over any other crop. This is primarily due to better genetics and technology. On a nationwide basis wheat yields

have increased 4-5 bushels per acre while corn yields have increased 34 bushels per acre. The following table shows bushels and acreage for selected crops:

Corn	9.1 billion bushels	72 million acres
Soybeans	2.5 billion bushels	73 million acres
Wheat	2.35 billion bushels	54 million acres
Barley	.2 billion bushels	5 million acres

To illustrate the cost of yield updating to the North Dakota producer, consider a 1000-acre farm that has 600 acres of wheat, 300 acres of barley and 100 acres of corn. Under the House version of the Farm Bill, the following results are anticipated:

	Program yield	85% base	Decoupled payment	Inc./acre	Total pymt.
600 acres of wheat	20 bushels	510 ac.	$1.24/bu	$24.80	$12,650
300 acres of barley	32 bushels	255 ac.	.63/bu	20.16	5,140
100 acres of corn	45 bushels	85 ac.	.76/bu	34.20	2,900
		Total payments (all crops)			$20,690

Under the Senate version with updated yields:

	Program yield	85% base	Decoupled payment	Inc./acre	Total pymt.
600 acres of wheat	32 bushels	510 ac.	$.55/bu	$17.60	8,980
300 acres of barley	58 bushels	255 ac.	.31/bu	18.00	4,600
100 acres of corn	100 bushels	85	.42/bu	42.00	3,570
		Total payments (all crops)			$17,070

Under this scenario, the farmer would receive $3,420 less per year in program payments. Yield updating will shift 18 percent of the commodity budget from North Dakota to the Corn Belt. We simply cannot compete with the bushels on that scale.

3. Removal of Chapter Six of the conservation title is an absolute necessity. We believe this language is extremely damaging to the well being of not only agriculture, but all facets of rural America. Allowing the federal government to purchase water rights in the name of endangered, threatened, or sensitive species will greatly infringe on the ability of states and individuals to develop further consumptive beneficial uses for water. Defining sensitive species as most anything some one wants it to be, and tying beneficial use water rights to them could very possibly spell an end to agriculture as we know it in many western areas of this country. We have attached the opinion of attorney Joseph H. Hobson to further explain this issue. Unless this language is removed North Dakota Farm Bureau, many other western state Farm Bureau's and the American Farm Bureau Federation will work to kill the farm bill in its present form in the Senate.

We need to have a comprehensive farm bill in place as soon as possible. But we must have a farm bill that maintains the viability of agriculture while not diminishing our land ownership rights. For without those rights, the agriculture industry, as we know it, will not survive.

December 15, 2001

Eric Aasmundstad
President
North Dakota Farm Bureau
4023 State Street
Bismarck, ND 58503

Re: Proposed Amendments to Conservation Title, S 1731

Dear Eric:

You have asked me to comment on the legal issues raised by language inserted in the Senate version of the farm bill that would provide for federal acquisition of water rights currently appurtenant to agricultural land.

Water law in the United States is a mixture of systems and it varies somewhat from state to state. However there are a few general concepts that seem to apply throughout the country. The concepts I am about to discuss apply more directly in the Western United States. However, with some modification, they can also be said to apply in the Eastern United States as well. Also, the following concepts apply mostly to surface water. However, there is some application to groundwater.

The general water law concepts most affected by the proposal include, but may not be limited to, appurtenance, beneficial use and forfeiture.

Appurtenance recognizes that a water right must be associated with a particular parcel of real estate. When a parcel of real estate is sold it usually includes all appurtenances. Appurtenances include improvements such as buildings. They also include rights such as water rights associated with the land. Appurtenances are usually not sold separate from the land. To do so would create what is called a severance. A severance takes special care to achieve. Severance of a water right from the land to which it is appurtenant is very difficult for reasons I will outline below.

Beneficial use requires that a water right be exercised for only certain uses. Most states now list the recognized beneficial uses. Many have statutes that outline the beneficial uses that are recognized. Most of the time a water right is for a specific beneficial use. For instance a water right on agricultural land is usually limited to exercise for an agricultural purpose. Exercise of that right to support any other use may not be legal. There are reasons for that which, again, I will outline below.

Forfeiture recognizes the demand for water resources in most areas with obvious emphasis on the arid Western States. Water law enforces the rights of the person who arrived and first put the resource to beneficial use. However, it also recognizes the needs and interests of those who arrived later. It holds that the one who acquired rights by being first in time must use the rights acquired or loose them. In that way those who arrived second or third, and who are theoretically

waiting in line, have rights also. They have the right to that water if the first individual stops using it or can no longer use it for the designated beneficial use.

Congress should be mindful of two important reasons for these three concepts when it considers a federal purchase of water rights.

The first has to do with the nature of the property interest in question. Generally speaking, a water right is not a separate piece of personal property that can be owned by an individual and sold to a willing buyer. Some people think they own the water right they enjoy. That is wrong. What they own is real property that has a water right as an appurtenance or is benefited by a water right.

The second has to do with basic fairness and the rights of others. A person should not be allowed to sever a water right from the land and sell it like it was personal property where to do so would destroy the rights of those others who might be waiting in line to use that water. Those affected by a severance and sale might include more than those waiting in line to dip out of the same stream. They might include those who access and use the tail water of a prior user before the water is returned to a stream. The point is that a water right is not like a car where only one person needs to decide its outcome. A water right exists in a broad community consisting of many different people who also have legitimate rights and claims that must be satisfied with respect to any given drop of water.

The proposal now before Congress, as I understand it, could do damage to the three legal concepts I have discussed for the reasons indicated. To date there is no such thing as Federal water law. For the most part all water law is state law. Congress should be mindful of the damage it might do to the concepts of appurtenance, beneficial use and forfeiture in state water law with a program that would result in the transfer and ultimate use of a water right separate from the appurtenant land for a difference use without taking into consideration the rights and needs of others.

Sincerely,

Joseph H. Hobson, Jr.
Hobson & Bernasek, LLP

STATEMENT OF
JEFF LEINEN
VICE PRESIDENT
ND SOYBEAN GROWERS ASSOCIATION

FARM BILL HEARING
SENATE BUDGET COMMITTEE

JANUARY 8, 2002
BISMARCK, NORTH DAKOTA

Mr. Chairman, thank you for providing this forum today to present issues related to passage of a new farm bill. On behalf of ND soybean producers, we feel privileged to present comments on U. S. farm policy and to share with you how this policy affects soybean producers.

The North Dakota Soybean Growers Association represents the interests of all soybean producers in North Dakota. Currently there are over 4,000 farmers producing soybeans here in North Dakota.

The North Dakota Soybean Growers Association is an affiliate of the American Soybean Association. ASA has renewed its call for Secretary Veneman to announce loan rates for 2002 crops as soon as possible, and that she use her discretionary authority to maintain the soybean loan rate at the current $5.26/bu. level. USDA has told us that this decision will be made by an inter-agency group in early January. ASA and the North Dakota Soybean Growers Association urge the Administration not to cut the soybean safety net for 2002 for the following reasons:

- With the outlook for another bumper oilseed harvest this fall and continuing low prices into next year maintaining oilseed loan rates is essential to protecting farm income and the viability of minor oilseed industries.

- Oilseeds have the lowest stocks-to-use ratios of major U. S. crops. According to the U. S. Department of Agriculture's (USDA) October estimates, the 2001/2002 end of marketing year stocks-to-use ratio for soybeans is projected at just over 12 percent, compared to almost 15 percent for corn, 20 percent for rice, 29 percent for wheat and 51 percent for cotton. Reducing oilseed loan rates would only drive up production of crops already in greater oversupply.

- Maintaining oilseed loan rates at current levels is necessary to protect U. S. oilseed producers from the negative effects of a higher valued U. S. Dollar and massively devalued Brazilian currency that is sending false production signals to Brazilian farmers.

- Allowing the soybean loan rate to fall to the statutory floor of $4.92/bu. would reduce soybean producer income by $1.0 billion in 2002, and would set a bad precedent for when Congress sets the soybean loan level under the next farm bill.

- The last Administration used its authority to maintain the soybean loan rate at $5.26/bu. for the 1999, 2000, and 2001 crops. The Bush Administration should not change five years of consistent farm policy for soybean if the FAIR Act remains in place.

- Members of Congress have already promised to provide producers of other crops with Supplemental AMTA payments and other economic loss assistance in 2002 if the FAIR Act remains in place. However, Congress will not have additional funds to compensate soybean producers if the soybean loan rate is reduced.

- USDA has made several decisions this year that suggest they do not understand difficulties farmers are facing with low commodity prices and farm income, and with growing foreign competition. With prices at historic lows, this is not the time for the Administration to cut the safety net under soybean producers.

Statement of John Long, Gackle, ND
Budget Committee Hearing, Sen. Kent Conrad, Chairman
Topic: Farm Bill
January 8, 2002, Bismarck, ND

My name is John Long. My wife Rosi and I operate a 1,240-acre beef and beef background operation near Gackle. I have been active in several North Dakota agricultural organizations and currently serve as chairman of the North Dakota Coordinating Council of Cooperatives. I'm also a member of the Board of Directors of Land O'Lakes. My comments primarily reflect the policy positions that the members of Land O'Lakes have adopted through the cooperative's resolutions process.

I want to begin by commending Sen. Conrad for his efforts to establish and protect an adequate budget allocation for agricultural programs. From our perspective at Land O'Lakes, that was the single most significant breakthrough in the whole farm bill process last year. Without an adequate budget allocation, it would be virtually impossible for the Agriculture Committees of the Senate and House to write a farm bill that provides farmers with a reliable farm income safety net for the future.

Having said that, I want to reinforce and emphasize how urgent it is that Congress move quickly to complete action on the farm bill and send it to the President for his signature. We agree with the concerns expressed by Sen. Conrad. Agriculture is highly vulnerable to losing its budget allocation if the farm bill isn't passed before the next budget resolution is considered.

As an agricultural cooperative serving farmers nationally, Land O'Lakes is interested in a broad range of programs included in the bill. But today I want to focus on four high priority areas included in the bill.

1. Dairy: There is broad consensus in the dairy industry on several provisions that are included in the Senate Farm Bill. We support the provision to extend the dairy support price program through the life of the bill. We also support renewing the Dairy Export Incentive Program. The farm bill includes in increase of funding for the Market Access Program; this program is an important tool for promoting increased exports of U.S. dairy products. There's also an increase in funding for the Environmental Quality Incentive Program (EQIP), which we support as an important tool for helping dairy and livestock producers protect the environment. Finally, we support a provision that would require imported dairy products to pay the same dairy promotion assessment that domestic producers must pay.

   Regarding EQIP, we oppose an amendment proposed by Sen. Wellstone. His amendment would eliminate many dairy operations from eligibility for cost-share payments under EQIP. Family-owned and operated dairies come in all sizes. The EQIP program should use a payment limitation approach to target funds to appropriate operations, and we support the $50,000 per year limit on contracts.

   Finally, in dairy, the Senate has included a program developed by Sen. Leahy that would provide supplemental payments to milk producers when milk prices are low. Land O'Lakes supports the concept of counter cyclical payments for dairy farmers. But Sen. Leahy's proposal for distributing the payments lacks consensus and unity within the industry because it gives some producers preferential treatment based on geography and herd size. The program must treat producers equitably between regions, and should not discriminate against producers based on herd size or geography.

The farm bill is a complex and extensive piece of legislation. It includes many provisions that are important to our state's farmers and cooperatives. The members of Land O'Lakes commend the members of Congress for their efforts in developing the provisions of the bill. I appreciate the opportunity to comment on some of our cooperative's priorities. My concluding request is to complete work on the farm bill early in 2002.

NORTH DAKOTA
GRAIN GROWERS
ASSOCIATION
4023 STATE STREET • BISMARCK, ND 58503 • 701-222-2216 • ND WATS 1-800-932-8822 • FAX 701-223-0018

TESTIMONY OF MARK GAGE

Senator Conrad, members of the panel and guests:
My name is Mark Gage. I'm a farmer from Page, North Dakota, currently serving on the North Dakota Grain Grower's board of directors, and I also serve as secretary/treasurer of the National Association of Wheat Growers.

First of all, Senator Conrad, I would like to thank you, Senator Dorgan, and Congressman Pomeroy for keeping the farm bill as a priority on the national level. It remains our top priority both in North Dakota and on the national level for a farm bill to be completed for the 2002 crop year. We would encourage you to pass a bill with the same amount of funding for the commodity title as is in the House bill, which is $48.886 billion above base line. Also, we recommend maintaining the same amount of funding in the conservation title as is in the House Bill.

As you know, the North Dakota Grain Growers Association and the National Association of Wheat Growers have spent a considerable amount of time developing a new farm bill with a fair and balanced approach. This proposal contains:

- A **decoupled fixed payment** available to producers to cover predictable and ever increasing production costs and stabilize his ability to receive adequate financing
- A fair and equitable **marketing loan program** that does not influence producer decisions or distort production
- A **decoupled counter-cyclical safety net** triggered when prices fall below predetermined support levels. These features should be maintained throughout the life of the program. We believe this balanced approach provides the most consistent safety net to all producers.

We believe the bi-partisan passed House bill is the best available option for North Dakota producers with these modifications:

- The **decoupled fixed payment** should be set at the '99 levels for all commodities payable Dec. 1 of the fiscal year.
- The **marketing loan level** for wheat should be set at no less than $2.85 per bushel or a ratio of not less than 1.5/1 wheat to corn. The barley loan level should be at least $2.04 per bushel or a ratio of not less than 1.07/1 barley to corn, using the all barley price and an all barley loan. These loan levels are to be designated as floors.
- A **total support level** should be set at $4.25 per bushel for wheat or a ratio of 1.6/1 wheat to corn, which is more than justified based upon the '95-99 total income for both commodities. Also we would like to see a support level of $2.72 per bushel for barley or a ratio of 1.07/1 barley to corn, which is also justified based on '95-99 total incomes of both crops. (See attachment number one.)

The average price used to determine payments should be based on an average of five marketing months for each crop. We support using the all barley price when calculating loan and annual prices.

We want to preserve base and yield while allowing the updating of oil seed base and yield that has been established under the recent emergency program with total acres not to exceed cropland acres of the farm. We caution against additional yield updating because it takes funding away from overall support levels, it penalizes producers who participated in planting flexibility encouraged under the '96 farm bill, and it sets a precedent for updating in future farm bills. However, if yield updating is allowed, the same options should be available for either base option.

As budget uncertainties become more and more prevalent, it is imperative that we provide producers with an adequate safety net as far into the future as the budget resolution provides. Therefore, we believe a 10-year farm bill is most advantageous to the American producer.

Thank-you Mr. Chairman for this opportunity to testify before you.

NORTH DAKOTA

GRAIN GROWERS ASSOCIATION

INDEXES OF TOTAL SUPPORT, COST OF PRODUCTION AND PRICES OF COMMODITIES COMPARED TO CORN

	Total Level of Support	Cost of Production	Market Price	House Bill	Senate Bill
Barley	1.09	1.33	1.07	0.86	0.86
Wheat	1.71	1.60	1.44	1.45	1.37
Sorghum	1.10	1.36	0.89	0.95	1.00
Corn	1.00	1.00	1.00	1.00	1.00
Soybeans	2.47	2.26	2.61	2.11	2.26

$/BU	Total Level of Support	Cost of Production	Market Price	House Bill	Senate Bill
Barley	2.72	3.52	2.28	2.39	2.30
Wheat	4.26	4.25	3.09	4.04	3.62
Sorghum	2.75	3.61	1.91		
Corn	2.49	2.65	2.15	2.78	2.65
Soybeans	6.15	5.98	5.63	5.88	5.99

RATIOS	Total Level of Support	Cost of Production	Market Price	House Bill	Senate Bill
Barley	1.09	1.33	1.06	0.86	0.87
Wheat	1.71	1.60	1.44	1.45	1.37
Sorghum	1.10	1.36	0.89	0.00	0.00
Corn	1.00	1.00	1.00	1.00	1.00
Soybeans	2.47	2.26	2.62	2.11	2.26

INDEX	Total Level of Support	Cost of Production	Market Price	House Bill	Senate Bill
Soybeans	247	226	262	211	226
Barley	109	133	106	86	87
Wheat	171	160	144	145	137
Sorghum	110	136	89	0	0
Corn	100	100	100	100	100

Chairman CONRAD. Any additional requests to enter testimony into the record, we will hold it open for 10 days, and I want to thank all of you for being here. I wanted to especially thank the witnesses for taking the time to prepare this testimony and the thought that went into it. I appreciate it very much and to thank all of you for being here. This is a fight worth fighting because this is the future not only of North Dakota but in many ways the food supply of our country.

Thank you very much.

[Whereupon, at 11:50 a.m., the committee was adjourned.]

Testimony before the United States Senate Budget Committee
Regarding federal farm policy and the farm bill
Bismarck, North Dakota
January 8, 2002

Steven Pollestad
Farmer, Rancher and Dakota Resource Council member
Halliday, North Dakota

Senator Conrad and members of the committee, thank you for holding this hearing and for your attention to these crucial issues. I encourage you to continue to work diligently to pass a new farm bill that does more to foster family farming and ranching and protect our markets from the rapid concentration that threatens every aspect of agriculture. We have waited for years for this moment and now is the time to press ahead, take bold action and stand up to those who would encourage further delay.

I attended the Senate Budget Committee hearing held in Bismarck, North Dakota on January 8, 2002 and due to time constraints was unable to testify before you. So, I am submitting my written testimony for your consideration.

I am Steven Pollestad. I'm a 4th generation rancher, specializing in purebred Hereford breeding, and also a small grains producer from Halliday, North Dakota. I am also a Dakota Resource Council member and a board member of their Farm Preservation Committee and a member R-CALF USA.

I would like to stress the importance of adding a Captive Supply amendment to the Farm Bill. Captive supplies are livestock that packers own or control through contracts with cattle producers. These captive supplies are a form of monopolization whereby the producer is at the mercy of the large corporation. The meat packer and the packing industry can and I believe, do use captive supplies as a tool to manipulate markets.

Livestock owned or controlled by the packers are bought and sold without reporting the sale price publicly, thereby sidestepping and nullifying the open market.

I believe that an amendment addressing captive supplies should be passed with the new Farm Bill. At the hearing "crop price supports" was mentioned on several occasions, yet "cattle price supports" was mentioned merely one time. Cattle producers deserved the same protections and crop producers. This amendment would protect our cattle market by requiring all contracts to have a base price written in and all contracts to be merchandized in an open, public and FREE market.

Doing this would ensure competition and a fair market price for our product. It would stabilize cattle prices and keep more cattle producers in business.

More producers on the land would mean more money in small communities and a more stable economy in these most uncertain times. The ripple affect of sound rural economies would benefit the entire state of North Dakota as well as the rest of the country. These benefits could be had at the stroke a pen and would not **take a SINGLE penny** away from the appropriations committee to implement.

It is my belief that if this {adding a captive supply amendment} is not done now, then cattle production in this country will simply disintegrate into a packer controlled monopoly not unlike that of the poultry and pork industry today.

The best interests of our state, or our country for that matter, should not include the control of our food supply by a select few corporations. Wealth and power are at the root of this problem; let us at least acknowledge that and deal with captive supplies now before it's too late.

Thank-you Mr. Chairman for this opportunity to submit my testimony before you and your committee.

Testimony before the United States Senate Budget Committee
Regarding federal farm policy and the farm bill
Bismarck, North Dakota
January 8, 2002

Wayne Fisher
Farmer and Dakota Resource Council member
Dickinson, North Dakota

Senator Conrad and members of the committee, thank you for holding this hearing and for your attention to these crucial issues. I encourage you to continue to work diligently to pass a new farm bill that does more to foster family farming and ranching and protect our markets from the rapid concentration that threatens every aspect of agriculture. We have waited for years for this moment and now is the time to press ahead, take bold action and stand up to those who would encourage further delay.

I attended the Senate Budget Committee hearing held in Bismarck, North Dakota on January 8, 2002 and due to time constraints was unable to testify before you. So, I am submitting my written testimony for your consideration.

I am Wayne Fisher. I'm a 3rd generation small grains producer from Dickinson, North Dakota. I am also a Dakota Resource Council board member and co-chair of their affiliate Badlands Area Resource Council, a Farmer's Union board member, a Director for the Farmer's Union Oil Company in Dickinson, North Dakota and a board member of the Western Organization of Resource Councils.

I'm a no-till farmer whose main crop is Hard Red Spring Wheat. Low wheat prices are obviously my biggest concern. I feel some of the reasons for low grain prices are the globalization and monopolization of the world's agricultural economy, all with the blessings from many levels of our government. We have become a corporate democracy where the power of corporate money has the loudest and sometimes ONLY voice.

Of even greater concern among grain producers is the possible introduction of Genetically Modified Wheat (GMO) by Monsanto in the year 2003. Out of the top ten major foreign buyers of our wheat, eight countries have told us that they would NOT purchase our wheat even if it contained as little as 1% of GMO.

The annual production of all classes of wheat is approximately two billion bushels; one billion bushels of this wheat is exported to overseas markets. A loss of this magnitude would result in even **LOWER** prices forcing wheat to compete with feed grain. The Starlink corn fiasco should be a reminder to everyone that we can expect similar problems from GMO wheat.

The introduction of GMO corn and soybean grains has resulted in lower prices in those commodities, what's to say that won't happen to wheat? Countries such as Spain are buying Non-GMO soybeans from Brazil because the US cannot provide Non-GMO soybeans.

Our state legislators and NDSU had an opportunity to declare and support a moratorium on GM Wheat, but they placed more value on Monsanto's money than the wishes of farmers and consumers. Many organizations supported this moratorium such as: North Dakota Farm Bureau, North Dakota Farmer's Union, North Dakota Wheat Commission, US Wheat Assoc., Northern Plains Sustainable Ag Society, Dakota Resource Council, and Organic Assoc., and I believe the North Dakota Grain Growers have supported some form of a moratorium on GM Wheat.

The few million dollars that Monsanto provides to NDSU for their research of GM Wheat is of small comparison to the possible loss of more than $100 million to the agriculture communities, small towns, cities and to the state economy.

Some legislators and NDSU personnel have suggested that GM Wheat is the future and we (farmers) shouldn't stop progress. Some have even gone as far as making the comparison of GM Wheat to Louis Pasteur's discovery of pasteurization. Mr. Pasteur's research and subsequent discovery happened because he was **RESPONDING** to a problem during his lifetime; he was not **CREATING** a problem. The potential problems with GM Wheat range anywhere from: lower wheat prices, oversupply of wheat, resistant weeds, lawsuits, and lack of biodiversity in wheat.

Others have stated we can control and segregate GM Wheat from Non-GM Wheat. That is not the case at all. Again, the Starlink fiasco should be seriously revisited. Look at the difficulty we have controlling leafy spurge and Canadian Thistle. No farmer has ever intentionally planted these weeds, yet they appear almost everywhere.

Why is it that our legislators feel we should not ban GM Wheat? They did after all ban smoking in the state Capital. It was an admission by our legislators that a few people smoking in the Capital building affected the non-smoker. That same analogy can be applied to GM Wheat: **THE INTRODUCTION OF GM WHEAT WILL EVENTUALLY CONTAMINATE ALL NON-GM WHEAT THROUGH CO-MINGLING.**

Many people and organizations suggest that we ban the introduction of GM Wheat until we have done more research on market resistance, property rights, liability, vertical integration, cross-pollination, and segregation. Even Monsanto's own guide and technology agreements are admissions that there is a problem with markets, cross-pollination, segregation and contamination. Yet they place the entire burden of liability back on the farmers even as Monsanto vigorously protects their patented GM products!

Another way to ease the problem of low prices would be to provide a better and low cost revenue insurance coverage. A basic revenue coverage should be provided at no cost to every producer. A higher revenue insurance coverage could be provided with an increasing premium, but still a low cost in comparison to the present rates. This could potentially eliminate the hassle of loan rates, loan deficiency payments, payment limitations, annual payments and disaster payments. It would also keep the grain corporations happy because this would not disrupt the flow of grain.

I would like to see Congress address the GM Wheat problem in the new Farm Bill and get the Bill passed as quickly as possible before April 15, 2002.

I would also like to say that I agreed with most of the producer panel testimony I heard today and was supportive of most of the Senate provisions to the Farm Bill.

Remember, Freedom to Farm has resulted in many farmers **"Farming the program and not the land!"**

Thank-you Senator Conrad for this opportunity to submit my testimony before you and your committee.

Testimony before the United States Senate Budget Committee
Regarding federal farm policy and the farm bill
Bismarck, North Dakota
January 8, 2002

Jimmy Hondl
Farmer, Rancher and Dakota Resource Council member
Dickinson, North Dakota

Senator Conrad and members of the committee, thank you for holding this hearing and for your attention to these crucial issues. I encourage you to continue to work diligently to pass a new farm bill that does more to foster family farming and ranching and protect our markets from the rapid concentration that threatens every aspect of agriculture. We have waited for years for this moment and now is the time to press ahead, take bold action and stand up to those who would encourage further delay.

I attended the Senate Budget Committee hearing held in Bismarck, North Dakota on January 8, 2002 and due to time constraints was unable to testify before you. So, I am submitting my written testimony for your consideration.

I am Jimmy Hondl. I'm a 3rd generation small grains producer and small rancher of commercial beef from Dickinson, North Dakota. I am also a Dakota Resource Council member.

I would like to start by acknowledging the work you; Senator Dorgan and Representative Pomeroy have done for the farmers of this state and this country. We need your voice in Washington, thank-you for your support.

The following are some of my thoughts about what should be included in a new Farm Bill: we need a competition title that includes all of the following:

1. Country-of-Origin-Labeling for livestock born, raised, and slaughtered in the United States. The consumer should and **must** be allowed to know where their meat comes from and the right to choose which product they want to buy.
2. A ban on ownership, control or feeding of livestock prior to slaughter.
3. Provisions guaranteeing fairness for farmers involved in contracts with packers or processors. If packers are allowed to have ownership of livestock prior to slaughter and have forward contracts without a firm base price, they can {and often do} manipulate the market too easily when the forward contracts are due to be billed at a later date. The feeder with the contract to fill is at the mercy of the packer. The feeders need a contract that allows them to be able to figure a bottom line.

Level fairness in the cattle industry is needed. Let cattle numbers and consumer demand determine markets. With these provisions in place, I feel the cattle industry would receive a boost with minimal cost to our government.

The program crop situation is a difficult problem. As far as wheat goes, we need a higher loan rate, period. Or, should the crop insurance program be enhanced? As it stands, the CRC side of the insurance program is **NOT** working. I feel the subsidy dollars towards CRC are being wasted. How about disconnecting CRC from the natural disaster side of insurance, still subsidizing both and allowing the farmer to choose coverage from both? It would give the CRC side some strength and would or could replace the need for a higher loan rate.

One item that I feel is very important to North Dakota farmers and farmers across the country, for that matter and should be addressed in the new Farm Bill, is that there should be a moratorium on the release of GMO wheat. As far as I am concerned, the concept of Roundup Ready Wheat (GM Wheat) is outdated. The company is reporting that GM Wheat will save moisture and cut costs.

A farmer cannot save moisture unless he changes his method of planting. Any farmer who seeds and fertilizes the crop in one pass, either by no till or with minimum till, cannot do anything better to save moisture. Any farmer who still tills before planting is doing so because he either has crop disease concerns or cannot afford a no-till planter.

The cost savings the company reports will *supposedly* come from chemical costs. In a no-till or minimum till situation chemical costs will range from $12 per acre to $18 per acre plus a $5 per acre application cost under present practices. Roundup Ready Wheat chemical costs would be approximately $4 per acre for Roundup plus up to $3 per acre to $5 per acre for chemical to tank mix with the Roundup to control weeds that Roundup no longer controls in addition to the $5 per acre application cost. That comes to $5 to $11 per acre savings by planting Roundup Ready Wheat. That is *if* the farmer sprays the crop once. The company creating GM Wheat sends out a booklet they are recommending a pre-plant burn down of weeds, which will cost an additional amount of $7 per acre for the chemical plus the $5 per acre application costs. This eliminates any chemical savings. In addition, if the farmer plants GM Wheat, he or she will have to buy the wheat seed from the company paying a tech fee to the SAME Company.

The farmer has to do this each and every year he plants GM Wheat or any other GM crop because he cannot save seed. Of course, the company wants GM Wheat to be released. This company doesn't hesitate to charge the US farmer more for their chemicals than they charge farmers in Canada or other countries.

20% of wheat exported by the United States goes to Japan, and Japan has emphatically stated that they **DO NOT** want GM Wheat and will look elsewhere. Can we afford to lose Japan's market share? What kind of signal are we sending by releasing GM Wheat anyway? This would not be good business and would potentially cost the United States government a substantial amount of money in program payments and emergency bailouts. GM Wheat would contaminate all aspects of shipping. I am afraid in order to market our wheat; we would have to discount the price substantially to attract customers. We as farmers **CANNOT** afford to take that risk as Congressmen, can you?

One more concern I have is the provision in the trade promotion authority legislation (H.R. 3005, soon coming your way) that outlaws labeling food as GMO free. Again, this goes back to the consumers right to know and right to choose the product that they want. Truth in labeling **MUST** be preserved!

Thank-you Mr. Chairman for this opportunity to submit my testimony before you and your committee.

IMPACT OF THE PRESIDENT'S 2003 BUDGET REQUEST ON HIGHWAY AND WATER INFRASTRUCTURE NEEDS

WEDNESDAY, FEBRUARY 20, 2002

UNITED STATES SENATE,
COMMITTEE ON THE BUDGET,
Bismarck, ND

The committee met, pursuant to notice, at 10:02 a.m., in the Prairie Room, Bismarck State College, Bismarck, North Dakota, Hon. Kent Conrad, (chairman of the committee) presiding.

Present: Senator Conrad.

OPENING STATEMENT OF CHAIRMAN CONRAD

Chairman CONRAD. The hearing as part of the Senate Budget Committee will come to order. Welcome. It is good to have you here. We are going to have a chance to talk about a number of issues that are critical to North Dakota in terms of funding Federal highway programs, and as a result State highway programs. We are going to be talking about the funding for water projects in the State of North Dakota including dike protection, including Devil's Lake, including the Dakota Water Resources Act. So we have got a lot of important issues to talk about today.

Before I begin, let me indicate that this is an official hearing of the Senate Budget Committee and that the transcript of this will become a part of the official record of the Senate Budget Committee. Obviously, the timing of this meeting is especially important because we are about to consider writing the budget for fiscal year 2003. Our obligation as a committee is to complete work by April 1st and we are on a time schedule to accomplish that.

This is going to be an especially difficult year because of our conditions that we now confront. You will recall last year we were told we would expect $5.6 trillion of budget surpluses over the next decade. With the President's budget we are now told that that is $600 billion. So we have gone in one year from having $5.6 trillion of surpluses over the next decade to, if the President's budget is implemented, that has been reduced to $600 billion; $5 trillion of disappearance of surplus in just one year.

Obviously that is a dramatic change. And we should point out, that is important to understand, every penny of what is left is Social Security money. There is no—when they talk about surplus money in Washington they are using wrong language because there are no surpluses left. All the money is gone. The only money that is left is Social Security Trust Fund money, and that money is

needed, obviously, to meet the promises of Social Security for the future. So there really are no surpluses left.

What we see instead is the next—not only in this next year but in the entire next decade, non-trust fund deficits. That is if you treat the trust funds as trust funds there are nothing but deficits for the entire next decade. That is critical to understand. This is a time, we know, the baby boomers start to retire in just six years.

Where did the money go? The Congressional Budget Office came and testified before the Senate Budget Committee that over the 10 years 42 percent of the disappearance went to tax cuts; 23 percent was a result of the recession; 18 percent, labeled here other legislation is new spending largely resulting from the attack on this country of September 11th; 17 percent are technical changes. Those are largely underestimates of Medicare and Medicaid spending over the next decade. In other words, they underestimated what the cost would be of Medicare and Medicaid.

Some people have said to me, Senator, you have been so concerned about using Social Security money for other reasons; haven't we done that forever? The answer is, no, we have not done that forever. We have done it too frequently. Going back to 1996 we were using all of the Social Security Trust Fund money for other purposes. The same thing happened in 1997, but then we were able to make a dramatic reduction and save most of the Social Security surplus for Social Security. In 1998 we were able to save all of the Social Security surplus for Social Security in both 1999 and 2000.

Then we started slipping back the other way in 2001. Although we were still preserving most of the Social Security Trust Fund money for Social Security. But you can see under the President's budget now we are right back at it and going to be using all of the Social Security Trust Fund to pay for tax cuts and the other expenses of Government. I believe that is a profound mistake. We are going to see the baby boomers start to retire soon.

There are a lot of implications of this. Last year we were told there would be non-trust fund surpluses of $2.7 trillion. Now that has changed from surpluses to deficits of $2.2 trillion. If you run non-trust fund deficits there is only one place for the money to come from and that is from the trust funds themselves. So what we see under the President's plan is that he will be taking $2.2 trillion of trust fund money, Social Security Trust Fund money, Medicare Trust Fund money to pay for tax cuts and the other expenses of Government.

All of this has significant implications. You will recall last year we were told we would be able to pay down $2 trillion of debt over the next decade. That has now been dramatically reduced to just over $500 billion of debt that will be retired, and frankly, this is very optimistic because it does not include a whole series of initiatives that I think are quite likely to occur.

The result of that, of course, is that we have higher interest costs. Last year we were told that the interest cost over the next decade would be $600 billion, a little over that. Now we see that interest costs to the Federal Government will be over $1.6 trillion; a $1 trillion increase in interest costs. And of course, if you are paying money for interest you are not using the money to strengthen our national defense or improve homeland security, or build

roads or build important water projects, or educate kids or anything else. Interest is interest and has to be paid. But it obviously money that could have been used for some other purpose.

Now we want to talk just briefly about the highway funding circumstance that we face. The first chart shows the reduction at the Federal level. At the Federal level in the year 2002 we had $32 billion in Federal highway program funding. In the President's new budget that is reduced to $23 billion, a $9 billion reduction; a reduction of close to 30 percent. That is a very dramatic reduction obviously.

Let us go to the next chart to show the effect on North Dakota. The effect on North Dakota is the following: in 2002 we had $179 million for road and bridge budgeted across the State of North Dakota. Under this budget as it has been submitted that would be reduced to $135 million. Obviously a dramatic reduction in highway program funding for the State of North Dakota.

The same pattern is true with respect to Corps of Engineers construction funding for North Dakota. The President's budget provides $42 million for those projects in North Dakota. The construction funding needs according to the Corps of Engineers is $146 million. So you can see that we are well short of meeting the funded needs that have been identified by the Corps of Engineers in North Dakota.

The same pattern is true with respect to Bureau of Reclamation construction funding. The budget that has been presented to Congress by the President provides $25 million for those projects in North Dakota. The needs are $44 million.

This pattern repeats itself across the country. That is why we thought it was important to have this hearing this morning to hear from people who know what the impact is of these budgets, what it means to North Dakota. That is why I have asked a very distinguished panel of witnesses to first talk to us about the highway funding issues.

Dave Sprynczynatyk is here, director of the North Dakota Department of Transportation; somebody I have had a great deal of experience with over the years. He played a key role in getting the Dakota Water Resources Act passed in Congress. North Dakota will forever be in his debt because of the extraordinary work he did in helping us get the Dakota Water Resources Act passed last year after an effort of many, many years.

Paul Diederich is here, president of Industrial Builders and vice chairman of the Highway Division of the Association of General Contractors of America. Paul, welcome. It is good to have you here.

And Mark Johnson, the executive director of the North Dakota Association of Counties. We appreciate very much your being here.

Let me indicate that under the rules of the Committee your full statements will be made part of the record, and we would ask you to summarize those statements and be available for questions.

Just in terms of audience reaction, under the rules of the Senate we ask that you not make any outward display of support or opposition for what witnesses say. That is part of the stated rules of the Senate. I know people in North Dakota are very good at respecting rules. So with that we will begin.

I want to again welcome the witnesses and welcome everyone else that is here. I know when you have to prepare testimony for a meeting like this there is a certain amount of time that is spent on the effort, and I just wanted you to know that the committee very much appreciates you taking the time to prepare the testimony to be here, and to be here to provide that testimony as well.

Mr. Sprynczynatyk, please proceed.

STATEMENT OF DAVE SPRYNCZYNATYK, DIRECTOR OF THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Mr. SPRYNCZYNATYK. Thank you. Thank you, Senator. Good morning, and thank you very much for holding this hearing here today addressing two very important issues in North Dakota, both water and transportation. And thank you for everything that you have done in the past in the areas of both water and transportation. We really appreciate your efforts and the State is certainly better off today than it was years ago in those two particular areas.

I appreciate the opportunity to address the Committee this morning to talk about what we consider to be very significant potential impacts to the State of North Dakota and to the Nation as a whole in the transportation budget for 2003. As you have pointed out, there will be nearly a 30 percent reduction in funding available to the States if the current budget as proposed is passed into law.

For North Dakota that is nearly a $45 million reduction, and it will have significant impacts all across the State. It will be extremely painful not only for the State itself, but also for the counties, the cities, and the Indian reservations as well. It will cost jobs. It will interfere with economic development in the area of agriculture, energy, and other industries, and also tourism, which is now the second largest industry in the State of North Dakota. What we will also see are increased vehicle repair costs, and also increased fuel consumption which will have an effect on every one of our citizens.

Let me talk about what is happening in North Dakota in the area of our transportation infrastructure and where we are at today. Unfortunately, North Dakota is still continuing to lose ground even under the current levels of funding in the area of transportation infrastructure and our ability to maintain it. Over the last two years we have worked with the counties and cities in trying to develop an accurate needs assessment of what needs to be done to maintain our system. For the State system alone, which is valued at about $8.5 billion we are nearly $90 million a year behind what it takes to adequately maintain our system. So even before we talk about what could happen in 2003 we are experiencing difficulty in properly maintaining our system.

Chairman CONRAD. Could I just stop you on that point, Dave? I want to make sure we capture this for the record. What I hear you saying is at the $179 million, which is last year's level, we would be $90 million short of meeting the need?

Mr. SPRYNCZYNATYK. Yes, Senator, that is correct. That is true for the State system. You will also hear from Mark Johnson about the needs at the local level, at the county and city level. In the studies that we have done, the total need between those three lev-

els of jurisdiction is slightly more than $200 million a year. That is just to maintain the system, to properly maintain it.

As is obvious, this type of reduction in Federal funding for next year would certainly hurt every level of Government. I have not mentioned the townships, but the townships too would be impacted as well. Currently in the State we provide about 25 percent of the Federal funding that is made available to North Dakota to the other jurisdiction. Obviously this 45 percent reduction will have a significant impact.

Also as we understand, even though the State does not pass money on to the reservations, if this $9 billion cut is in fact put into place, the formula that is used to distribute funds to the Indian reservations would also result in less funding. We are concerned because we work very closely with the Indian reservations and the tribes to ensure that all of our citizens can properly move goods and move people throughout the State.

When the current highway bill TEA–21 was passed into law we had high hopes of greater certainty of funding each and every year. As we look to the future and as technical adjustments were made nobody foresaw the type of swing that we could experience next year if nothing is done. That is unfortunate because it makes the strategic planning that we all need to do as we develop our transportation infrastructure much more difficult.

We are at a point right now where, quite frankly, we are almost looking towards crises management if something cannot be done to increase the level of funding in 2003. We do know in talking to our partners in the engineering consulting industry and also the construction industry that they may have to take measures this year to reduce their workforce just knowing what might happen next year. That is a great concern to us in the State of North Dakota.

Our system is vital not only to the State but to the Nation as a whole. There is no question that North Dakota is number one in a number of agricultural products and if we do not have an adequate transportation system in place in the State the rest of the Nation is not going to be able to have as easy access and as inexpensive access as they do now to those products, because if the transportation system is not adequate the costs will go up to deliver those products to market.

The other thing that we have experienced in the last 20 years is a reduction in the amount of miles of railway in the State. This has had a greater impact on our highway system. Since 1980 we have lost about 1,400 miles of railway and that just puts more of a load on the highway system. That results in more rapid deterioration of that system and, obviously, increase cost.

Chairman CONRAD. Can you stop you there and ask you, in terms of the need that you have identified what are the major projects? What would be examples of major projects that you have scheduled for this coming year that would be put at risk? Can you give us some examples?

I know in looking at the last four years we have gotten over $650 million in Federal highway funding and you have been able to do reconstruction of I–94 in Dickinson, reconstruction of I–29 through Fargo, reconstruction of I–94 in Valley City, reconstruction of U.S. 83 between Wilton and Washburn, and as I understand just last

week the reconstruction of State Street in Bismarck. What are other major projects, Dave, that you have lined up that would be put in potential jeopardy?

Mr. SPRYNCZYNATYK. Senator, the projects that you mentioned are all projects that we have either recently accomplished or will be accomplishing in this coming construction season. Looking to 2003—and you have to look beyond as well. Even though we are only talking about the budget for 2003, this will have an impact well beyond 2003.

Some of the projects—we have not yet identified specifically which ones might be impacted if this budget reduction does go into effect because, obviously there is an uncertainty there too as to what Congress will do. But regardless, we have very significant projects continuing on some of the roads you mentioned.

There are follow-on projects on other portions of Highway 83, Highway 85, Highway 2. We also hope to be able to begin the construction of the Four Bears Bridge next year. That could potentially be impacted because some of our regular funding will go towards that project too. There is still ongoing work that needs to be done on the two interstates, both I–29 and I–94. These are all projects that will—in our plan for 2003 and beyond.

This is just sort of the tip of the iceberg because every year we work on virtually dozens of our different highways in the State, trying to properly maintain them so that people can move themselves as well as their goods to market.

A smooth, safe road system is critical for economic growth. I have talked about some of the things that need to be done in terms of moving product to market, but we also produce items in North Dakota too that need to get to market. It is important that everything from the Imation factory in Wahpeton to the Bobcat factory to the Polara Goods factory in McClusky needs to be able to get their products to market. It is important that we recognize just how critical it is that we do provide a safe, smooth, efficient system for our people.

The other thing is that North Dakota has a critical part of the Nation's highway network within our borders. Unfortunately, we have a disproportionate number of highway users within the State that pay the taxes to maintain that system. That has been recognized by Congress over the years. What Congress has done, and properly so is that for States like North Dakota we get more money back to maintain that Federal network than what we pay in in gas tax.

Chairman CONRAD. What is the return?

Mr. SPRYNCZYNATYK. Senator, the return to North Dakota is about $1.80 for every dollar we send to Washington.

Chairman CONRAD. The number I had in my head was $1.82 for every dollar we send in. So it is a tremendous return on invested dollars by North Dakota taxpayers. Federal taxpayers are sending more dollars back to us than we send in because we are sparsely populated, we are big State, and have got a lot of miles to cover. So the point that you are making is exactly correct.

Mr. SPRYNCZYNATYK. What we have, Senator, is we have a lot of miles of highway that is a part of the critical national Federal network. It is not just maintaining the State's roads but it is also

those roads that obviously the interstate as well as other roads in the State that are on the national highway network. So that is the reason why we get more back than what we send in. It is proper, there is no question about it.

The question then becomes what is it that should be done. Right now there is a bill circulating in Congress that would provide for not less than $27.7 billion of funding in 2003. That is the level that was expected under TEA–21 when the projections were made several years ago. We certainly agree that there should be not less than $27.7 billion provided. Quite frankly, the expectation was nearly $32 billion. We hope that Congress will give consideration to something closer to the $32 billion figure.

One of the questions that comes up is where can this money come from? There is nearly, I think it is about $19 billion of funds available in the Federal highway trust fund. We think that in this instance it would be proper to use a portion of those funds to offset this dip in the highway funding program.

We hope that as the Congress considers the next highway authorization bill it look towards providing a greater stability to the funding because it is critical for us to be able to know and properly plan on what we are going to do in the next several years to meet our needs in the State. When we experience a potential dip as is being discussed today it has a significant impact and obviously throws everything out of whack.

So we think that certainly no less than $27.7 billion should be made available. We hope that Congress will consider going beyond that and bringing us closer to what the expectation was.

As I said earlier, if something is not done this will have a devastating impact across the State and across the Nation. I know in talking to our neighbors and to other States across the country everybody is very concerned about what potentially could happen. We hope that Congress can do something. We know, Senator, that you have worked with us and helped us in the past in transportation. We know that you will continue to do so, and we are certainly ready to work with you to do whatever it takes.

Thank you.

[The prepared statement of Mr. Sprynczynatyk follows:]

PREPARED STATEMENT OF MR. DAVID SPRYNCYNATYK

Good morning. I am David Sprynczynatyk, director of the North Dakota Department of Transportation. I am delighted to have this opportunity to appear before you today. Thank you for holding this hearing, and for all you have done for transportation in North Dakota.

Today I am testifying in regard to the implications for North Dakota if Congress does not make a course correction to avert major reductions in funding for the Federal highway program. I also pledge our cooperation in working to avoid those reductions and ensuring that North Dakota receives a proper level of Federal highway funding.

PROBLEM SUMMARY

Last month we all learned that, due to technical calculations made as part of the 1998 highway law (TEA-21), the basic Federal highway program will be reduced from nearly $32 billion in fiscal year 2002 to roughly $23 billion in FY 2003—unless Congress takes a different approach.

North Dakota would lose about $45 million—25 to 30 percent of our Federal highway—funding if this massive reduction took place. As you know, this is a large sum of money to us and would hurt the entire State.

A reduction of this magnitude in Federal highway assistance would have extremely painful consequences for our State, county, city, and reservation roadway systems. It would cost jobs. It would interfere with economic development and tourism. It would lead to increased vehicle repair bills and fuel consumption. There is no question that it would hurt the State in many ways.

It doesn t have to happen. We ask your help in providing highway funding above the $23 billion level for the Nation.

HOW THE REDUCTION WOULD HURT NORTH DAKOTA

Let me turn now to some more detailed comments about the importance of the Federal highway program to North Dakota and how this reduction would hurt the State.

First, it is most important to keep in mind that North Dakota is already losing ground when it comes to maintaining its roadway systems.

Over the last 2 years, the North Dakota Department of Transportation has, in cooperation with its county and city partners, conducted studies to determine the funding needed to maintain the State, county, and large city (pop. 5,000+) roadway systems in their current condition and at their current level of service. This standard means that we would not make improvements or service enhancements such as additional vertical clearance on underpasses, additional lanes, or reduced spring load restrictions: enhancements that are needed in many areas because of larger agricultural equipment, heavier and larger trucks, and increased traffic. We would merely keep the systems in their current condition.

You will hear more from the counties and cities about their needs, but the State highway system alone, which is valued at $8.5 billion, is falling $93 million behind each year. A reduction in Federal aid of $45 million would mean an even more rapid decline in our systems.

' d like to emphasize that this kind of Federal reduction would affect every level of Government in North Dakota. The State, counties, cities, townships, and reservations all have important highway and street needs. The North Dakota Department of Transportation provides about 25 percent of its Federal aid to these other jurisdictions. As we understand the way the reductions calculated under the current law would work, Federal funding for the Indian Reservation Road program would also be cut. It is clear to us that no one in the State would be spared if the proposed reduction became a reality. All units of Government would lose funding and fall further behind.

This drop in funding would turn the thoughtful process of strategic transportation planning into something more like crisis management. To use funding most effectively, jurisdictions must be able to plan in a careful way. When the current highway bill, TEA-21, was passed into law, many expected that its system for calculating funding levels (by tying them to estimates of highway tax revenues) would provide greater certainty. That hope has not been met. We are now faced with immediate and major uncertainty, which makes planning truly difficult.

Planning, however, is a technical problem: the most critical problem is the effect on our people. North Dakotans will be affected even before fiscal year 2003 if Congress does not act. The expectation of devastating reductions in the highway program can impact behavior well ahead of the actual reductions. For example, across the Nation, contractors and engineering firms are reevaluating their capital spending plans and considering cutbacks. Some construction job cuts could also be taking place as businesses plan for the possibility of this shocking program decline.

Even if most of the pain could be delayed until FY 2003, North Dakota would be affected in many ways by such a reduction in the highway program. North Dakota is at the center of the continent. Our highway system moves North Dakota's raw and value-added agricultural products to the rest of the world. Through the years, North Dakota has lost more than 1,400 miles of railroad line, with most of this loss occurring since 1980. Farmers have had to shift more of their shipping to trucks at the same time that they have needed to move to larger farming practices for economies of scale, This has resulted in larger and heavier trucks moving agricultural products. The State and county roadway systems have difficulty keeping pace with these needs for increased freight capacity.

A smooth, safe road system is a crucial factor in economic growth. A deteriorating road system eounteraets our economic development efforts and diminishes the quality of life for our citizens. And to the extent that our rail and air service in North Dakota are under stress, our citizens and businesses rely even more heavily on the highway system to meet business and personal needs. Poor roads and streets will mean higher roadway user costs. And higher user costs inevitably limit the ability of our citizens to make other investments for business or personal purposes.

North Dakota's highway system is critical to the Nation's economy. Agriculture is one area where our Nation has a positive trade balance, and North Dakota leads the Nation in the production of a number of commodities, including hard red spring wheat, durum wheat, barley, sunflowers, canola, flaxseed, pinto beans, dry edible beans, and honey. Our Nation also needs access to other North Dakota economic sectors, including manufacturing and energy production. It is essential to the U.S. economy that North Dakota's highway system effectively and efficiently move products to market.

I believe that North Dakota would be harmed more than many other States by this funding reduction. Our State is large in size, but unfortunately we have a disproportionate share of highway users, the people who pay Federal fuel taxes used to maintain the Nation's highway system. The Federal highway program has long recognized that rural, sparsely populated States like North Dakota are less able to pay for their share of the Nation's overall road network. As a result, the amount of funding distributed to North Dakota is—very properly—greater than the amount of Federal highway taxes paid into the Highway Trust Fund from North Dakota. If the highway program is reduced, North Dakota will become even more disadvantaged in its ability to meet transportation needs, and we will suffer a disproportionate economic loss.

North Dakota's interest in this program is both short-term and long-term. The highway program is valuable to North Dakota now and into the future. For all the economic reasons I have given, we need a strong highway program in North Dakota and in the Nation both in 2003, which is the year of immediate concern, and in future years as well.

WHAT SHOULD WE DO?

The known effects of a nearly $9 billion cut in the Federal highway program compellingly urge us to make every effort to avoid or mitigate the program reductions that have been calculated under current—law but how?

One proposal rapidly gaining support in Congress would set the FY 2003 highway program level at "not less than $27.746 billion." The introduction of that legislation is a welcome and important first step in addressing this problem. The increasing support for it makes me hopeful that good legislation will be passed.

More specifically, the $27.7 billion level was set by Congress years ago as a kind of non-binding baseline level for the highway program for FY 2003. My view is that, although increasing the level from $23.2 billion to $27.7 billion is an important step, the words "not less than" in the pending legislation are at least as important as the number. The benefits of the highway program are not limited to the benefits of increasing the FY 2003 program to $27.7 billion. Program levels above $27.7 billion would provide even more benefits and further mitigate the adverse impact of any program reduction. And there are many who believe that the Highway Trust Fund can support a program level higher than $27.7 billion, particularly in FY 2003. As Congress looks at the pending legislation, I hope that the $27.7 billion level is viewed solely as a floor, and that active consideration is given to providing the greater benefits of a higher program level. Certainly there is broad support for going above that level. For example, this week the National Governors Association is meeting and seriously considering the adoption of a policy supporting a FY 2003 highway program level of $31.8 billion.

When you return to Washington to work on the budget resolution, we ask that you make every effort to craft it so that Congress can avoid the devastating reductions called for in these calculations. We respectfully request that the budget facilitate enactment of a strong, consistent highway program level that will help North Dakota not only in FY 2003 but in the future as well.

Mr. Chairman, thank you again for your interest in this important matter. We are grateful for what you have been able to do for transportation in North Dakota over the years.

That concludes my statement, and I'd be pleased to respond to any questions you may have.

Chairman CONRAD. Are these members in other States, are they contacting their congressional delegations and alerting them to the circumstance that we face and trying to build support for our resolution of this problem?

Mr. SPRYNCZYNATYK. Senator, yes, they are. Not only are my counterparts in other States working with their congressional dele-

gation but I would also add that the Governors in the States are trying to address this, and obviously work with the Congress too.

The National Governors Association is meeting this week and one of the resolutions that they are seriously giving consideration to is one that would adopt a policy of supporting a $31.8 billion funding level in the year 2003. What the outcome of that meeting is remains to be seen, but in the discussions that are taking place as we speak the National Governors Association is looking at somehow restoring the level of funding to what was expected.

Chairman CONRAD. All right. Thank you very much.

Paul, welcome. Please proceed with your testimony.

STATEMENT OF PAUL DIEDERICH, PRESIDENT OF INDUSTRIAL BUILDERS INC., AND VICE CHAIRMAN OF THE HIGHWAY DIVISION OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Mr. DIEDERICH. Thank you very much. When I was asked to be here I did not know exactly what this was all about. I want to thank you very much for inviting me to share how the President's proposed budget cut is going to affect not only the Nation's infrastructure but the State of North Dakota, the people of North Dakota, and the people that work for my company Industrial Builders.

I am Paul Diederich. Like you indicated, I am president of Industrial Builders, Incorporated. We are a second generation, family-owned business, and about 40 to 55 percent of our work is generated from work in the highway transportation field.

After you put up those graphs that showed the cut in funding from the Bureau of Reclamation and the Corps of Engineers, it is kind of scary because we do work for them as well. We also do some work on dams for the Corps of Engineers and Bureau of Reclamation, water intake work. We build buildings. We do tunnels. We perform work in the horizontal groundwater interceptor trench. So we have a blend of work in the private and the public—

Chairman CONRAD. What was that last one?

Mr. DIEDERICH. Horizontal groundwater interceptor trenches. Those we do all—

Chairman CONRAD. I did not know there were such things.

Mr. DIEDERICH. Do you know what a French drain is? It is a glorified name for a French drain.

Chairman CONRAD. I certainly like the sound of the interceptor.

Mr. DIEDERICH. I am also the vice chairman of, as you indicated, the Associated General Contractors of America, Highway Division, and I just got done with our proposal to establish a reauthorization for TEA–21. I would like to submit a copy of that with my testimony, if that would be acceptable to you.

Chairman CONRAD. It certainly would. We will make that part of the record.

Mr. DIEDERICH. Thank you very much.

As I indicated, the President's 2003 budget proposal arrived at its recommended level, as you probably well know—and I should probably drop all the decimals after these billions because they are such huge numbers, and after seeing your trillions up there we will just talk in billions. But the $27 billion level that was proposed in TEA–21 is really a floor. I believe that with the RABA adjustment

that cut it to the $23 billion we are talking about we do not want to be on the floor. There is authorization to go above that.

A quotation that was in the February 11th issue of Engineering News Record quoted the director of the Office of Management and Budget as saying, we have no discretion in this area. We simply follow the formulas. He further stated that I do not have a lot of sympathy for people who sort of love this formula when it overpays and do not like it when it corrects itself. I guess I am one of those people that he is not feeling sorry for because while he claims that he does not have that discretion to increase the funding above the statutory minimum, certainly you in Congress, and I believe he probably does too, have the ability to increase the proposed level.

The roads and bridges of the State of North Dakota have undoubtedly improved because of the money that has been invested in them over the last four years of a six-year highway bill. Through figures that I have seen from the road information program that improvement, while it still is not meeting all of the needs, has been noticed by the traveling public. So it has allowed us to shift some of our resources as a multi-discipline company out of food processing, which has cut back considerably in the Red River Valley, into transportation construction.

One of the nice things about having a six-year act is that it improved my ability as a businessman to plan for how we are going to allocate our resources and where we are going to go in the future. I can base some equipment purchasing and employee decisions on what that bill is going to look like in the future.

Dave's department periodically updates how its money is going to be spent by putting out what they call the statewide transportation improvement program, or STIP. The projects listed in the STIP for 2003 add up to $189 million and $195 million in 2004. Obviously they will need to adjust that based on whatever becomes of the reauthorization, but we will then adjust our business plan based on what they project to spend in their STIP.

This recommended cut in funding would devastate the department of transportation in North Dakota as well as departments across the whole country. According to figures by the road information program it would result in somewhere in the neighborhood of 361,000 jobs lost in 2003 and beyond. That is a staggering figure.

In North Dakota, the $45 million cut, if we go to the level proposed in the President's budget, would result in about 1,866 jobs being lost. According to the road information program study, this cut in funding could result in the loss of $253 million of economic activity in the State. That is based on their study that shows that for every dollar that is invested in transport funding we lose somewhere in the neighborhood of $5.70 in associated economic benefits.

It is difficult to do business, or plan business when a lot of projects disappear from Dave's STIP. Obviously we work in other States too and they drop off of all of them. We have to invest in equipment today based on our projection. I just recently entered into an 84-month contract to buy about a $1 million crane, and I based that on what I thought I saw coming down the road, and now that has changed considerably. Well, the lease company does not really care about that. They still affect to have 84 payments of whatever that is per month.

So not only will it affect companies such as mine, I think it is going to have a devastating effect on the small business, the small emerging businesses, and small disadvantaged businesses.

Now do not get me wrong. I do not want to jeopardize our Nation's ability to defend itself against the terrorists who have perpetrated these acts. I think we have got to chase them down and find them. If increasing the amount of funding to build roads is going to jeopardize that, I guess, so be it. We will have to forgo that. But I do not think we have to make a choice. I think we can have both. I really do.

According to figures provided to me, and they match closely to what Dave said, we have about $18.5 billion trust fund balance in the highway account of the highway trust fund. We believe that we can spend a portion of that trust fund money to level but this infrastructure spending. I agree with what Dave said as a good starting point. I strongly support Senate bill 1917 and its companion legislation H.R. 3694 which calls for increasing the obligations to $4.4 billion over what the President recommended, which would get us back to that $27 billion level. But AGC believes that it makes economic sense to increase spending to the level authorized for this year which is the $32 billion level.

From a common sense standpoint it seems to me that if we are supposed to be spending the money that is generated as a user fee for the benefit of transportation infrastructure improvements then the trust fund cash balance should only grow to a level that is necessary to sustain a positive cash flow. The mere fact that the fund has grown to $20 billion over the four-year life of the program tells me that these RABA adjustments are not allowing us to spend the money at the same level that it being collected.

We are firm believers in the user fee concept when that is combined with dedicated trust funds which are earmarked for use within the system that generates the money. We think that is sound policy. We support the firewalls that were established in TEA–21.

When you start to discuss reauthorization, aside from making sure it is a national bill to make sure that States like North Dakota can pay for their connectivity benefit, that you might want to consider a revision to the RABA formula that eliminates the estimated look forward portion of the calculation and just relies on the actual taxes collected and modify, say a one or two-year advance based on the actual collections once you know what they are.

Senator Conrad, I really appreciate the opportunity you have provided to me to testify today, to let you know how the President's budget request will affect the transportation industry and businesses in the State of North Dakota. On behalf of the Associated General Contractors and the people of Industrial Builders I look forward to helping you in any way we can. We are here to help you to restore the funding to at least the level that was proposed in TEA–21 and hopefully to the level that exists today. Thank you.

[The prepared statement of Mr. Diederich follows:]

TESTIMONY OF PAUL W. DIEDERICH

Thank you for inviting me to submit testimony on the critical issue of how the President's proposed reduction in Federal-aid highway funding for Fiscal Year 2003

will hurt the Nation's economy, the construction industry, the people of the State of North Dakota, and my company.

My name is Paul Diederich. I am President of Industrial Builders, Inc., a second-generation family-owned construction company that specialize in diversity. Approximately 40 to 55 percent of our annual contract dollar volume is generated in the highway transportation field. This percentage goes up and down depending on which markets are investing in construction. We also build dams, water intakes, and building, as well as performing marine construction, flood-control work, deep foundations and horizontal ground water interceptor systems. Last month we sent out 334 W2's and last week my sister signed 97 paychecks.

I am alos the Vice Chair of the Associated General Contractors of Amercia's (AGC) Highway Division, and Chair of the Highway Reauthorization Task Force. Last week, the Task Force published "Securing America's Future," our recommendations for reauthorization of the Transportation Equity Act for the 21st Century (TEA–21). I would like to submit a copy with this testimony.

The President's Fiscal Year 2003 budget proposal arrived at its recommended level by applying the revenue aligned budget authority (RABA) adjustment to the $27.57 billion in obligation authority for Fiscal Year 2003 established in TEA–21. This budget proposal establishes funding at the $23.2 billion floor. At a time when the economy is sluggish the floor is not a good place to be. I believe that there will be a staggering economic effect caused by a decline from the $31.9 billion spending level of 2002 to the $23.2 billion level proposed in the President's 2003 budget.

A quotation contained in the February 11, 2002 issue of Engineering News-Record quotes Mr. Mitchel Daniels, Director of Office of Management and Budget as saying "We have no discretion in this area. We simply follow the formula." He futher stated: "I don't have a lot of sympathy for people who sort of love this formula when it overpays and don't like this formula when it corrects itself." I guess that I am one of those people he doesn't feel sorry for. While he claims to lack discretion to increase spending above the statutory minimum, the Congress certainly can increase funding for highways.

The roads and bridges of North Dakota have been improved as a result of the additional money invested in them throught TEA–21 and the RABA adjustments. But we still have a lot of work to do in order to get them to the level that our citizens demand. The employment levels at Industrial Builders, Inc. have remained steady because we have been able to shift our forces into transportation—related constuction when we found that the food processing industry in the Red River Valley was cutting way back on their construction spending.

The beauty of TEA–21 is the fact that it increased my ability to plan for the future. Knowing how much money will be spendt on transportation infrastructure over a longer time horizon allows us to invest in equipment and hire people based on long-term programs.

The NDDOT perodically updates its' Statewide Transportatino Improvement Program (STIP). The constructin projects listed in the STIP for 2003 add up to $189 million, $195 million in 2004. With TEA–21 reauthorization coming up next year, the NDDOT will obviously need to adjust its projections for 2004 and beyond based upon the new legislation. The contracting community will then adjust its' business plan to accommodate the new STIP.

The recommended cut in funding would be devastating to State Departments of Transportation across the Nation. If funding is cut to the 2003 level proposed in the President's budget, the result would be the loss of somewhere around 361,000 jobs nationwide.

In North Dakota, our State Department of Transportation (NDDOT) would experience a reduction of approximately $45 million for Fiscal Year 2003. Construction of new, vital highway projects will be the first to be cut. The Road Information Program's (TRIP) analysis states that North Dakota would lose 1866 jobs just from the Federal cut. Additional jobs will be lost if North Dakota cuts its State highway funding as well. TRIP's report states that the cut in funding could result in the loss of $253 million in economic benefits in North Dakota. These lost economic benefits are based on the USDOT's estimate that each $1 invested in transportation funding results in $5.70 in economic benefits that improve safety, reduce traffic congestion, and reduce vehicle-operating costs paid by motorists.

It is very difficult to do accurate business planning when a lot of projects suddenly disappear from the STIP. Our industry is extremly competitive. Constructors invest in very costly new equipment when it will increase their productivity and lower their unit costs. I recently committed Industrial Builders, Inc. to an 84-month lease on a million dollar crane. If the work that was projected to be there does not get built, payments on that equipment continue nonetheless. Constructors are then face with the need to sell the equipment, or continue to make payments with no offset-

ting income. If the President's budget number are the basis of Fiscal Year 21003 spending, the used equipment market will become saturared, causing equipment values to plunge, and jeopardizing the financial stability of some contructors. This problem will probably be felt more severly in Disadvantaged Business Enterprises and other new and emerging small businesses.

I don't want to jeopardize our Nation's ability to vigorously pursue the forces of evil that have showm their disdain for our people and property through their terrorist acts. If highway funding must decline in order to pay for the protection of our homeland—so be it. The safety of our people must take first precedence over investment in our infrastructure. But I believe that we can afford both.

According to figures provided to me by the AGC, the Highway Account of the Highway Trust Fund has a cash balance of more than $18.5 billion. AGC believes that we can spend a portion of this Trust Fund money in order to level out the investment in infrastructure spending.

As a good starting point, I strongly support S. 1917, the Highway Restoration Act and the companion legislation, H.R. 3694. These bills call for increasing obligations for the Federal-aid highway program by $4.4 billion over the President's budget request. if included in this year's Transportation Appropriations (Fiscal Year 2003), it would fund the highway program at $27.57 billion in obligation authority, which is the minimum funding level included in TEA–21. While supportive of this legislative, I believe it makes economic sense to increase funding to the level authorized in this year's Fiscal Year 2002 appropriations bill, an obligation limitation of at least $31.8 billion.

From a common-sense standpoint, it seems to me that if we are supposed to be spending the money generated as a user fee for the benefit of transportation infrastructure improvements, then the Trust Fund cash balance should only grown to the level necessary to sustain positive cash flow. The mere fact that Trust Fund has grown to nearly $20 billion tells me that RABA adjustments are not allowing us to spend all of the income that the user fees are generating.

The user fee concept, combined with dedicated Trust Funds earmarked for use within the system that generates the money, is sound policy. AGC supports the "firewalls" established in TEA–21. When the Senate begins to discuss Reauthorization, we urge you to maintain them. One possible revision to the RABA adjustment, and just adjust the future spending by the amount of the actual increase or decrease in income from the baseline established for the previous fiscal year.

Mr. Chairman, I sincerely appreciate the opportunity you have provided me to comment on how the President's 2003 Budget Request will affect the highway transportation industry. On behalf of the AGC and the people of Industrial Builders, Inc., we hope that you can find a way to restore the funding to the level achieved in Fiscal Year 2002. If there is anything we can do to help you accomplish this, please let me know.

Thank you.

Chairman CONRAD. All right, thank you very much. Thank you for that testimony.

Let me ask you this, the Budget Committee faces really very difficult questions because the highway trust fund, like the other trust funds of the Federal Government are in name only. There is no money there. There is an accounting entry that the highway trust fund is owed this money, and the only place there is any money now is in the Social Security Trust Fund. The Medicare Trust Fund is completely gone. The only money that is left is the Social Security Trust Fund.

So we are presented with a Hobsonian choice of taking the money out of Social Security or increasing taxes. Now how would you like to have that choice? What would your answer be if that is what you are presented with in the Budget Committee? That is what we are presented with. You have got three choices, either do not restore the money, take it out of Social Security, or raise taxes.

Mr. DIEDERICH. The tax word is a word that I am not necessarily going to agree to on user fees that are specifically collected by the users of the transportation infrastructure. When you talk about a tax increase, if there are funds that are currently being diverted

for other very, very beneficial uses that could be collected for deposit into the highway trust fund or for a specific use, earmarked for a specific use, then maybe we should eliminate those diversions which could result in somewhere in the neighborhood of $1 billion a year with the current levels of those diversions. That is one source of potential additional funding. That does not get us to the $4.4 billion.

If we were to peg the level of user fee collection at today's level, it is 18.3 cents per gallon on a gallon of gasoline today, and say that in 1998—when this bill was passed it was 18.3 cents. If we would have indexed that for inflation that would have resulted in about another $900 million a year in additional revenues to the trust fund.

So I think there are other methods that we can look at. I understand that for 2003 those are probably not options that are in the book. So when you say raid the trust fund, thank goodness Arthur Andersen is not our accountant. We did not set up a trust fund that is in name only. We have a cash balance. So I guess we will have to find out how we can get that money in name back into the trust fund for the time being.

Did I dance around that well enough? [Laughter.]

Chairman CONRAD. You did pretty well. The problem we are going to have is when the roll is called up yonder in the Budget Committee there are going to be three choices and there is no talking around it that is going to matter. You are either not going to restore the cut or any part of it, or the money is coming out of Social Security, or you are going to raise taxes. I wish there was some other option but I have searched high and low; those are the options. None of them is attractive.

We need the money. You all have made a very strong case for needing the money. The truth is we need the money in the Social Security Trust Fund because the baby boomers are going to start to retire in six years. And the tax increase, go tell folks you are for a tax increase and see how popular you are. So I just want to be very clear, very direct, and very honest, that is the choices that we are faced up, and those are not appealing choices.

Mark, welcome. Good to have you.

Thank you, Paul, very much for your testimony. I should not have put you on the spot because it is not your responsibility to come up with the answer. But I did want to highlight the point of what we are faced with here.

Mark Johnson is the executive director of the North Dakota Association of Counties. I can tell you that when there is an issue on counties we hear from Mark. He is a good advocate for the people that he represents.

Welcome. Please proceed.

STATEMENT OF MARK JOHNSON, EXECUTIVE DIRECTOR OF THE NORTH DAKOTA ASSOCIATION OF COUNTIES

Mr. JOHNSON. Thank you, Senator, and good morning. Good morning to everyone here at the hearing. It is nice to see a full room on both these very, very important issues.

I would like to just take a minute and also our introduce our president Les Corgill and Wade Williams because, Senator, they

both serve on the board of directors of the National Association of Counties. You gentlemen might want to stand for a minute.

Chairman CONRAD. Welcome. Good to have you here. Thank you.

Mr. JOHNSON. Although you have afforded us the opportunity as representing the counties, our comments should mirror the concerns that the cities have also, although I will be speaking more directly to counties. But the National Association of Counties will be taking a strong position on this issue and I would just urge you to open your door to our representatives in Washington at the National Association and let your staff listen to their concerns and their issues that not only speak to the Nation but I know that they represent us here in North Dakota at the same time, so we appreciate that.

With that, we are here to address, again what you noted as about a 27 percent possible reduction in overall funding and Federal support to our road system. The local situation is critically important because that is where the products and that is where the economic development starts. It needs to come out of the local areas in order for our economy to grow.

The role county government plays in construction and maintenance and in the transportation system is very immense. Senator, because I respect your charts, I brought some charts. So we have a couple of charts that I will be noting. First of all, the first chart shows the road mileage and the various categories of roads that we are responsible for at the local level. It notes the State's responsibility, the county's responsibility and the city's responsibility.

Specifically as far as counties, we have over 5,000 miles of paved roads that we need to maintain, which is a higher cost. Then 5,000 miles of major gravel collector systems, which also require continuous maintenance. Then 17,000 miles of other gravel surfaces that are critically important for our agricultural community in North Dakota. Additionally, in the western half of the State where we did not form townships, the counties are also responsible for all of the maintenance of township roads, where in the eastern part of the State townships play a critical role in this road network and are very dependent on Federal sources of funds. So chart one illustrates that for you.

On chart two we are displaying similar information just for bridges. The second chart on the lower part of that board talks to bridges. Bridges on the local level are critically important. You know, as we are going to hear later today, water is absolutely essential and the management of that in North Dakota. With water we need bridges. So we have a situation in North Dakota where many of our bridges are termed very deficient.

If we look at a study that we cooperatively worked with the Federal Government and the State highway department to analyze roads and bridges, currently the replacement schedule for bridges in North Dakota is estimated to be at 122 years a bridge is replaced on the average. The recommended cycle for bridges nationally and as our highway department suggests should be about 50 years. So we are two and-a-half times beyond what is really safe and prudent in terms of replacement of bridges in North Dakota.

So as with the State, counties also face escalating costs, decreasing population densities, and revenues that do not grow as fast as

the cost. Each year counties increase the miles of minimum maintenance roads. In other words, we are on a fast track to just create minimum maintenance roads instead of having adequate roads that meet the weight limits that are necessary in this State.

Many times we are forced to use what is called Texas crossings. I think I know what a French drain is. There is also a Texas crossing. That is instead of a bridge you just lower the road and let the water flow over and try to construct the road so that the water will not damage it severely and you can still have some passage. They use those in Arizona, but we would rather not use those in North Dakota.

So the third chart gives an estimate on the 25 percent reduction in Federal funding as proposed in the executive budget will seriously impact the entire structure of our funding system. I am speaking primarily from the counties, but as I said the cities will be impacted also. The importance of this issue was demonstrated recently in our full participation in a federally funded or federally assisted study in cooperation with the State highway department which was called the Urban Street and County Funding Needs Assessment. I would urge you to have your staff take a quick look at the executive summary of that.

In that it estimated that we are spending $83 million a year on transportation infrastructure. Of that $16.7 million is Federal funds that goes just to counties. That is about 21 percent of our overall assistance and needs are being met by the Federal Government.

So chart four takes that study and talks to a reasonable level of funding in order for us to just maintain the system. With the overall investment of $83 million per year we are not maintaining that system. The proposed budget takes North Dakota counties in the wrong direction, and cities, and everyone else.

The final chart that I have is taken directly out of that study and it is somewhat of a right-handed bell chart that shows—there is a line in the middle where it shows where we should be in order to properly maintain roads. You can see that sloping line suggests that once you hit this point right there, that is where the deterioration occurs, and that is where you get the biggest bang for the buck. Unfortunately, we are at the other end of that curve. We are down below there. So the damage is occurring as we speak, and it is costing us three and four times more to go back and repair and replace and maintain those roads.

So the potential of even lower Federal funds makes our situation very, very serious. While the State ultimately takes the decision on appropriate shares of Federal funds that go back to cities and counties, they have been very cooperative and we have a very strong relationship in North Dakota and I think we can be proud of that. I am not sure that all States can attest to that. The relationship between city, county, and State is very critical.

So in order for us to maintain what you know is critically important, and that would be agriculture, energy, tourism, and that all translates to economic development, we need to at least hang on to the current funding that was proposed in TEA–21. What you will be able to do for 2003 and beyond will be greatly appreciated.

Senator I truly want to thank you for asking us to participate. So on behalf of all of my members, and certainly on behalf of the cities that we live and work in, we appreciate you making this possible and look for any help that you can give us. Thank you.

[The prepared statement of Mr. Johnson follows:]

TESTIMONY TO THE
SENATE BUDGET COMMITTEE
Prepared February 20, 2002 by
Mark A. Johnson, NDACo Assistant Director
North Dakota Association of Counties

REGARDING THE IMPACT OF THE PRESIDENT'S 2003 BUDGET REQUEST ON HIGHWAY INFRASTRUCTURE NEEDS

Mr. Chairman and members of the committee, thank you for the opportunity to present a few brief remarks on behalf of North Dakota Counties regarding this important issue.

The role that county government plays in the construction and maintenance of North Dakota's transportation infrastructure is immense. Counties maintain over 5,000 miles of paved highways; about 5,000 miles of major gravel collectors; and close to 17,000 miles of other graveled roads. Additionally, in the western half of the State, the counties with unorganized townships must also assume responsibility for township roads. Although a road mile comparison does not paint a complete picture, the first attached chart illustrates the enormous responsibility of county government.

The second chart displays similar information for bridges, which is a serious concern of counties, as they struggle to lower the number of deficient structures while farm equipment and truck weights continue to increase. As with the state system, efficient but safe transportation is the ultimate goal of county highway departments. Unfortunately, a recent federally-funded study of county roads and city streets estimated that the effective replacement schedule for county bridges is **122 years**, two and a half times the recommended 50-year cycle. 37% of our major structures are already rated as deficient.

As with the State, counties also face escalating costs, decreasing population densities, and growing revenues that don't grow as fast as the costs. Each year, counties increase the miles of "minimum maintenance roads" and replace more bridges with low-water or "Texas' crossings. These steps help, but have not allowed counties to keep up.

The third chart illustrates the sources of revenue that have in the past supported county highway efforts. As you can see, federal dollars are an extremely important element in this critical mix of funding. The estimated 25% reduction in federal funding to North Dakota that the Executive Budget proposes, will seriously impact

this entire funding structure.

The importance of this issue to county officials is demonstrated by their 100% participation in the federally funded "Urban Street and County Road Funding Needs Assessment" in 2000. This assessment revealed that, statewide, counties invest approximately $83 million each year into our transportation infrastructure. Of this, federal transportation funding accounts for $16.7 Million or 21% of the total.

Chart 4, taken from the Study indicates the consultant's conclusions that to achieve what the consultant termed, a "reasonable" level of road funding – a level that would only slow the current deterioration of the rural road system – would take an overall investment of $83 million more per year. The proposed budget takes North Dakota counties in the wrong direction, by at least four to five million dollars.

The final attachment is a page taken directly from this Assessment, and I believe it clearly illustrates the highway-funding dilemma. Collectively, federal, state, and county resources need to be increased not decreased, to avoid much larger costs if we delay the investment. Right now, we are on the wrong side of the curve.

The potential of even lower federal funding levels makes this picture only worse. While the State ultimately makes the decision on the appropriate share of federal funds to flow to local government, we must assume that smaller appropriations to North Dakota must result in smaller amounts for county highways. We are falling behind now, and if we are to provide basic transportation for agriculture, energy, and tourism, we must move in the other direction, or at a minimum hold on to the funding currently in-place.

Obviously this is a very big, and very important issue for counties. We are pleased that this Committee has come to North Dakota and asked for county input. Our Association and the counties themselves stand ready to assist you in your continued examination in any way that we can.

Thank you again for this opportunity to speak, and I welcome any questions you may have.

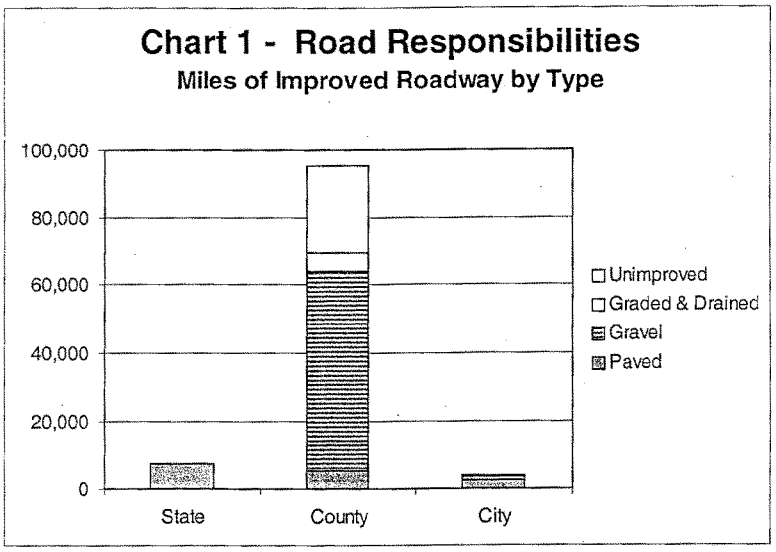


Chart 1 - Road Responsibilities
Miles of Improved Roadway by Type
100,000
80,000
60,000
40,000
20,000
0
State
County
City
Unimproved
Graded & Drained
Gravel
Paved

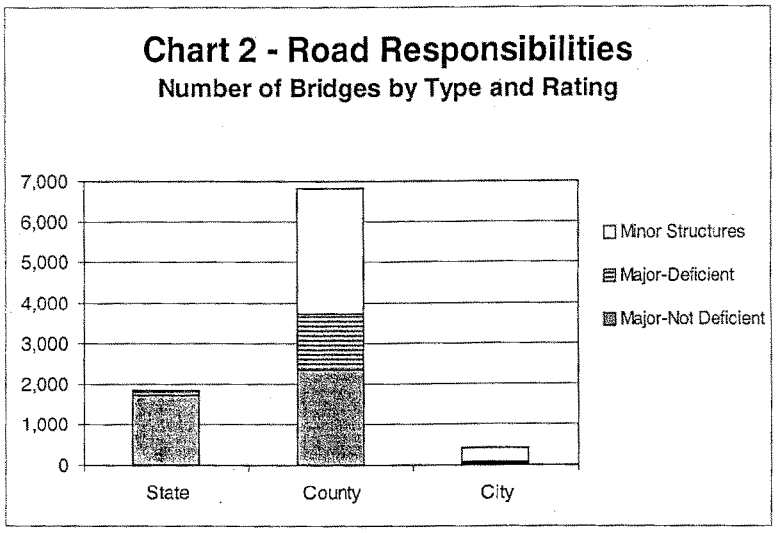


Chart 2 - Road Responsibilities
Number of Bridges by Type and Rating
7,000
6,000
5,000
4,000
3,000
2,000
1,000
0
State
County
City
Minor Structures
Major-Deficient
Major-Not Deficient

Chart 3 - County Highway Revenue Sources

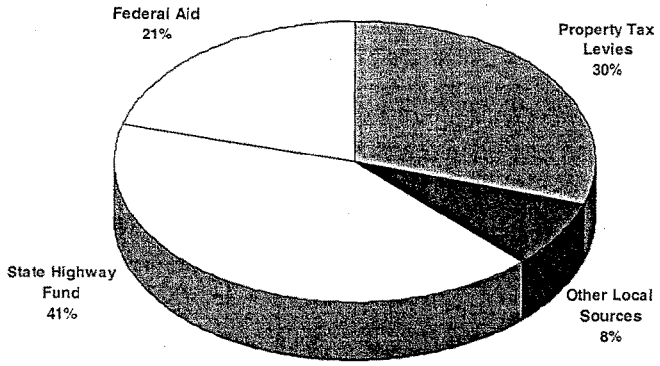
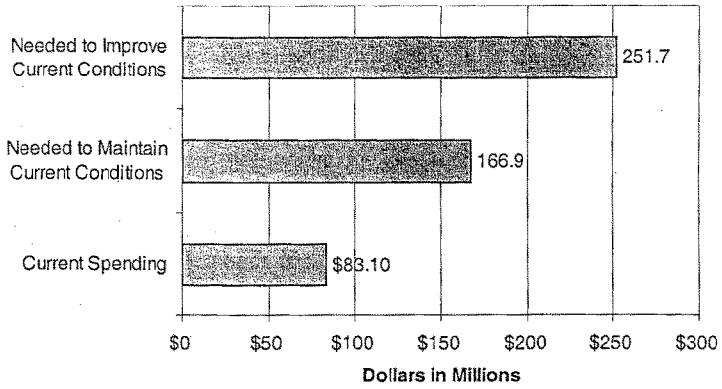
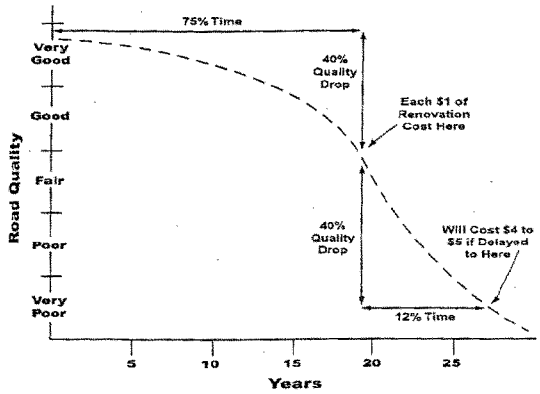


Chart 4 - Estimate of County Highway Funding Needs



Road Deterioration vs Time



SOURCE: American Public Works Association – 1991

The major types of improvement projects and their typical design life are:

- Asphalt Pavements: Design life of 20 years to total reconstruction. Optimum time frame for asphalt overlays is 8 to 15 years.
- Seal Coats: Typical design life of 5 to 10 years, 7 years average.
- Bridges: Design life of 50 years.
- Gravel Surfacing: 6 to 12 year life, depending on traffic and snow removal efforts.

Chairman CONRAD. Thank you very much. Thank you, Mark, for really excellent testimony. I really liked this last chart. I am not sure I have figured this one out yet. That has got a lot of moving parts.

Mr. JOHNSON. It was developed by a consultant I believe, Senator.

Chairman CONRAD. I hope they did not get Federal highway money to develop that. [Laughter.]

Chairman CONRAD. I want to thank you, Mark. My calculation would be if we had a 27 percent cut and 21 percent of your money is coming from Federal money, 21 of 27, you would be in the 5.5 percent; 5.5 percent of $83 million would be $4.5 million range, $5 million range.

Mr. JOHNSON. It is about $5 million.

Chairman CONRAD. About $5 million. So that is a significant hit, is it not?

Mr. JOHNSON. Absolutely. Those are match dollars. Those Federal dollars are the kinds of dollars that help us do the really essentially. Usually each county probably only sees one or two significant projects as a result of Federal funds. So I think if you translate in terms of projects you would probably see one good project fall off every year in a county throughout the State.

Chairman CONRAD. What this chart shows—if you are in the audience you cannot see it, but it is very, very interesting. The point that it is making, maybe you can put your light on that line where each dollar of renovation cost here right near the mid-point, each dollar of renovation cost here will cost $4 to $5 if delayed to here. That is about a six-year delay, as I read this chart. So once you are at about 20 years, if you delay the repairs for another six years your cost of $1 turns into a cost of $4 to $5.

In other words, the point that this is making is how critical when you make a repair is to what your ultimate cost is. If you delay at a critical time your cost mushrooms. That is a common sense concept but I have never seen it reduced to a chart, and I did not know this connection. That is very dramatic; $1 in cost, if you delay at that point, if you delay by six years, turns into a cost of $4 to $5. So the timeliness of these repairs—and I see Joe Golfer who does county issues all the time and is a county commissioner—makes a huge difference. That is really the point that you are making.

Mr. JOHNSON. I would urge you to share that with your colleagues on the Senate committee.

Chairman CONRAD. Yes, I am going to. I have never seen that precise a calculation in that connection.

Any of you who want to answer this question I asked Paul earlier, here are the choices we have got: restore the funding, do it by taking it out of Social Security, or raise taxes. Any of you want to give advice to the committee on how we might want to handle that little problem? Anybody here want to say that we should take it out of Social Security, which is where we are headed at the moment? Any of you want to explain to your grandmothers how you have threatened their check? [Laughter.]

Chairman CONRAD. No takers on that one? Okay.

Any last comments any of you would want to make, any that you think is especially important for the committee to keep in mind as we try to make these decisions?

Mr. SPRYNCZYNATYK. Senator, I would just add on thing. That is that earlier this year, late last year there was discussion about a potential economic stimulus package for the country, and transportation at one point was one of the considerations. Obviously, if something is not done this is going to have a tremendous impact and it is a huge reverse stimulus. I think we need to—

Chairman CONRAD. It is kind of a reverse stimulus. We would be taking energy and life out of the economy by not going forward with these projects.

Mr. SPRYNCZYNATYK. Absolutely. And that is troubling to us because on the one hand we have needs, clearly we have needs that need to be addressed from a transportation infrastructure standpoint. But really what we are talking about are jobs and loss of dollars to businesses because of greater expense in trying to move their goods and products to market. So it is a huge de-stimulus, if that is a proper word.

Chairman CONRAD. Think about it, if you took $9 billion out of road-building nationwide you talk about some 300,000 jobs affected nationwide. There is another piece of this and that is economic efficiency. We do not see it so much here but if you go to the east coast there is gridlock. You go out on those roads at 4:00 in the afternoon, they are stopped dead. There is a tremendous loss of economic efficiency in not being able to move goods and people efficiently.

So it is kind of a double whammy. Not only do you not have the direct jobs but you are not improving the efficiency of the economic workings of the country. Transportation dollars actually have a return to the economy outside of the direct benefits. I think, Paul, you had some numbers there on the economic benefit generated by a dollar that goes into the transportation system. I cannot remember, it was about $5.

Mr. DIEDERICH. About $5.70 according to that report.

Chairman CONRAD. So $5.70 that comes back to the economy. I do not know if there is a calculation there for the increase in the efficiency of the operation of the economy by having these investments.

Mr. DIEDERICH. A Texas Transportation Institute study estimated that the cost of congestion more than tripled between 1982 and 1997, from $21 billion to $72 billion. So that is an additional impact and that is in this—

Chairman CONRAD. That does not get taken into account very often.

Again, thank you. I think those are important things for the consideration of the committee and I very much appreciate your testimony and your providing your insights to us.

We will now go to our next panel to talk about water resources and the budget issues. We have a very distinguished panel: Colonel Robert Ball from the Corps of Engineers who is at the district office in St. Paul, heads that office; Warren Jamison from the Garrison Diversion Conservancy District; and Mike Dwyer from the North Dakota Water Users Association.

Just by way of introduction I would like to really single out these three because there have been people that made a big difference for the State and these three are among those. Colonel Ball of the district office of the Corps of Engineers has been absolutely superb working the flooding issues in eastern North Dakota and protection in the Devil's Lake region. Colonel Ball, the district office is very highly regarded in North Dakota. Our working relationship is superb there.

Other parts of the Corps of Engineers we have had some problems with in previous years. But even there there has been a dramatic change with new leadership of the Corps of Engineers, General Flowers who will be coming before the Budget Committee in Washington next week to testify. Just a dramatic change in the Corps of Engineers. Certainly the district office has always been superb and we are glad to have you here.

Warren Jamison has been a guiding force in getting the Dakota Water Resources Act passed in Congress last year. This was an effort that had gone on for many years, an effort by the State of North Dakota to secure its water future. Nobody played a more significant role than Warren Jamison and we deeply appreciate all that he did to help make that dream a reality.

And of course, Mike Dwyer was a man who played a critical role in negotiating among interests here in the State so that we could have a success in the Dakota Water Resources Act. At a very critical moment he used his diplomatic skills to bring people together who had been fighting each other for years. I just wanted to acknowledge publicly the extraordinary efforts of Mike Dwyer and Warren Jamison and Colonel Ball. Welcome to you all. It is good to have you here and I very much appreciate your testifying. We will start with Colonel Ball.

The budget for the Corps of Engineers is obviously critical to North Dakota in many different ways. I will just tick off a few: Grand Forks, we are building a dike there to protect the city. There was $15 million provided in the initial budget from the President, the draft.

I called up the director of the Office of Management and Budget and I said, the Corps is telling us they can use $85 million and we have requested $15 million. He said, Kent, I will look into this and I will try to make an adjustment. This is a week before the budget came out. He did and he made an adjustment. He doubled the amount of money that was in the original budget to $30 million, but that still leaves us way short of what we requested and very much short of what the Corps of Engineers tells us could be used.

The second area is Grafton. They need funding for flood protection as well. Of course, Devil's Lake and the whole Devil's Lake region needs hundreds of millions of dollars to effectively combat what is going on there. So we have got lots of issues. Then there are other areas in the State as well.

With that I wanted to ask Colonel Ball to proceed with his testimony, and then we will go to each of the others in turn, and then have time for questions as well. Colonel Ball, welcome.

STATEMENT OF COLONEL ROBERT BALL, CORPS OF ENGINEERS

Colonel Ball. Thank you, Mr. Chairman. Before I started, sir, I wanted to introduce to you and to the members here—colonels come and go in the Corps of Engineers. Colonel Ken Kaspreisen would have been here last year had we done this. He is now working for FEMA. He is a great proponent for the work in the State of North Dakota. And I will be gone in three years.

But we have great civilians that stay around. My deputy for program and project management, Judy Des Harnais, selected in March of last year as the number one civilian in the St. Paul district of the Corps of Engineers. She is a second generation engineer. Her dad was a Corps of Engineers officer. I think he worked on the Garrison diversion project many, many years ago. So Judy will be with you all. Should you have one of these three years from now it will be Judy that is around too.

You will notice that Judy is also not a man. There are not a lot of deputies for programs and project management in the Corps of Engineers that are females. In fact I know of none. That does not mean that there are not any. Judy is a great engineer, a great proponent for the State of North Dakota and the citizens there.

Chairman CONRAD. Could I just say a word about Judy as well? We have worked with her now for a number of years and she is just absolutely first rate, and has just conducted herself in the most professional way, even under the most trying of circumstances. We have had situations where there are tremendous emotions, real anger in communities in dealing with crises. The level of professionalism and the way she has been able to keep her cool, even in these challenging times, has been impressive to me. So welcome, Judy.

I have got to say, Ken Kaspreisen, when the new head of FEMA came in I called him up and said, look, you would do yourself a huge favor if you hired Ken Kaspreisen. I said, you know, we are of different parties, but I am just telling you, I am giving you good advice here. If you want to get yourself a first class crisis manager, get yourself Ken Kaspreisen. And the new head of FEMA hired him and sent him off to his most challenging part of the country, and then with the terrorist threat brought him back to Washington.

So Ken Kaspreisen really has been an absolute lion for North Dakota. I tell you, when there is a hall of fame some day about people who put it on the line for this State, Ken Kaspreisen is going to go in that hall.

Colonel Ball.

Colonel Ball. Thank you, sir. Sir, I have a very general statement that I will make and then I will welcome your questions. The statement is basically going to be on programs. You have questions on projects, I am sure.

President Bush's fiscal year 2003 budget includes $4.29 billion in new Federal funding for the civil works program of the U.S. Army Corps of Engineers. The new Federal funding is distributed as follows among the appropriation accounts: $108 million for general investigations, including over $1 million for the Red River of the

North Basin feasibility studies; $1.44 billion for construction in general, including $42.2 million in the State of North Dakota of which $30 million is for the continued construction of the Grand Forks/East Grand Forks flood control projects; $1.97 billion for operations and maintenance, including $14.6 million in North Dakota.

And $151 million for the regulatory program. That is a 12 percent increase in funding nationwide that will allow the Corps to reduce the average review time for individual permit applications by about 25 percent by the year 2004 while still strengthening the protection of the regulated waters and wetlands. Additionally, there is $22 million in the budget for flood control and coastal emergencies. These funds will allow for emergency response and advance measures similar to those undertaken in Wahpeton in Grand Forks last spring and over the last few years around Devil's Lake.

With those program highlights, sir, I would be happy to take your questions in specific projects.

[The prepared statement of Colonel Ball follows:]

PREPARED STATEMENT OF COLONEL ROBERT BALL

The President's budget reflects his priorities of fighting and winning the war on terrorism and keeping the economy strong. The Army Corps of Engineers plays a major role on both these fronts. Through its military construction and research program, the Corps supports the war-fighter. The jobs and revenues generated by the projects in the civil works program directly support the Nation's economy: ports maintained by the Corps generate 13 million jobs, lakes and reservoirs managed by the Corps generate about 600 thousand jobs. Flood control projects under the Corps program prevent more than $20 billion a year in damages and hydropower projects generate one fourth of the Nation's hydropower.

President Bush's Fiscal Year (FY) 2003 budget includes $4.290 billion in new Federal funding for the Civil Works program of the U.S. Army Corps of Engineers.

The new Federal funding is distributed as follows among appropriation accounts:

$108 million for General Investigations, including over $1 million for the Red River of the North Basin feasibility studies.

$1,440 million for Construction, General, including $42.2 million in the State of North Dakota of which $30 million is for continued construction of the Grand Forks/East Grand Forks flood control project.

$1,979 million for Operation and Maintenance, General, including $14.6 million in North Dakota.

$151 million for the Regulatory Program, a 12 percent increase in funding Nation wide that will allow the Corps to reduce the average review time for individual permit applications by about 25 percent by 2004, while strengthening protection of regulated waters and wetlands.

$22 million for Flood Control and Coastal Emergencies, these funds will allow for emergency response and advance measures similar to those undertaken in Wahpeton and Grand Forks last spring and over the last few years around Devils Lake.

The budget proposes that the new funding be used to continue to development and restoration of the Nation's water and related resources, operation and maintenance of existing navigation, flood damage reduction, and multiple-purpose projects, protection of the Nation's waters and wetlands, and restoration of contaminated sites. In allocating funds available for Civil Works, the budget gives priority to projects and programs that provide significant national benefits in the Corps' principal mission areas of commercial navigation, flood damage reduction, and environmental restoration.

The Fiscal Year 2003 Civil Works budget information, including a state-by-state breakdown, is available on the Corps' World Wide Web site:*www.usace.army.mil*

Chairman CONRAD. Can you tell us, how much did the Corps of Engineers ask for in terms of budget for this year?

Colonel Ball. No, sir, I don't have that, sir. All I can tell you is—I can just talk about my own district, sir. It is not that I am hiding information, sir. I do not know.

Chairman CONRAD. That is fine, we will get it when we have the hearing in Washington.

Let me ask you, in your district what is your budget this year compared to last year and then this proposed budget?

Colonel Ball. Sir, I believe it is around $142 million. It is a little bit of an increase over last year.

Chairman CONRAD. What is the need that you see in your district?

Colonel Ball. Sir, in terms of North Dakota I have got three or four critical projects here. In fact if you look district-wide my biggest projects are in North Dakota, particularly along the Red River.

Chairman CONRAD. Let us talk about this budget because Grand Forks, as I indicated, we have been told you could use as much as $75 to $85 million in that project this year. Is that correct?

Colonel Ball. $75 million, yes, sir.

Chairman CONRAD. You could use, $75 million.

Colonel Ball. We have the capability that if we had $75 million we could put that into place in contracts within the fiscal year of 2003, yes, sir.

Chairman CONRAD. So you could use $75 million. There is $30 million in the budget for that purpose. Devil's Lake, there is no money in the budget for now for Devil's Lake. No money. In the previous several money there has been money in budgets the President sent us for an outlet from Devil's Lake. How much money could you use in that area?

Colonel Ball. We have a capability of next year of $38.9 million, assuming our draft EIS and preliminary planning report get approved and we get an approved project. But $38.9 million is what our capability would be in 2003, sir.

Chairman CONRAD. That is my recollection as well. In fact I think we asked for, my recollection is we asked for $39 million. What other major projects do you have in North Dakota and what would be the need?

Colonel Ball. Sir, as you are well aware, and I know that the entire North Dakota delegation is aware, Breckenridge, Minnesota directly impacts Wahpeton. In fact I have been very impressed that every time I talk with a member of the North Dakota delegation they keep asking me about Breckenridge. I thought Breckenridge was in North Dakota when I first got here because particularly Congressman Pomeroy is so concerned about Breckenridge.

There is an interrelationship between Wahpeton and Breckenridge and we do not have any money in this year's budget for Breckenridge.

Chairman CONRAD. The point is, the reason you have got to protect Breckenridge is you cannot protect Wahpeton if you do not protect Breckenridge. You cannot put flood control on one side of the river.

Colonel Ball. In fact it would cause more flooding. If we did Wahpeton, which we have funds for, if we did the flood control for Wahpeton we would induce flooding in Breckenridge, and obviously no one wants to do that.

Chairman CONRAD. I think we are all acutely aware of this because we came perilously close, perilously close last year—anybody that was down there knows what I am talking about. That was a nail-biting situation down there and none of us want to have the people go through that again. That is the reason why this is critically important.

How much money is needed for Breckenridge?

Colonel Ball. Sir, next year we have the capability of executing $6.5 million worth.

Chairman CONRAD. $6.5 million and there is no money.

Colonel Ball. No, sir, there is no money. And that is because, sir, we do not have the final approved document, project document yet. But we intend to have that I believe by August of this year.

Chairman CONRAD. All right.

Colonel Ball. Then, sir, you had mentioned my fourth concern and that is in Grafton where there is no money in the budget there.

Chairman CONRAD. What is the capability in Grafton?

Colonel Ball. We have $2 million capability this year, sir, to start us off. If we do not get that it just, obviously, will delay the project one year. When we are talking flood control projects you are talking about the possibility of people going through a flood.

Chairman CONRAD. I tell you, the frustration in that community is extremely high. They were very surprised by this budget submission because we have been proceeding down the line. They have been hit time after time and the people are just getting worn down. I grew up there and they are just getting worn down. I have got people talking to me about selling out. They just cannot take it any more. They just do not want to have their family jeopardized.

I had a gentleman up there who told me he has not had a normal crop in five years. That probably the best he has had is maybe 50 percent of normal because his land is underwater. And he said he just cannot live like this. His family is under tremendous stress at their place. They are just having a terrible time. Can you imagine if for five years in a row you do not have a normal crop, with prices the way they are? They were debt-free when the process started, and they have now had to remortgage everything. And they are not alone. A lot of families are affected in the same way in that area.

All right.

Colonel Ball. Those were the big four issues that I had, sir. I really appreciated the discussion of the highways beforehand because it gives a perspective. There we are talking about something that is fixed and you can know that you have a maintenance cost with that. Flood control is just a different world. But folks in North Dakota, certainly in the past couple years, have come to know floods.

I grew up in southeastern Kentucky and I would tell you that the security that you buy when you do have a successful flood control project will change the way you look at life. When I was growing up we measured time by floods. What were you doing in the 1957 flood? My relatives in southeastern Kentucky no longer do that. My little cousins, they do not know about floods. They know about high rivers, but they do not know floods. So this is important stuff.

Chairman CONRAD. That is very important. All of us who lived through the 1997 events and the subsequent events know how critically important they are. Not just in our State but other States as well.

Thank you very much.

Colonel Ball. Thank you, sir.

Chairman CONRAD. Warren, welcome. Good to have you here.

Mr. JAMISON. Thank you. Good to be anywhere.

Chairman CONRAD. Why don't you proceed with your testimony?

Again, I want to thank Warren Jamison. You talk about hanging in there. All those years I would come back and report to the conservancy district, and Senator Dorgan and Congressman Pomeroy and we would tell them, we think we are making progress. You know, after you have heard that about six, seven times it wears a little thin. But to have passed last year was, I think, one of the great moments of my time in Washington, and Warren Jamison played a central role in the passage of the Dakota Water Resources Act. Thank you.

STATEMENT OF WARREN JAMISON, MANAGER, GARRISON DIVERSION CONSERVANCY DISTRICT

Mr. JAMISON. Thank you, Senator. You have been handing out flowers and bouquets to Mr. Sprynczynatyk and myself, and Mr. Dwyer, but I cannot let you get away with that without recognizing that the political leadership of the State, all across the State, was behind this and that was absolutely essential to our success. But nobody stood in the center of the maelstrom any more than you did, sir, and we want to acknowledge that. Nobody worked harder on the floor than you did. I know that. You and I spent a lot of time together scratching our head, wondering how in the world we could pull this off, and you deserve a great deal of the credit yourself.

I also want to acknowledge in the audience is my chairman Richard Fugelberg. There are a number of members of the board of directors for the Garrison project. It symbolizes their recognition of the importance of your work as chairman of this Budget Committee and the importance of water to the State of North Dakota.

I heard you ask one of the previous witnesses a very tough question. You called it a Hobson's choice. I call them Sophie's choices. They are impossible choices and I recognize that. I have grandchildren, as many of you do, and I look in their eyes, their innocent eyes and I cannot consider the possibility of not fighting the war on terrorism with everything and every appropriate means that we have to win, quickly. We have to remove that kind of fear, or at least substantially reduce it for future generations.

On the other hand, I look at them and the thought of depression or a return to a dirty 1930s or anything like that is equally as horrible a consideration. So these are two wars that I know that are difficult to fight on two fronts at the same time but, Senator, I do not think we have a choice. Not when you look in the eyes of grandchildren, the future generation, we must fight them both and we must win.

Important to the economy is infrastructure. Two of the subjects that you are talking about today, transportation, energy, tele-

communications, but most importantly, water. If businesses are to prosper they must have water. We have been in North Dakota struggling to build a water infrastructure for years. In my experience with this business in, almost too long now, is that they take a long time and you have got to keep at it. If you ever let up you take four steps back so quick you cannot even believe it. So that is what I wanted to address today.

Overall, the bureau budget, which is where you can have your impact, for 2003 is $726 million. There is some bragging about the fact that that was better than last year's request. But it is also $36 million less than the Congress provided to the Bureau of Reclamation last year, our key agency in water infrastructure in the west. As you know, we are active members of a coalition called the Invest in the West Coalition. Nine of the most active groups in the western United States are active parts of it; the Upper Missouri Water Users, which Mr. Dwyer will speak to, is one such group as is the conservancy district.

We have set on a program to bring the bureau budget back to where it used to be and to a level which has a decent chance of meeting the current needs. Last year your committee responded with $150 million of additional money for the Bureau of Reclamation. We are suggesting that we keep that effort up and that another $150 million be added to this year's budget for the Bureau of Reclamation so that we can continue to build infrastructure in the western United States. Not just in North Dakota but other places in the United States as well have critical needs.

This coalition has been struggling to continue this effort until we reach $1 billion for the Bureau of Reclamation in a five-year program. What I am going to talk about, and relates to Garrison, patterns that strategy very much so, to look at a gradual build-up to meet the current needs of the Garrison project and North Dakota's water needs.

The history of funding for Garrison over the last several years is indicated on the chart there, runs about $26 million. As you can see, it is made up of a couple of different items. I do not want to get into too much detail but overall budget funding running about $26 million, and the current budget request pretty much follows that pattern. It is $25.2 million to be exact.

If we continue on that road we are taking four steps backwards. It simply does not match the current needs of the State of North Dakota, does not recognize the current authorizations that we just talked about, in the State of North Dakota in particular. So we must change that.

There are people in this audience who know that I am going to recommend that that budget be increased to $45 million and they want me to tell you it should be $80 million. And they could justify it. There are people here from Standing Rock, there are people here from Fort Berthold Reservation and they have been waiting a long time. Nobody has more severe water needs in the State of North Dakota than those that are Indian reservations. They have been waiting to go for a long time, as you know. They would have me give a much bigger number in this, and others in the audience as well.

But I am recommending a $45 million budget next year and then a continuous effort to ramp it up to eventually an $80 million. Let me explain why. The bureau budget is made up of three major categories. If you asked the Bureau of Reclamation to explain their budget they will spend 30 minutes doing it. I am just going to break it into three categories.

What I would call a base operating budget. In that are wildlife programs, funding of the National Resources Trust, operation and maintenance of existing facilities, some of them in construction status, some of them in operation status. In round numbers that operating budget runs about $20 million.

In that item is operation and maintenance cost, as I said for a variety of facilities, one of them is for the MR&I systems that are built on the Indian reservations. It is a relatively modest number now, but as those systems are built then that number will continue to increase. That is something that we do need to deal with at some point. Not today but at some point. That is a continuing problem that will get worse as time goes on and you need to deal with it at some point. But today let us just assume that is roughly about $20 million.

The other two major areas of the project are MR&I funding is the grant program, as you well know, that is authorized at a 65 percent level. The third area is the Red River Valley. The driver for these two areas from a construction management standpoint and from a financial management standpoint are the big projects that are in there. Now the MR&I program is made up of a variety of very important projects but they generally run in the $10 million, $15 million, $20 million level. And they are independent. So you have got a lot of room to juggle them one against the other and around the other to match what you can do financially and from a technical standpoint.

But big projects have a life of their own and you have to recognize that. One such project we are happy is underway, is the NAWS project, the first phase of which is to bring water from Lake Sakakawea to Minot. That is a $66 million program of which $45 million, in round numbers, is needed from the Bureau of Reclamation budget. We are delighted that that project is started and we are happy with your efforts to help that become a reality. They hope to have a dedication or groundbreaking ceremony very soon.

A project of that size, from an engineering construction management standpoint, once started must be pursued vigorously to its end. To do otherwise creates two problems. First of all, you heard from a previous witness inflation gets you sooner or later and you just end up paying a horrible price in increased cost. But perhaps just as deadly, if you do not keep the project on a good time schedule the part that you install on the last days might not match the parts that you install in the first days. You create an engineering problems that sometimes can be very difficult.

It is like building a car and taking 10 years to do it; the bumper will not match the front end, and you get all done and you cannot start the car. That could happen with a water project. Some of these are fairly complex.

So the NAWS project first phase to Minot is scheduled as a five-year project. I think that is a reasonable expectation and we need

to pursue that with vigor. As I say, that is $45 million, so you can see it has a life of its own in terms of being able to fund that.

There are other projects ready to go. There are other projects that we have taken the risk and through the State water commission are prepared to advance using other monies that eventually we will need to repay. So we are doing everything we can to move these things in a timely fashion.

I want to get to the Red River Valley issue shortly but I also want to mention on this business, we are very pleased with the success of the MR&I program. This is a unique Federal—not totally unique but for the Bureau of Reclamation somewhat unique in that this is a project where they have turned the planning and engineering over to the local people. That is tough for Federal agencies to do that. I know, I used to be in one, but it was the right thing to do. I do not think there is a person in this room who would not agree that was the right thing to do. It has been a lot of work and a lot of tension for us, but it has certainly been a good thing to do. So all of those projects are important even though some of them are not as big as others.

What it does bring to you though is the incredible patience that people have to have in development of any water project. There is hardly a project that has not been done in less than 10 years, and some a lot longer. NAWS, for example, has been in the planning stage at least for 15 years. So people have been waiting and waiting, and the longer you make them wait you add another factor and that is discouragement that it will ever happen. The people who are planning for an economic future give up thinking, I do not have any base to build on. So it is important that we do everything we can to accelerate these projects in a timely fashion.

The next chart I want to point out is the future. If we expect the projects to be built in a timely fashion, it is my opinion that the MR&I program needs to build fast in the early years. Now if over 20 years we expect to use up all of the authorizations for MR&I we could have a lower level of funding. But under the circumstances we need to first pursue the NAWS project with vigor, and then we need to position ourselves so that we can handle the Red River Valley project when it comes on.

Now I am expecting that we should be able to the required environmental studies on the Red River Valley in three years, give ourselves another two years to negotiate repayment contracts, and if necessary get an authorization or confirmation from Congress that we have got the right thing. So five years from now we could be on the doorstep of construction of another very large project. It could easily be a $200 million project. Again, that is one that we need to pursue with vigor once started.

Chairman CONRAD. How long do you think it would take—we are talking now about providing water to the Red River Valley because we know they are heading for water shortage. We have seen it in the past. We know because of the population growth there and the industrial development there that we have got water shortage in our future. This is part of the dream of Dakota Water Resources Act was, yes, we have got the State MR&I funds, we have got the Indian MR&I funds, but we also have money that is reserved to deal with the water challenge for western North Dakota. We have

$200 million reserved for that purpose. That is what Warren is talking about here.

You are saying we have got the studies underway to determine what are the alternatives. We have already established the water is needed. That has been established.

Mr. JAMISON. Absolutely.

Chairman CONRAD. Now the question is, how do you deliver that water? What are the various possibilities of how you deliver water? You are saying those studies that are underway you would anticipate getting in three years? This is what we have talked about in the past.

Mr. JAMISON. That is correct.

Chairman CONRAD. Then two years would be the time necessary to negotiate a contract with the various water users if we had that source available. That is your point?

Mr. JAMISON. That is correct.

Chairman CONRAD. Then what would be the length of time, what is your best estimate, to complete the project if we had the funding that we needed?

Mr. JAMISON. Once started the Red River Valley project, I think it is reasonable to assume that we should plan to construct it within seven years. To take longer than that we run the risk of running into technical problems in the early designs not matching the latest designs and we will stretch out—

Chairman CONRAD. Could it be done faster than that in terms of prudent management of a project?

Mr. JAMISON. I am an engineer. I always say yes to anything like that. Yes, it could be. Is it wise to pursue it beyond your capacity? That is a question that we would have to think about a little bit because there is a point where you can go so fast that you are kind of ahead of yourself. Seven years I think is very reasonable. I think it can be done. It certainly could be shortened. How much, I would be afraid to answer that. That would depend on what the project is and we do not know—

Chairman CONRAD. I have never actually had a conversation on that question, how long would that construction take. I must say I am a little surprised by the length of time.

Mr. JAMISON. Most people are.

Chairman CONRAD. I had in my mind three years so I am really somewhat taken aback by seven years. I am sure if we got Paul involved here we could do that closer to three years, could we not, Paul?

Mr. DIEDERICH. If you can design it, I can build it.

Chairman CONRAD. Go ahead, Warren.

Mr. JAMISON. Senator, just a little bit more on that point. As I said, a lot of people would like me to say it is a lot shorter and a lot bigger dollars. But there is a lot of engineering talent in the North Dakota, but it is not sitting idle either. So suddenly you turn big projects like this on them, and they are challenging.

The same thing is true of construction contractors. If you happen to catch them all when they do not have anything else to do then you are in heaven. But that is not often the case. They are creative and they figure out how to keep busy. So it is not simply us being

able to manage it. It is a lot of people that have to be available with the resources necessary. So that is my point on that.

Anyway, if we suddenly sat around and said, we will just expend the MR&I program at some level basis until we get to the time when we are going to start construction of Red River Valley then we would be asking you a very unpleasant thing. That would be to suddenly increase the budget by $30 million in order to pursue the Red River Valley.

So the project outline that we have laid out that is on the chart there is a gradual ramping up so that we can transition into a Red River Valley construction program in fiscal year 2008. So that is why we are starting at $45 million. That is a substantial increase over the current budget request, and then builds up next year to $60 million and on up towards $80 million eventually. I could project it beyond that but I would be kidding you in my abilities to do that.

So, Mr. Chairman, Senator Conrad, we are in significant need to begin this process of building the appropriations level and the budget of the bureau to match the current need and the current authorizations. There are real people waiting for water and they have been waiting for a long, long time to get it. It is our plan to capture real people on interviews and bring them back to your offices in a few weeks so that it is not just somebody like me talking about it but you can see who they are and hear them explain. You have got a picture of some of them in the back right behind you.

Chairman CONRAD. You have seen this bottle before. This was worth about $200 million because we were able to show people in Washington this is the kind of water our people are condemned to use in western North Dakota. This is the quality of water. This is from the Anderson's place in Scranton, North Dakota. That is the water that came out of their tap. This is a picture of a child bathing in that kind of water. Anybody who has dealt with that quality of water knows how awful it is.

What a transformation when we got southwest water pipeline. What a transformation. All of a sudden we got water like this. That is the difference it makes in the lives of people. We are talking about the same kind of thing with the NAWS project. It is going to just dramatically alter the quality of water that people get in northwestern North Dakota. That is why Dakota Water Resources Act was so important because it provides the funding stream for those types of projects.

Anything that you want to add?

Mr. JAMISON. Just in conclusion I would say, people back east, inside the Beltway as we say, are aware that it is cold in North Dakota, and now they have become aware that there is water like that. They have not put the two together and realized that people are actually hauling water in that cold water that is like that, just to have some kind of a water supply. We want to bring that message back and help you as we together try to increase this bureau budget to an appropriate level.

Thank you, sir.

[The prepared statement of Mr. Jamison follows:]

Mr. Chairman, Members of the Committee:

My name is Warren Jamison, Manager of the Garrison Diversion Conservancy District. I am privileged to represent the largest water district this side of the Rocky Mountains. By holding this hearing, you have provided us with a timely opportunity to educate decision makers on the impact that the current budget request for Garrison and for the Bureau of Reclamation has on the effort to fight recession and provide reliable, affordable, quality water supplies to the citizens of North Dakota. Thank you.

I must start by recognizing that this nation is currently in the unenviable position of fighting two wars at the same time. We cannot look our children or grandchildren in the face and consider any alternative but to fight the war against the horrific potential of terrorism. We must be able to tell those children and grandchildren that we are fully committed to not only fighting this war, but winning it. As bad as terrorism is, the eventual result of a prolonged recession or depression is as bad, if not worse. If we do not win the war on recession, we will eventually be unable to wage the war on terrorism effectively, and we will suffer a slow, but certain and agonizing, demise. We have no choice but to fight to win both wars at the same time.

A strong economy is needed in order to support the defense program. This means we must continue our programs to maintain our infrastructure. The economy/business sectors depend not only on infrastructure in the form of transportation networks, communication systems and energy supplies, but most importantly, water supplies.

DISCUSSION OF OVERALL BUREAU OF RECLAMATION BUDGET

It is important to recognize that the FY2003 budget submission of $726 million for the Bureau of Reclamation's Water and Related Resources program is $80 million better than their request for FY2002. It is still, however, $36 million less than the amount that Congress provided last year, and $115 million less than has been called for by the "Invest In the West" Coalition, a coalition of nine western water organizations that are involved in the full array of western water issues.

The "Invest in the West" goal, one with which I agree, is to raise the Bureau's Water and Related Resources Budget to $1 billion by the end of FY2005. This is simply a goal to restore the budget to previous levels. The erosion of the Bureau's budget during the 90s has created problems across the west for virtually all of its constituents.

The Bureau of Reclamation reports that they have a $5 billion backlog of projects. The 106th Congress authorized $2 billion worth of water programs, of which the Dakota Water Resources Act was a major piece. I would also like to submit, for the record as Attachment 1, a report by the National Urban Agriculture Council, entitled "Withering in the Desert", which shows the Bureau of Reclamation's budget declining 36% from FY1991 through FY2000. The Invest in the West Coalition believes this modest ramping up of the present budget is necessary and appropriate in order to restore the program effectiveness of the Bureau and to meet the critical water needs in the west. In addition to the construction backlog, there is also a need to deal with future operation and maintenance funding needs in the program. This is particularly true in the operation and maintenance budgets for Native American projects. This element of the budget is

already in serious competition for construction dollars, as I will briefly illustrate during my discussion of the Garrison program.

As you look forward to funding for western water needs and the needs in our own state, I would like you to consider one other need that I believe could be addressed in the Bureau budget. There is a serious need for the Bureau of Reclamation, working with the states and the tribes, to conduct a water development needs assessment for the western states. We can't just look at today when we have a responsibility for tomorrow. We suggest you consider providing some modest funding to the 17 western states to update their state water plans so a comprehensive view on future development funding needs would be available to your Committee, as well as the respective authorizing and appropriations committees. It is a need that hasn't been addressed. The Western Water Policy Review Commission examined the issues, but not the funding necessary to address the current and future issues. I believe this is a vital missing link as Congress, the Administration and water users provide a vision and opportunities for future generations.

BUDGET IMPACTS ON GARRISON PROJECT

At this point, I would like to shift to the particulars of the budget as it impacts the Garrison program and some specific projects within the State of North Dakota. Let me begin by reviewing the various elements within the current budget request and then discuss the impacts that the current level of funding will have on the current program.

Attachment 2 shows the funding history over the last six years for the Garrison Diversion Unit. The average is approximately $26 million. The President's budget request for fiscal year 2003 is for $25.239 million. A continuation of that trend is a formula for disaster. The President's budget request maintains the historic funding level but ignores the needs of the current programs and does not keep up with the price increases expected in the major programs as delays occur. Fortunately, Congress saw fit to provide that the unexpended authorization ceilings would be indexed annually to adjust for inflation. The proposed allocations to the indexed programs in the President's budget totals $6.7 million. If a modest 2% inflation factor is assumed, the increase will be $8 million for MR&I and $2 million for the Red River Valley phase. Simply put, with the current request, we will lose ground on the completion of these projects.

This year, the District is asking the Congress to appropriate a total of $45 million for the Project. Attachment 3 is a breakdown of the elements in the District's request. To discuss this in more detail, I must first explain that the Garrison budget consists of several different program items. For ease of discussion, I would like to simplify the breakdown into three major categories. The first I would call the base operations portion of the budget request. Attachment 4 contains a breakdown of the elements in that portion of the budget. This amount is nominally $20 million annually. However, as more Indian MR&I projects are completed, the operation and maintenance costs for these projects will grow and create a conflict with a growing request for actual construction funding.

The second element of the budget is the MR&I portion. This consists of both Indian and non-Indian funding. The Dakota Water Resources Act contains an additional $200 million authorization for each of these programs. For discussion purposes, I have lumped them together and acknowledged that however each program proceeds, it is our intent that each reach the

conclusion of the funding authorization at approximately the same time. We believe this is only fair.

The MR&I program consists of a number of medium-sized projects that are independent of one another. They generally run in the $20 million category. Some are, of course, smaller and others somewhat larger, but one that is considerably larger is the Northwest Area Water Supply Project (NAWS). The first phase of that project is underway. The optimum construction schedule for completion of the first phase has been determined to be five years. The total cost of the first phase is $66 million. At a 65% cost share, the federal funding needed to support that program is $43 million. On the average, the annual funding for that project alone is over $8 million. Four other projects have been approved for future funding and numerous projects on the reservations are in the final stages of planning. These requests will all compete with one another. It will be a delicate challenge to balance these projects with one another. Nevertheless, we believe that once a project is started, it needs to be pursued vigorously to completion. If it is not, we simply run the cost up and increase the risk of incompatibility among the working parts.

An example of the former would be the certain impact of increased cost of construction over time through inflation but also by protracting the engineering and administration costs and "interest-during-construction" costs.

Another costly example might be that a part used in an early phase may no longer be available from manufacturers during the last phases. The risk of the two dissimilar parts not quite meshing in actual operation is, of course, increased when the project is stretched out over a longer period of time.

The third element of the budget is the Red River Valley (RRV) construction phase. The Dakota Water Resources Act authorized $200 million for the construction of facilities to meet the water quality and quantity needs of the Red River Valley communities. It is my belief that the final plans and authorizations, if necessary, should be expected in approximately five years. This will create an immediate need for greater construction funding.

This major project, once started, should be pursued vigorously to completion. The reasons are the same as for the NAWS project and relate to good engineering construction management. Although difficult to predict at this time, it is reasonable to plan that the RRV project features, once started, should be completed in approximately seven years. This creates a need for an additional $30 million as soon as authorized and a repayment contract is signed. Fortunately, the RRV project start will probably follow the completion of the NAWS first phase and possible later phases.

Using these two projects as examples sets up the argument for a steadily increasing budget. First, to accelerate the MR&I program in early years to assure the timely completion of the NAWS project and then to ready the budget for a smaller MR&I allocation when the RRV project construction begins.

Attachment 5 illustrates the level of funding for the two major items, MR&I and RRV. It is quickly apparent that if a straight-line appropriation is used for each, that a jolt or funding disaster will occur in the sixth year. That is when an additional $30 million will suddenly be needed for the RRV program. It is simply good management to blend these needs to avoid

drastic hills and valleys in the budget requests. By accelerating the construction of NAWS and other projects which are ready for construction during the early years, some of the pressure will be off when the RRV project construction funding is needed. A smoother, more efficient construction program over time will be the result.

Attachment 6 shows such a program. It begins with a $45 million budget this year and gradually builds over time to nearly $80 million when the RRV construction could be in full swing (FY08). Mr. Chairman, this is why we believe it is important that the budget resolution recognize that a robust increase in the budget allocation is needed for the Bureau of Reclamation. We hope this testimony will serve as at least one example of why we fully support the efforts of the "Invest in the West" campaign to increase the overall allocation by another $115 million in FY2003 and over time an increase to a total of $1 billion.

Once again, the District acknowledges the difficulty of increasing the numbers in a time of deficit spending, but can only conclude that these two wars must be fought vigorously and simultaneously. We cannot afford to fail at either.

Thank you for giving us this opportunity to appear before the committee today. I would be happy to attempt to answer any questions you may have.

Attachment I

ROGER WATERS
PRESIDENT
PETER CARLSON
VICE PRESIDENT / OPERATIONS
JIM BREZACK
VICE- PRESIDENT /PLANNING

NATIONAL URBAN AGRICULTURE COUNCIL
NATIONAL URBAN AGRICULTURE COUNCIL
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February 20, 2001

WITHERING IN THE DESERT:
THE NEED TO INCREASE THE BUREAU OF RECLAMATION'S BUDGET

Western water interests have been concerned for several years about the downward trend of the Water and Related Resources Budget of the U.S. Bureau of Reclamation, Department of the Interior. The Bureau's Budget has decreased more than 36% in ten years going from $899,378,000 in FY91 to $573,612,000 in FY2000. During the five-year period covered by the tables attached to this report, it was reduced by $106 million.

In order to address the backlog in the Bureau of Reclamation that is discussed later in this report, we suggest a $1 billion a year budget be provided for the Water and Related Resources account in their budget so that important needs in the West are adequately addressed.

During the time frame of FY91-FY2000, Congress has passed new project and program authorizing legislation for the Bureau such as the Reclamation Projects Authorization and Adjustment Act of 1992 and projects in the Omnibus Consolidated and Emergency Supplemental Appropriations for FY2001. Freestanding authorization bills in the 106th Congress totaled $2 billion, giving the Bureau of Reclamation a $5 billion backlog of authorizations to be incorporated into their Budget. This backlog includes the Title 16 Water Reclamation and Reuse Program and the California Bay-Delta Ecosystem Restoration Program.

In 1997 the Bureau published its five-year Strategic Plan pursuant to the Government Performance and Results Act (GRPA) of 1993. Western water organizations participated in discussions and development of the plan and on the subsequent Annual Plans for the Bureau. The Strategic Plan had three primary objectives coupled with eighteen strategies and five-year goals for each of the strategies. Their mission, in its simplest terms, is broken down as follows:

A. Manage, develop, and protect associated water related resources;
B. Protect the Environment in the West;
C. Improve business practices and increase employee productivity.

We do not believe the Bureau should unilaterally redefine its mission. First, its original mission isn't finished. Second, defining the mission of a Federal agency is the prerogative of Congress, not the agency itself. In June of 1998, Congress was presented with a report from the Western Water Policy Review Advisory Commission: "Water in the West: Challenge for the Next Century". Western water interests concerns with the decline of the Bureau's Budget are matched by their concern of how to address the growth-related issues in the West. As the report notes:

"For the past 15 years, the West has been experiencing the most dramatic demographic changes for any region or period in the country's history. Should present trends continue, by 2020 population in the West may increase by more than 30 percent."

With that growth is a little recognized fact: The Bureau of Reclamation is about to celebrate its 100th birthday. The Bureau of Reclamation is responsible for the largest portion of water storage in Federal reservoirs in the West; an ever-increasing aging infrastructure. Reclamation has sole responsibility for the operation of reservoirs with a total capacity of more than 119 MAF and shares responsibility for the operation of reservoirs with an additional 16 MAF.

There are about 133 water projects in the western United States constructed by Reclamation. As a result, the Bureau of Reclamation's operation and maintenance budget, just like that of the U.S. Army Corps of Engineers is increasing at a substantial rate. Just as the backlog of projects needs to be accommodated, there is a need to recognize the operations and maintenance budget with future Budget increases.

Attached is a table for FY's 1996-2000 budgets for each of the major agencies in the Department of the Interior. All of these agencies are funded by the Interior Appropriations Bill. The Bureau of Reclamation is funded by the Energy and Water Appropriations Bill, which also funds the U.S. Army Corps of Engineers and the Department of Energy. However, when viewed by the Administration and the Department of the Interior, the Bureau of Reclamation is included in the Department's framework for decisions on increases or reductions to the overall Department's Budget even though it is funded by a different appropriations account.

There is great concern among Western water interests about the downward trend of the Bureau's Budget. There is a general consensus that a minimum of $1 billion a year is needed to address ongoing programs and the growing backlog of the Bureau. This is necessary for the West to address its growth related issues. Given the information presented in the attached tables, every agency except the Bureau of Reclamation and the Minerals Management Service received a Budget increase, ranging from $30 million to $500 million during these five fiscal years. The Bureau of Reclamation has suffered a $106 million decrease. We feel a change needs to occur, especially since there was a combined increase of $1.3 billion for these agencies during the FY96-2000 time frame. This time frame incidentally coincides with the 5-year Balanced Budget Agreement where a vast majority of other agencies programs were being reduced. In addition, Congress has provided money through Conservation and Reinvestment Act (CARA)-type programs in the FY2001 budget that, just for the Interior related budget non-Reclamation program, amounted to $678 million. This funding is only expected to increase in the future once the actual authorizing legislation passes Congress.

There is also a growing recognition that in the 107th Congress, there is a strong likelihood of an additional $3 to $7 billion of authorizations being proposed for the State of California. These include new authorizations for CAL-FED, a comprehensive water management program for the Santa Ana Watershed, the Salton Sea, and a water reuse/recycling program for various parts of California. There are also growing program needs in the Pacific Northwest with respect to addressing salmon related issues.

A careful note needs to be made about the $3 billion backlog for the Bureau that existed prior to the action in the 106th Congress. A small portion of that backlog may be reduced as a result of the legislation that passed in the 106th Congress. For example, the old cost ceiling for the Animas LaPlata (ALP) is in the $3 billion backlog. The legislation that passed the 106th Congress for ALP reduced the cost of the project substantially. There are further examples of features of projects in that backlog that will likely never get built, but Congress has taken no action to suggest that they should be modified or deleted.

In addition, a report last year by the firm of Will & Carlson, Inc. - "The Greening of the Bureau of Reclamation: From Bird Seed to Pistachio Farms to Life on the Edge" reviewed the Bureau of Reclamation's budget from FY91-99 regarding loans, grants and cooperative agreements for less than $2 million. That report indicated during that period, approximately $750 million had been provided for a variety of activities. The vast majority of these activities were legitimately related to specific project or program authorizations of the Bureau of Reclamation, as well as activities directly related to other Federal requirements and activities, such as the Endangered Species Act and Indian Water Rights Settlements. Without making a value judgment call, there was funding provided for maybe as much as 20% of this total that might be questionable. Regardless, the information is now available so that Congress, if they so choose, can decide on whether such activities should continue in the future. It is important to recognize the dollar amount that is necessary for the environmental challenge for water development to occur to meet the future water needs in the West.

In conclusion, with the growth related issues in the West, the backlog of projects, the downturn in the Bureau's Budget, the overall increase in almost all of the other Interior Agencies, and with the country now in a budget surplus period, it is time to increase the Bureau's Budget to a level that meets this challenge. It is time to turn the corner on the funding for the Bureau and put it on a course so the West is not left withering in the desert.

Prepared By: Peter Carlson

Vice President for Strategic Planning
The National Urban Agriculture Council

For additional information about NUAC, please see our Internet web site at http://www.nuac.org.

106th Congress
Bureau of Reclamation Bills/Provisions That Became Law

Reclamation-Wide

Reclamation Reform Act Refunds, Public Law 106-377
Dam Safety amendments, Public Law 106-377
Hawaii Reclamation and Reuse Study, Public Law 106-566

Great Plains Region

Perkins County Rural Water Supply Project, Public Law 106-136
Rocky Boys Indian Water Rights Settlement, Public Law 106-163
Lewis and Clark Rural Water Supply, Public Law 106-246
Middle Loup Title Transfer, Public Law 106-366
Northern Colorado Title Transfer, Public Law 106-376
Glendo Contract Extension, Public Law 106-377
Canyon Ferry Technical Corrections, Public Law 106-377
Loveland Warren Act amendment, Public Law 106-377
Fort Peck Rural Water Supply, Public Law 106-382
Park County land conveyance, Public Law 106-494
Palmetto Bend Title Transfer, Public Law 106-512
City of Dickinson, North Dakota Bascule Gates Settlement Act, Public Law 106-566
Dakota Water Resources Act, Public Law 106-554
Lower Rio Grande, Public Law 106-576

Upper Colorado Region

Central Utah Project Completion Act, Public Law 106-140
Carlsbad Title Transfer, Public Law 106-220
Jicarilla Apache Feasibility Study, Public Law 106-243
Weber Basin Warren Act Amendment, Public Law 106-368
Upper Colorado Fish Recovery, Public Law 106-392
Colorado River salinity, Public Law 106-459
Mancos (Warren Act Amendment), Public Law 106-549
Colorado Ute Settlement Act Amendments, Public Law 106-554

Lower Colorado Region

Griffith Title Transfer, Public Law 106-249
Ak-Chin Indian Water Rights Settlement, Public Law 106-285
Hoover Dam Miscellaneous Sales, Public Law 106-461
Yuma Port Authority Transfer Act, Public Law 106-566.
Wellton Mohawk Title Transfer, Public Law 106-221

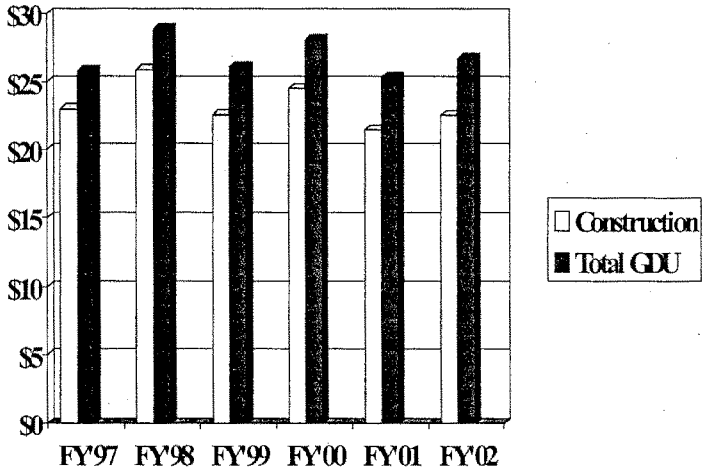
Pacific Northwest Region

Deschutes, Public Law 106-270
Minidoka Authorization Ceiling Increase, Public Law 106-371
Chandler study, Public Law 106-372
Nampa and Meridian Title Transfer, Public Law 106-466
Cascade Reservoir Land Exchange, Public Law 106-493
Bend Feed Canal, Public Law 106-496
Salmon Creek Studies, Public Law 106-499
Fish Screen, Public Law 106-502

Mid-Pacific Region

Sly Park Title Transfer, Public Law 106-377
Solano Project Warren Act amendment, Public Law 106-467
Sugar Pine Title Transfer, Public Law 106-566
Clear Creek Title Transfer, California, Public Law 106-566
Colusa Basin, California, signed 12/23/00, signed 12/23/00, Public Law 106-566
City of Roseville, CA, signed 12/23/00, Public Law 106-554
Truckee Water Reuse Project, Public Law 106-554
Sacramento River study, Public Law 106-554
Klamath studies, Public Law 106-498.

Garrison Diversion Unit
Funding History
($ Millions)



Attachment 2

ATTACHMENT 3

JUSTIFICATION FOR $45 MILLION GDU APPROPRIATION
FY 2003

Northwest Area Water Supply is cleared for construction after 15 years of study and diplomatic delay. Construction of first phase is estimated to be $66 million.

Designs are based on a five-year construction period, thus, $12 million is needed for NAWS alone. Indian MR&I programs should be approximately the same.

McKenzie County, Ramsey County expansion, Tri-County and the Langdon-Munich phase will be ready but may be funded from carryover of existing appropriations.

Red River Valley special studies are behind schedule and need to be accelerated.

OPERATION AND MAINTENANCE OF INDIAN MR&I SYSTEMS PLUS JAMESTOWN DAM	**$ 4 million**

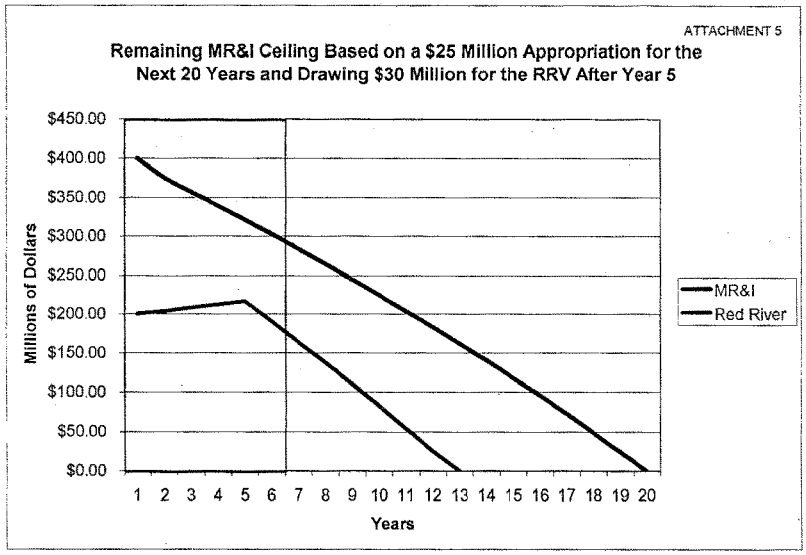
BREAKDOWN OF $45 MILLION CONSTRUCTION REQUEST

Operation and Maintenance of existing Supply system	$ 5 million
Wildlife Mitigation & Natural Resources Trust	$ 4 million
Red River Valley Special Studies and Env. Analysis	$ 4 million
Indian and non-Indian MR&I	$20 million
Indian Irrigation	$ 3 million
Recreation	$ 1 million
Underfinancing 9.5%	$ 4 million
Total for Construction	**$41 million**
Grand Total	**$45 million**

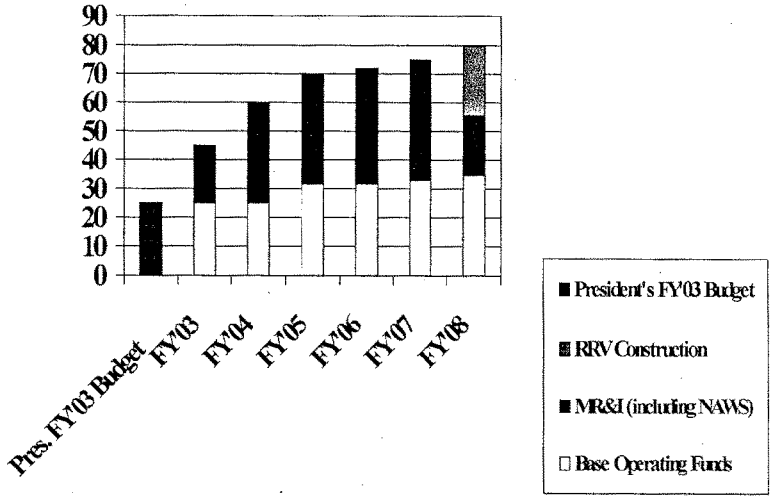
ATTACHMENT 4

ELEMENTS OF THE BASE OPERATIONS PORTION OF THE GARRISON DIVERSION UNIT BUDGET FY 2003

1) Operation and Maintenance of Indian MR&I systems and Jamestown Dam	$ 4.5 mill
2) Operation and Maintenance of Existing GDU facilities	$ 5.0 mill
3) Funding of Natural Resources Trust and remaining Wildlife Mitigation Programs	$ 4.0 mill
4) Indian Irrigation	$ 2.5 mill
5) Recreation	$ 1.0 mill
6) Underfinancing at 9.5%	$ 4.0 mill
Total	**$21.0 mill**


ATTACHMENT 5
Remaining MR&I Ceiling Based on a $25 Million Appropriation for the Next 20 Years and Drawing $30 Million for the RRV After Year 5
$450.00
$400.00
$350.00
$300.00
$250.00
$200.00
$150.00
$100.00
$50.00
$0.00
Millions of Dollars
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20
Years
MR&I
Red River

Garrison Diversion Unit
Annual Appropriations
($ Millions)



Attachment 6

Chairman CONRAD. Thank you. Thank you very much.

Next we will go to Mike Dwyer. Let me again say to Mike who much I appreciate what you have done. As I indicated earlier, at a critical moment in the Dakota Water Resources Act, it was very—frankly, everything was at risk because holding the coalition back here together was extremely difficult. Nobody did a better job of helping do that than Mike Dwyer, the executive vice president of North Dakota Water Users. Welcome.

STATEMENT OF MIKE DWYER, EXECUTIVE VICE PRESIDENT, NORTH DAKOTA WATER USERS ASSOCIATION

Mr. DWYER. Thank you, Senator Conrad. I think you are generous in your compliments but I too, like Warren, want to thank you for being such a champion for water in North Dakota. Warren said he was glad to be anywhere. Usually what he says is, wherever you go, there you are. I feel that way too.

I have testimony that addresses the various water infrastructure needs that we have, rural water, people hauling water and using the kind of water quality that is unfit for human consumption, addresses the Devil's Lake situation, the Grand Forks flood, Grafton, Wahpeton, the Missouri River. I would like to not go through all of that testimony because it has been talked about here and would be a little bit repetitive. But the testimony can be entered for the record and it does state the need that we have in those various areas.

But what I would like to do is just draw your attention to the front page of my testimony. Before I begin I would like to acknowledge the presidents of three statewide water organizations that are here, and Dave, maybe yours is here too. I am not sure. But Loren Zimmer is president of the North Dakota Waters Users Association, Glen McCrory is president of the North Dakota Water Resource Districts Association, and Herb Grenz is the chairman of the North Dakota Irrigation Caucus.

Chairman CONRAD. Thank you all. Thanks for being here. We appreciate very much what you do and we appreciate all the effort that you extend to have a water future for North Dakota that is much better than the past.

Please proceed.

Mr. DWYER. I write the editorial page for the North Dakota Water magazine most months and one thing that I have mentioned many times is I have six children and the oldest is just a senior in college now and I would like them to have an opportunity to stay in North Dakota if those opportunities present themselves. We certainly want them to have the freedom to live wherever they choose, but if North Dakota is it we would feel bad if they could not make North Dakota their home simply because the opportunities were not here.

Water infrastructure is key to that. Water infrastructure, whether it be the flood control, whether it be the water supply, whether it be the Missouri River management, whatever it might is just critical. And you have been such a champion for that.

But if you look at the front page of the testimony that I have what I would like to emphasize is that when you present the needs that have been outlined here today you can state with certainty

and resolve that you have North Dakota behind you in seeking to meet those needs.

The North Dakota Water Coalition, which the North Dakota Water Users is a member of, consists of about 30 statewide and regional organizations that were formed for one purpose, and that is to complete North Dakota's water infrastructure for economic growth and quality of life. If you look at the organizations that are listed on that front page you will see that we have the Associated General Contractors, we have all of the major cities, we have the Economic Development and Greater North Dakota Association, the county commissioners, the Association of Rural Electric Cooperatives, the Education Association, the farm groups, the water organizations and the Three Affiliated Tribes.

This morning we met and we endorsed the funding plan that Warren has presented to you on the Bureau of Reclamation. We endorsed a funding plan for the yellow sheet that you have on your table there. It is broken into three categories. One is the flood control needs. You asked the colonel about the Grand Forks request of $75 million or the capability of $75 million, and Grafton, Fargo, and Wahpeton. We have not only fiscal year 2003 set forth there but also other years, outyears, and some of the totals.

We have the Devil's Lake outlet there. I do want to mention that with Devil's Lake it is not just the outlet and the levee. They have a water supply issue where their water supply is under the lake. It is underwater, so if there were to be a break in that system they would simply be out of water. So that is a critical need that is not addressed in any budget currently.

Then the Missouri River. Much of the attention is addressed toward the master manual, but if the proposal that North Dakota and other States are supporting is adopted there is going to be additional bank stabilization and bank protection issues that arise. That is often the forgotten child of the Missouri River, so to speak. But we would like to see the Omaha division of the corps provide greater attention to the bank issues that you have certainly been involved in trying to address.

Chairman CONRAD. Can I just stop you there and say I want to get this point into the record before we lose it. I would hope this spring that we would invite together the head of the Omaha district to go with us on a trip along the Missouri and review the issues that we have been pointing to in the past. As you know, we had passage of legislation to begin to deal with the sedimentation problem on the Missouri. That requires funding. You have got here $2.5 million a year.

Mr. DWYER. For a 10-year period.

Chairman CONRAD. For a 10-year period. That is a $25 million commitment and that is roughly in line with what we have identified in the past as what we should be doing. I would hope that you would join with me in an invitation to the Omaha district to come here this spring or perhaps early this summer and go up to some of the spots that we have identified and try to get a commitment from them. Would you be willing to do that?

Mr. DWYER. Absolutely.

Chairman CONRAD. One other thing that I noticed here was this Fargo southside project. Now there is $14 million in 2004. What is that? And 2005 as well.

Mr. DWYER. Senator Conrad, I have some comments in my testimony on that and the representatives of the city of Fargo are here and could address that in more detail if you would like.

Chairman CONRAD. I think we should get that into the record on the southside project. Pat? Why don't you identify yourself for the record.

Mr. ZAVORAL. I am Pat Zavoral. I am city administrator for the city of Fargo. As you know, in 1997 we were at risk from overland flooding from the Wild Rice River, which comes in south of Fargo, as well as the Red River. We have had an engineering study that has been underway since then with Moore Engineering. What has transpired is that initially we thought it was about a $20 million project. There were some funds that were available through the State and FEMA. What we discovered is that if we want to do the job right and protect the people on the wrong side of the dike that the project is going to be in the $35 million to $40 million range.

Chairman CONRAD. That is what kind of stopped me when I saw these numbers because they are bigger numbers than were in my head for that project, and I knew something must have happened.

Mr. ZAVORAL. So what we would like to do, it has become such a magnitude that we would like to have the corps take a look at it and include it in their funding.

Chairman CONRAD. Yes, that is a big number. This is to deal with closing the back door.

Mr. ZAVORAL. That is correct.

Chairman CONRAD. Because you have got flooding threat from the river. You have also got flooding threat coming back from the other direction.

Anything else that you want to add, Mike?

Mr. DWYER. No. In conclusion, certainly all of North Dakota will benefit from funding that assures adequate water supplies. You mentioned the southwest pipeline and what it has done for that area. We have the same need in the NAWS area and southeast, northeast, some of the rural water areas. The failure to fund the critical water needs in our State would jeopardize not only our economic growth but our quality of life.

So we appreciate your support and on behalf of the water coalition and all the groups that have endorsed the bureau and for funding recommendations we will support you in every way that we can.

[The prepared statement of Mr. Dwyer follows:]

Testimony of
Michael Dwyer
Executive Vice President
North Dakota Water Users Association
Before Senate Field Budget Hearing
February 20, 2002

I. INTRODUCTION

Senator Conrad, thank you for the opportunity to talk to you today about the critical water needs in North Dakota. My name is Mike Dwyer and I am the Executive Vice President of the North Dakota Water Users Association. I am speaking today on behalf of grassroots water users and members across North Dakota. We currently have more than 1,000 members representing individuals, businesses, water districts, irrigators and companies across our great state of North Dakota.

The North Dakota Water Users has joined together with other statewide and regional organizations to form the North Dakota Water Coalition, which is a coalition of regional and statewide organizations in North Dakota that have come together for the purpose of completing North Dakota's water infrastructure for economic growth and quality of life.

The North Dakota Water Coalition has adopted a federal funding plan for both the Bureau of Reclamation and the Army Corps of Engineers to meet North Dakota's water needs. The Water Coalition includes the following groups:

Associated General Contractors of North Dakota
BOMMM Joint Water Resource Board
Cass County Joint water Resource Board
City of Bismarck
City of Devils Lake
City of Dickinson
City of Fargo
City of Grand Forks
City of Minot
City of Williston/Upper Lake Sakakawea Planning Co.
Devils Lake Basin Joint Board
Eastern Dakota Water Users
Economic Development Association of ND
Garrison Diversion Conservancy District
Greater North Dakota Association
ND County Commissioners Association
North Dakota Association of Rural Electric Coop.
North Dakota Atmospheric Resource Board
North Dakota Education Association
North Dakota Farm Bureau
North Dakota Farmers Union
North Dakota Irrigation Caucus
North Dakota league of Cities
North Dakota Municipal Bond Bank
North Dakota Rural Water Systems Association
North Dakota State Water Commission
North Dakota Water Resource Districts Association
North Dakota Water Users Association
North Dakota Weather Modification Association
Red River Joint Water Board
Souris River Joint Water Resource Board
Southwest Water Authority
Three Affiliated Tribes
West River Joint Water Board

Government does a better job of responding to disasters than it does in preparing for those situations in advance. Those of us involved in water in North Dakota can easily see that we are facing critical water shortages across our state in the future, particularly in eastern North Dakota. We can also see those people who simply do not have enough water today. We also can see those areas where the water quality is not fit to drink. It is for these reasons that there is such strong and broad-based support in North Dakota for funding of the federal share to address our water infrastructure needs.

Our greatest need is to provide the citizens of the Red River Valley with a long-term water supply. This includes citizens who live in our neighboring state of Minnesota.

We also have a critical need to provide a water supply to our Indian reservations, and to other areas across our state where there is either no water or the water is of such poor quality it is unsuitable for human and animal use.

Unless you toil under the necessity of hauling water for human use, or unless you simply put up with the consequences of water that is unsuitable for human use, it is hard to envision the need to complete a water supply infrastructure.

We must find the best solution for a dependable, affordable, and safe water supply for current and future generations of North Dakotans. Doing so means the delivery of water from the Missouri River throughout the state. This can be done with projects such as the Southwest Pipeline, the Northwest Area Water Supply project, the Garrison Diversion to eastern North Dakota, as well as numerous smaller projects for cities and rural areas all across the state. Furthermore, and as important, completing these projects will allow North Dakota to protect its valuable Missouri River water rights.

We also have critical needs for flood control, recreation, water supply, bank stabilization and fish and wildlife in every water basin in the state.

One critical water management need facing the state is the tremendous flood problem at Devils Lake. Local, state, and federal officials have cooperated to find solutions to

relieve the flooding, which have caused more that $300 million of damages since June of 1993. Solutions include infrastructure protection, upper basin management, and an outlet to the Sheyenne River. Downstream impacts are being addressed on the Sheyenne and Red Rivers, and plans for mitigation are being developed.

Everyone must cooperate to meet the challenge of providing safe, affordable, and reliable water to our citizens, and to address our water management needs. There are problems occurring in all corners of the state and there is agreement that cities, rural areas, agricultural interests, conservationists, and water managers can solve these problems working together. However, federal funding is critical.

Today we have divided our testimony into two parts. Warren Jamison will address federal water funding needs for the Bureau of Reclamation, and I will address federal water funding needs for the Army Corps of Engineers.

II. BUREAU OF RECLAMATION

Testimony of Warren Jamison

III. CORPS OF ENGINEERS

Besides water supply, we have critical water management and flood control needs which require federal assistance. These needs include Devils Lake, Grand Forks and Red River flood control, Missouri River management and bank protection, and other needs.

A. Grand Forks Flood Protection Project General Information and Funding Needs

The Grand Forks/East Grand Forks Flood Protection Project was authorized by the federal government in December of 1998. It is designed to protect both cities from floods of a similar magnitude to the 1997 disaster, which caused billions of dollars in damage and forced the evacuation of almost 60,000 residents. The Grand Forks portion of the project consists of 13 miles of levees and floodwalls and a small diversion channel. The total project is currently estimated to cost $410 million. Construction began in 2000 and is scheduled for completion in December of 2004.

The need for the project is evident not only from the 1997 catastrophe, but also from the areas long history of flooding. Community officials plan for and wage a flood fight every year, sometimes at great expense. For example, the 2001 flood fight and cleanup cost an estimated $3 million for the two communities and predictions at one point called for a crest only 4 feet lower than the 1997 disaster. Although weather patterns changed and the actual crest was several feet lower than that, much work had already been done in anticipation of the higher water. In the last 10 years, the Red River has exceeded flood stage 9 times, requiring some kind of flood fight effort.

The psychological effects of these flood fights on the community cannot be underestimated. After the 1997 flood, there was an increase in violence in the community, as residents tried to deal with the intense emotions of losing their homes, belongings, and/or sense of security. Agencies reported a 30 percent increase in domestic violence and a 40 percent increase in the number of protection orders obtained. Hundreds of families also emptied out their basements in 2001, fearful of the rising water. The new protection system is crucial in re-establishing a sense of security for residents.

Also crucial to residents' well-being is completing the project as soon as possible. The project is currently scheduled for substantial completion in December of 2004, although this timetable is highly dependent on adequate annual federal appropriations. In order to meet the December 2004 substantial completion date, the project needs a federal appropriation in fiscal year 2003 of approximately $75 million. The schedule was set in the hope of completing the project before FEMA remaps the 100 year flood plain in the Grand Forks/East Grand Forks area. Early indications are that the new 100 year flood plain would include thousands of new properties, forcing residents to pay millions more dollars in flood insurance. Local officials are seriously concerned that this will cause severe economic hardship for many businesses and families, who must pay approximately $77 million in special assessments and property and sales taxes for the local share of the permanent flood protection project. In addition, many Grand Forks families and businesses are still paying off loans from the community's previous disasters. According to the SBA Office of Disaster Assistance in Washington D.C., there are still 2,909 total loans outstanding from Grand Forks and the surrounding counties affected by the flood disaster declarations since 1997 with a total of $31.5 million still to be paid.

The benefits of completing this project by December of 2004 extend not only to the local community, but also to the state and federal governments as well. Not only is Grand Forks the third largest city in North Dakota and an important economic generator, but the state has millions of dollars in buildings and property in the community - most notably in the University of North Dakota, the state's largest institution of higher learning. Protecting these investments is part of the reason the state is helping to fund the permanent project. The federal government benefits as well, since the city receives federal assistance for many of its flood fights. After the 1997 disaster, the city received approximately $500 million in FEMA disaster assistance funds and another $171 million in Community Development Block Grants to help try and rebuild what was lost. Protecting Grand Forks as soon as possible will save local,

state, and federal dollars.

B. Funding for Emergency Water Source and Treatment for Devils Lake

1. Water Supply.

In the past decade, the city of Devils Lake has faced many challenges resulting from the flooding of Devils Lake. Responses to these challenges have included the construction of a levee to protect infrastructure, raising of roads to maintain adequate transportation routes, relocation of hundreds of homes and abandonment/relocation of numerous utilities. The rising lake is now threatening the city's drinking water supply.

The city of Devils Lake currently owns and operates an 80-acre well field located on the Spirit Lake Nation approximately 18 miles southeast of the city. Water is pumped through a single 16-inch transmission pipeline from the wells to a storage reservoir in the southeast part of the city. Approximately one-third of this transmission pipeline is currently covered by the rising waters of Devils Lake. Included within the six miles of flooded transmission line are numerous gate valves, air relief valves and blow-off discharges. Due to the significant amounts of water over these valves (many are submerged by 25 feet of lake water) and the difficulty of locating leaks underneath the lake, a failure of any portion of the system underwater would result in a loss of water supply to the city for an indefinite period of time.

This threat is very real. The transmission line has been in service for over 40 years, thereby leaving it susceptible to leaks and other maintenance challenges. Much newer water systems in the area have experienced several valve failures due to corrosive soils eroding bolts holding the valves together. Since the transmission pipeline is normally operated under relatively low pressures and is under considerable depths of water in some locations, even a relatively minor leak could cause significant alarm as the pressure differential between the interior and exterior sides of the pipeline could allow untreated saline lake water to enter the city's potable water supply.

Though the inundation of the city's transmission line poses an immediate threat to the city, a recently finalized and anticipated stricter regulation of Arsenic and Radon will force the City to implement appropriate treatment technology to maintain compliance with the Safe Drinking Water Act. A recent level of Arsenic detected within the city's drinking water was 40 ppb. This level will need to be reduced to below 10 ppb by January 2006 to remain within compliance.

The city is also concerned about the long-term viability of its current water source. The Spirit Lake Nation has developed a well field in the vicinity of the city's wells and additional funding is anticipated in the near future to increase the Spirit Lake Nation well capacity to meet the demands of their expanding rural water system. There is some concern as to whether the Warwick Aquifer would be able to provide an adequate water supply to both entities during extreme drought conditions. Depending on the ensuing interpretation of water appropriation and sovereign nation legislation, the city of Devils Lake may not have an acceptable level of water supply protection to meet its needs in

the future.

In response to these challenges the city is working with the State Water Commission to identify potential alternative sources for its water system. Preliminary estimates for new water source development and treatment is near $30 million. Last year the city submitted a project ranking questionnaire to the ND Department of Health for enlistment on the Intended Use Plan under the Drinking Water State Revolving Fund (DWSRF) program. Due to the critical nature of the project, the city is ranked first on their project priority list.

The city of Devils Lake is requesting assistance to secure emergency appropriations and/or grant funding to reduce the local financial burden of providing a reliable potable water supply to our community. Without a significant amount of emergency or grant funding, the city of Devils Lake cannot reasonably afford the level of debt associated with sufficiently meeting its current water system challenges. Pending the development of adequate funding, the city has planned to commence with the final design and bidding phases in 2002 with construction taking place in 2003 and 2004.

2. Flooding/Devils Lake Outlet

This testimony will not further address the critical flooding problems created by Devils Lake water levels. This is not a one-time spring flood, but a permanent ongoing disaster. We are disappointed that the Presidents budget did not include funding for a permanent Devils Lake outlet, and our finding plan recommends that this funding be provided.

C. Missouri River

1. Missouri River Concept/Comprehensive Plan

In 1998 the Missouri River Coordinated Resource Management Program was established. This program brought together the Missouri River stakeholders to discuss issues related to the North Dakota reach of the river. One of the results of numerous meetings was the identification of a need for a comprehensive plan for the Missouri River corridor. The first phase of this effort is the development of a concept plan. This effort is now underway at an estimated local cost of $60,000. When the concept plan is completed and with the concurrence of the Morton, Burleigh, Oliver, McLean and Mercer counties, a full comprehensive plan will be developed.

The BOMMM Joint Board and the North Dakota Water Education Foundation are coordinating this effort with the five counties. Funds in the amount of $600,000 will be required to complete a full comprehensive plan. The plan, when completed, will guide future development, conservation/historic easements, and bank protection measures along the Garrison reach of the Missouri River to prevent a loss in economic, agriculture, aesthetic, environmental, recreational, and natural resource values of the river.

2. Missouri River Geographical Information System

In April 1999 the Missouri Assessment Program (MAP) Technical Group, which is a part of the Missouri River Coordinated Resource Management Program, issued a report outlining assessment needs for the Missouri River corridor. This report identified the need for a Geographical Information System to provide baselines to monitor effects of development activities in the river corridor. Presently many agencies are developing data. As an example, the Natural Resources Conservation Service is developing soils data layers, the U.S. Fish and Wildlife Service wetland layers, Burleigh and Morton County 100-year - 500-year flood plain, the Department of Transportation the roads layers.

The State Water Commission and the North Dakota Information Technology Department are presently setting up a data storage hub. They have assisted the BOMMM Board and the North Dakota Water Education Foundation in setting up a web site at www.swc.state.nd.us where eventually all the Missouri River corridor data can be easily accessed through Missouri River special projects. Funds in the amount of $500,000 to $750,000 are needed to complete the GIS efforts in the areas of digitizing, equipment, staffing, and storage, and to provide easy access to the public via the internet.

3. Section 33 EIS.

Funding in the amount of $600,000 is needed to complete the environmental impact statement on cumulative impacts of bank stabilization measures. We urge that his EIS be completed in FY 2003 so that we can again begin to address serious bank erosion problems along the Missouri River. We also urge that Section 33 be amended so that the Corps does not eliminate all bank protection measures based on its economic evaluation of such measures.

4. Missouri River Bank Stabilization

Bank erosion and stabilization is a major issue on the Missouri River corridor. The stakeholders have worked on this issue through the CRMP Vision Group and the MAP Technical Group. The negative effects of this erosion are numerous and varied. The delta buildup on the Oahe reservoir, the negative effect on the Bismarck-Mandan flood plain, the loss of high bottomland, the loss of hydroelectric generation, and the negative effect on recreational boating and fishing are all examples of concern.

Funds are needed in two areas. First, a bank stabilization demonstration/study site. Second, the stabilization of other critical erosion areas along the Missouri River. The MAP Technical Group has been working on identifying a demonstration site and developing the study perimeters. The project installation cost and ongoing monitoring and reports are estimated to cost $1 million. This effort will provide more insight on the cumulative effects of bank stabilization.

Sedimentation is a major problem throughout the Missouri River system. The Corps of Engineers December 2001 "Missouri River-Fort Peck Dam to Ponca State Park

Geomorphological Assessment Related to Bank Stabilization" provides an excellent insight to the degree of erosion and its effects.

IV. CONCLUSION

All of North Dakota will benefit from funding that assures adequate water supplies to areas in need. Failure to fund critical water needs in our state will jeopardize our economic growth and our quality of life.

We respectfully request your support for additional federal funding for the Bureau of Reclamation and the Corps of Engineers for the federal share of the critical water supply and water management needs we have outlined in our testimony.

Chairman CONRAD. I appreciate that very much. Just for those who are here, the numbers that are on this yellow piece of paper are in three broad categories: Federal flood control funding needs. The total for the next five years is $216 million just in those areas. I can tell you this is not—sometimes you come to these hearings and sometimes you are sitting in the audience and wonder, are these guys just making up numbers, or is this people asking for huge amounts of money hoping to get half as much? That is not the situation. I can tell you the biggest chunk of that, $150 million, is for Grand Forks.

Judy, have you inflated these numbers?

Ms. DES HARNAIS. No. That is the numbers as they have been.

Chairman CONRAD. So you are not just putting in some wish list here, Colonel Ball?

Colonel Ball. No, sir. Sir, from experience, and you have more experience in this than I do, we normally come back to you and say we need more money rather than—we asked for this, you gave us only this much.

Chairman CONRAD. So that is not low-balling here. I want to make this very clear for the record. Your answer on the record is you need $150 million to complete the work at Grand Forks.

Ms. DES HARNAIS. The remaining right now of Federal funds is $94 million. $150 million was the total but we already had some money this year, so the whole need is $94 million right now.

Chairman CONRAD. Grafton, what is the total five-year need there? $24 million here.

Let us go back to Grand Forks. If we get $75 million this year we would be pretty close to being done.

Ms. DES HARNAIS. Let me back up. The $30 million is in addition to the $94 million.

Colonel Ball. Yes, it is in addition. We say $94 million on top of the $30 million we have already got. So if we get another $45 million to bring us to $75 million in 2003, then we would need I think $45 million the next year and we expect another $20 million to $25 million on top of that. So probably another $70 million in 2004.

Chairman CONRAD. So let us make very clear here. I do not want any confusion in the record here. How much additional Federal money do you need to complete Grand Forks?

Colonel Ball. $45 million in 2003, which we have the capability—

Chairman CONRAD. $45 million on top of the $30 million.

Colonel Ball. On top of the $30 million, yes, sir.

Chairman CONRAD. Let us use totals because—

Colonel Ball. Okay, sir, $75 million.

Chairman CONRAD. $75 million for 2003.

Colonel Ball. Using the approved construction estimate in 2004 we would need another $45 million. However, because projects or bids have been coming in high the estimate is it is another $25 million on top of that. So 2004 we are looking at $70 million.

Chairman CONRAD. So now we are up to $145 million. Then beyond that?

Colonel Ball. That finishes the project as I understand it.

Chairman CONRAD. So $145 million.

Let us talk about Grafton. What is your five-year cost there? On this sheet it has got $24 million. What is your five-year estimate

there? When I go back there I want numbers that are absolutely gold-plated. I do not want anybody coming in the back door and saying, Conrad is up to his old tricks here, high-balling it and then negotiates down. I want numbers here that—

Colonel Ball. Total estimated Federal cost, sir, is $22.45 million.

Chairman CONRAD. $22.45 million.

Colonel Ball. The balance that we need, realizing there is nothing in 2003, is $21.314 million. That is what we need totally from Federal to complete the project.

Chairman CONRAD. Fargo; I do not think that—

Colonel Ball. Sir, I do not have anything on Fargo, but—

Chairman CONRAD. —it is fair to ask you at this point because we just got new information here. Thank you, Pat. Thank you for being here, and thank you for giving that to us because we have got to put that into these overall assessments.

Wahpeton, I have got a number of $5.4 million.

Colonel Ball. I am going to have to defer to Judy on that. That is in a Section 205, sir. I think that sounds familiar but I am going to have to let Judy—

Ms. DES HARNAIS. I do not know that we have a full sheet of the needs. I know that next year's need is $2.7 million.

Chairman CONRAD. $2.7 million?

Ms. DES HARNAIS. Yes.

Colonel Ball. Which brings us to $5.4 million.

Ms. DES HARNAIS. No, that is the total for 2003. I do not know what 2004 is.

Chairman CONRAD. We have got here $3 million for 2004.

Ms. DES HARNAIS. That sounds about right but I do not have the number.

Chairman CONRAD. Maybe you can get back to me with those things.

All right, the others, the Devil's Lake outlet, those numbers we agree on. Devil's Lake water supply. Have you got those numbers?

Colonel Ball. No, sir, I do not have anything on that.

Ms. DES HARNAIS. We have not got a budget right now. That is a proposed—

Chairman CONRAD. Joe is here.

Mr. BELFORD. The city engineer is here.

Chairman CONRAD. Good. Why don't you introduce yourself for the record?

Mr. GRAFSGAARD. Good morning, Senator. Mike Grafsgaard, city engineer. A $30 million estimate is an estimate that was put together based on water supply for the city and water treatment.

The city currently has really three big issues with its water supply, the first issue being the water transmission line. It is over 40-years-old and underneath up to 25 feet of Devil's Lake water. Now within that transmission line, six miles of which is underneath the lake, we have numerous gate valves and blow-off discharges. If any of them were to fail the city would lose its water supply. That is the big issue. That is the emergency nature of the project.

Now we are looking at obtaining money through FEMA, really anywhere that the funding could come from. It was placed in with the corps budget.

The next issue we have is 2006, the arsenic rule. The last test the city ran was—

Chairman CONRAD. Let us not deal with that at this moment, if you do not mind, because that is—I do not want to deal with that because that is a more general issue that applies to all cities. I want to deal with the specific needs of Devil's Lake and get those on the record. You are talking how much, dealing with this circumstance where we have got the lines underwater? Were those lines underwater initially or have they been flooded subsequent?

Mr. GRAFSGAARD. No. A very small portion was underneath the lake prior to 1993.

Chairman CONRAD. How much—that is my recollection, there was part of it—

Mr. GRAFSGAARD. A very small portion. Less than half a mile. One valve that I know of was underneath at that time. That valve was sealed off so it was taken care of. Subsequent to 1993 with the 25-foot rise in Devil's Lake we have inundated the six miles.

Chairman CONRAD. What is the cost to deal with that problem alone?

Mr. GRAFSGAARD. Just the transmission line issue? We were looking at about 25 miles of transmission pipeline, about $10 million.

Chairman CONRAD. What would happen if that line failed catastrophically?

Mr. GRAFSGAARD. The only backup supply the city currently has is a rural water system that is adjacent to the city. We could get about one-third of our average daily demand from the rural system. Currently the city is going through about 1 million gallons per day. We could get about 350,000 per day from the rural system.

Chairman CONRAD. So what would we have done? If you got a phone call 10 minutes from now that said the line went, what would you do, besides call the rural folks?

Mr. GRAFSGAARD. I would call you, Senator. [Laughter.]

Mr. GRAFSGAARD. Realistically, we would have a severe water restriction, looking at going from 1 million gallons—

Chairman CONRAD. It is one thing to get two-thirds of your water supply, but one-third there is no way you can deal with that I assume.

Mr. GRAFSGAARD. One thing I want to emphasize, Senator, is I used to work for a rural water system in the area, the one that we could get the water from. In my one year there we had to repair up to a dozen valves because of the corrosiveness of the soil. It eats the valves, eats the bolts, and they fail. If that were to happen in the city's instance that is all it would take.

The pipeline itself may last for a long time. It is all the valves that can really cause a problem for the city.

Chairman CONRAD. Joe, did you want to add something?

Mr. BELFORD. I was just going to add on the water issue, our hospital put in 30,000-gallon tanks. One is filled with water and the other is for sewage, in case of a major emergency. That was at quite a cost to them.

Chairman CONRAD. Mike, anything more that you wanted to say?

Mr. DWYER. Thank you very much again for holding this hearing.

Chairman CONRAD. I think it is an important hearing because in these next few weeks, very few, the Congress is going to have to write a budget and we have got to make some very important decisions here about what the level of funding is for these areas of infrastructure. I think most people in the country would say top priorities for funding would be education, health care, and these fundamental infrastructure things. That I think would be most people's priorities.

You have got to be able to move around the country. You have got to have safe, clean water supplies. You have got to deal with the education of our children. You have got to deal with the health care needs of people, in terms of domestic priorities.

Obviously our first obligation is to defend this nation. We have got to protect the country after this sneak attack on September 11th. That means we have got to add to defense expenditures. That means we have got to add to homeland security in a very significant way. I think most Americans would clearly support that. These are other matters of security, economic security certainly, and they deserve our attention.

Joe, did you want to add anything else?

Mr. BELFORD. Senator, just a brief—

Chairman CONRAD. Why don't you identify yourself for the record, too?

Mr. BELFORD. Joe Belford, Ramsey County commissioner and chairman of the Lake Emergency Management Committee. Just for the record again, we would like to thank you and your colleagues for all the help that you have given the Devil's Lake area. We are far from done.

I would like to discuss the need for relief from the flooding that has plagued the Devil's Lake region and northeastern North Dakota since 1993. Actually, Devil's Lake has steadily risen since the late 1970s but the most pronounced increase and the most damaging has occurred since 1993.

While there has been some debate as to the cause of this growing disaster, scientists have concluded that the level of Devil's Lake is primarily dependent on climatic swings. Because long range forecasting is not an exact science, no one can accurately determine the duration of the present wet conditions and how high Devil's Lake will eventually rise. We do know that the lake has overflowed to the Sheyenne River several times in the last 4,000 years. Climatologists believe that the current wet cycle may continue an additional 10 or more years. The risk that Devil's Lake will overflow again is very real.

Devil's Lake is currently at the elevation of 1,447.1 feet above mean sea level, 24 feet higher than it was in 1993 and less than 12 feet below its natural spill elevation to the Sheyenne River. At its spill elevation, Devil's Lake will cover almost 300,000 acres; about 250,000 acres or 390 square miles larger than it was when the most serious flooding began in 1993. If Devil's Lake is allowed to spill through the Tolna Coulee, its natural outlet, the resulting erosion could release up to 2 million acre-feet of water, about four times the volume of the 1997 flood at Lisbon. This would spread devastation to many communities along the Sheyenne and the Red

Rivers including Valley City, Lisbon, West Fargo, Fargo–Moorhead, Grand Forks, and East Grand Forks.

As mentioned above, Devil's Lake has risen 24 feet since 1993. It is now flooding about 75,000 acres of deeded land and has required a public investment of nearly $400 million to build dikes, assist hundreds of homeowners to relocate, and to maintain Devil's Lake regional transportation system and other infrastructure. Another $1 billion in damages could occur around Devil's Lake if it is allowed to reach its spill elevation of 1459 above sea level.

Chairman CONRAD. Let me just stop you there because I want this very clear in the record for our colleagues. We have already spent in Federal dollars almost $350 million.

Mr. BELFORD. That is correct.

Chairman CONRAD. We are well on our way to $400 million when other things that are underway are done; is that correct.

Mr. BELFORD. That is correct. The transportation alone last year was in excess of $40 million.

Chairman CONRAD. That is correct. Now I just wanted this on the record so my colleagues in Washington understand what we are talking about here. We have already spent that amount of Federal money, $350 million. With commitments we have got underway we will be at $400 million. The additional cost could be as much as $1 billion.

Mr. BELFORD. That is correct.

Chairman CONRAD. So would that not lead one to the conclusion that it would be wise to proceed with an outlet that could avoid some of those costs?

Mr. BELFORD. We certainly think so in Devil's Lake.

Chairman CONRAD. Now what would the cost of an outlet be?

Mr. BELFORD. Approximately, the estimate from the corps is about $97 million to do the 22.5-mile outlet out of the Pelican Lake area. General Flowers has set a timetable for that hoping to move dirt by 2003. The corps is working very diligently for him.

Chairman CONRAD. I think that is very important to have on the record so that people understand what is at stake here, and that the Federal taxpayers—some people call these boondoggle projects or pork projects. There is nothing boondoggle or pork about this. This is a question of saving Federal taxpayers money in the long run because this thing, if it escapes, if we have flooding out of the east end, the testimony that Mr. Belford has delivered here, the amount of water that would be unleashed downstream would be four times what we saw in the 1997 flood; is that correct?

Mr. BELFORD. Yes, it could be 2 million acre-feet. Yes, that would be correct a Lisbon, based on Lisbon's—

Chairman CONRAD. I am going to be at Lisbon later today. I will have a chance to share—

Mr. BELFORD. I was there yesterday and met with the county commissioners and the city of Lisbon and the water board.

Chairman CONRAD. Anything else you would want to add?

Mr. BELFORD. I will just say in concluding, relief from additional flooding at Devil's Lake is urgently needed. A controlled outlet of water from Devil's Lake will greatly reduce the future flood damages adjacent to the lake and limit the risk of catastrophic dam-

ages, perhaps of several billion dollars, along the Sheyenne and the Red Rivers should Devil's Lake spill uncontrolled.

We certainly want to thank you and your colleagues, in fact everybody in this room we want to publicly thank for helping us get through this.

Chairman CONRAD. Thank you, Joe. Thanks for your leadership. When my staff holds up her hand and goes like this, it means that I am getting the hook. Thank you. Thank you all. Special thanks to the witnesses; really a superb job. Thank you, Colonel, once again for being here. Warren, thank you. Mike, appreciate it very much. Our earlier witnesses as well.

I think we have had a good morning of laying the case here for what is needed for North Dakota. And in addition, the effect on the Nation of really deep cuts in infrastructure spending, whether it is for highways or for water projects. These are things that are critical to communities. Certainly they are critical here in North Dakota.

Thank you all and we will adjourn the hearing.

[Whereupon, at 11:59 a.m., the committee was adjourned.]

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North Dakota League of Cities

The Honorable Kent Conrad
Budget Field Hearing
Bismarck, North Dakota
February 20, 2002

Senator Conrad:
For decades, North Dakota's cities and counties have worked with the state's Department of Transportation to address transportation needs. Air, rail, transit, street and highway systems are crucial to our economic viability.

We are pleased with your decision to host this field hearing on the matter of a possible reduction in federal highway funding in FY 2003 due to technicalities in TEA-21. Unless Congress decides differently, the resulting reduction of more than $40 million in federal transportation funds would hurt local and state efforts to maintain North Dakota's transportation infrastructure.

The state's 360 incorporated cities use federal, state and local funds to maintain and improve city streets. The 2000 Census indicates nearly seventy-three percent North Dakotans now live in cities. Transportation needs in air, rail and transit will continue to grow, even as the rural population continues to shrink. And while cities receive the smallest portion of state and federal transportation dollars, the concentration of people and businesses within cities means the impact of under-funding is quickly felt.

Most people find it easy to quote point-to-point distances in this state. A trip from Bismarck to Fargo is 190 miles, Fargo to Grand Forks is 90 miles and Williston to Grand Forks is 340 miles. While few people think about how many miles of streets there are within their city, the numbers are substantial. In our capital city, the miles of city streets equal the distance of a Williston-to-Bismarck drive—340 miles. Fargo hosts about 500 miles of streets and if Bismarck's lane miles—what a snowplow or street sweeper would drive—are calculated, that 340 jumps to 1,000 lane miles.

Not only are there obvious daily maintenance challenges in plowing patching and chip sealing the hundreds of lane miles within North Dakota's hundreds of cities,

we are all experiencing a serious and a growing backlog of rehabilitation and reconstruction needs.

Over the last two years, the cities, counties, townships and state have worked on two needs assessment studies, one for the fifty-three counties and thirteen largest cities, the other for townships and smaller cities. Both were undertaken to quantify the transportation infrastructure needs. The studies show that, despite increased federal aid and despite increased efforts to provide funds at the local and state level, the backlog is growing at all levels.

If the cities were to maintain their streets in their current condition, funding would need to nearly double. With a current annual shortfall of $32 million among just the thirteen largest cities, the potential impact of federal funding cuts is clear.

Cities have always expended considerable local effort to pay for street construction, maintenance and rehabilitation costs. Property taxes, special assessments and construction costs paid by developers have been the traditional local contributions to street budgets. More recently, city sales tax revenues have been added to the mixture in an attempt to deal with the growing list of rehabilitation and maintenance projects. The addition of state and federal transportation dollars is essential.

Senator Conrad, we know you are aware of the importance of our infrastructure. You understand how hard we work to maintain cities that can offer both the essentials and the amenities that attract new businesses. You have participated in many successful economic development efforts. City leaders across this state share your interest in protecting the investment North Dakota has in air, rail, transit, highway and street infrastructure. Our future economic successes depend on it, the enjoyment of our visitors depends on it and the ability of our citizens to transport goods and people depends on it.

North Dakota's city leaders will be pleased to work with you and your committee on this tough issue, and we are grateful for your continued interest.

Connie Sprynczynatyk
Executive Director

Devils Lake Emergency Outlet Flood Control Project
Testimony to the Field Senate Budget Committee Hearing
February 20, 2002
Bismarck, North Dakota

by

Joe Belford, Ramsey County Commissioner and
Chair of the Lake Emergency Management Committee

Senators:
Thank you for this opportunity to discuss with you the need for relief from the flooding that has plagued the Devils Lake region and northeastern North Dakota since 1993.

Actually, Devils Lake has steadily risen since the late 1970's but the most pronounced increases, and most damaging, have occurred since 1993. While there has been some debate as to the cause of this growing disaster, scientists have concluded that the level of Devils Lake is primarily dependent on climatic swings. Because long range forecasting is not an exact science, no one can accurately determine the duration of the present wet conditions and how high Devils Lake will eventually rise. We do know the lake has overflowed to the Sheyenne River several times in the last 4,000 years. Climatologists believe the current wet cycle may continue an additional ten or more years. The risk that Devils Lake will overflow again is very real.

Devils Lake is currently at elevation 1,447.1 feet above mean sea level, 24 feet higher than in 1993 and less than 12 feet below its natural spill elevation to the Sheyenne River. At its spill elevation, Devils Lake will cover almost 300,000 acres, about 250,000 acres or 390 square miles larger than it was when the most serious flooding began in 1993. If Devils Lake is allowed to spill through Tolna Coulee, it's natural outlet, the resulting erosion could release up to 2 million acre-feet of water, about four times the volume of the 1997 flood at Lisbon. This would spread devastation to many communities along the Sheyenne and Red Rivers including Valley City, Lisbon, West Fargo, Fargo, Moorhead, Grand Forks and East Grand Forks.

As mentioned above, Devils Lake has risen 24 feet since 1993. It is now flooding about 75,000 deeded acres and has required a public investment of nearly $400 million to build dikes, assist hundreds of home owners to relocate, and to maintain the Devils Lake region's transportation system and other infrastructure. Another $1 billion in damages could occur around Devils Lake if it is allowed to reach its spill elevation of 1459 feet above mean sea level.

Analysis by the State of North Dakota and the U.S. Army Corps of Engineers, including a NEPA Environmental Impact Statement, is showing that a carefully managed outlet from the western portions of Devils Lake to the Sheyenne River can be effective in helping protect the health, safety and economic well being of the Devils Lake region at minimal risk to downstream interests.

The most recent Emergency Outlet Project total cost is an estimated $97 million. Citizens of the Devils Lake region desperately urge the U. S. Congress to appropriate the federal share of the project cost in accordance with a funding plan developed by the Corps of Engineers. A commitment of funding in this session is essential to meeting the implementation timetable developed by General Flowers.

The Devils Lake Emergency Outlet is a state and local priority but continued federal disaster assistance in the form of funding for transportation, diking, and funding for FEMA to go towards home relocations is also critically needed. The Corps' Outlet is not projected to be completed until the fall of 2004. We must be prepared to deal with flood impacts that occur during the interim.

Another need that has not yet been addressed is the financial devastation that has fallen on landowners whose deeded agricultural land has been inundated. A program to help address this need to support the economic fabric of our community. I believe possibilities are being investigated at this time. I hope you will support whatever mechanism is devised.

Relief from additional flooding at Devils Lake is urgently needed. A controlled outlet of water from Devils Lake will greatly reduce future flood damages adjacent to the lake and limit the risk of catastrophic damages, perhaps several billion dollars, along the Sheyenne and Red Rivers should Devils Lake spill uncontrolled.

Thank you for your time and positive consideration of this request. I would be glad to try to answer your questions.

Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Sharon Two Bears
Secretary

AT LARGE

Jesse Taken Alive
Reva Gates
Pat McLaughlin
Miles McAllister
Ron Brown Otter
Isaac Dog Eagle, Jr

DISTRICTS

Carol White Eagle
Cannonball District
Verna Bailey
Fort Yates District
Milo Cadotte
Wakpala District
Frank White Bull
Kenel District
Avis Little Eagle
Bear Soldier District
Milton Brown Otter
Rock Creek District
Allen Flying Bye
Little Eagle District
Randal White Sr.
Porcupine District

February 20, 2002

Honorable Senator Kent Conrad
Chairman
Senate Budget Committee
United States Senate
Washington, D.C.

Re: Dakota Water Resources Act of 2000
Funding Needs of the Standing Rock Sioux Tribe Rural Water System

Dear Senator Conrad,

In February and March of this year representatives from our Reservation will be appearing and testifying before both House and Senate subcommittees on behalf of the Standing Rock Sioux Tribe Indian Reservation. Our effort in such appearances and testimony will be to secure funding for our Standing Rock Sioux Tribe Rural Water System (SRSTRW). The SRSTRW System will be a tribal water supply and delivery project made available to us by the recently passed Dakota Water Resources Act of 2000 (DWRA).

I want to impress upon you how very important this legislation and funding opportunity is for our Reservation. Our formal testimony will detail the years of promise and delay our Tribal membership has endured in wait of a clean and dependable water supply---- it will provide details of our plans which we intend to aggressively pursue to provide the benefits of this Act to our members ---- and it will discuss the vital role that such water development plays in other associated programs of our Reservation.

Our testimony will provide our plan and ability to expend approximately $3.5 million in 2003 as a start of the infrastructure which will provide benefits in the Solen,

P.O. BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-7202 • FAX 701-854-7299

North Dakota area of our Reservation, and in the Wakpala to Little Eagle, South Dakota portion of our Reservation. The Solen project will enable is to begin the construction of infrastructure as needed to provide a clean, safe, and dependable water supply to that area of the Reservation, and the Little Eagle project will allow benefits to the Bear Soldier, Rock Creek, and Little Eagle segments of our Reservation. We will provide additional information which will document a total need of nearly $80 to 90 million for all water needs of the Reservation. Our testimony will confirm that we are able to fulfill the promise of water to our membership, as offered to us by the DWRA, in a 9 to 10 year period if adequate funds are provided.

Senator Conrad, thank you for your interest in the issues we face on the Standing Rock Reservation. You have steadfastly provided us your full support in the various endeavors we undertake on behalf of our residents --- Tribal and non-Tribal alike, and Indian and non-Indian alike --- to secure them basic comforts and necessities of life.

We sincerely appreciate the efforts and support you expend on our behalf and look forward to working with you and your staff in the pending budget process.

Sincerely,

Charles Murphy, Chairman
Standing Rock Sioux Tribe
Standing Rock Indian Reservation

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Aberdeen Area
Indian Health Service
Federal Building, Room 309
Aberdeen, SD 57401

February 19, 2002

Our Reference: Standing Rock Reservation

Ralph Walker, Coordinator
Standing Rock MR&I/OMR
P.O. Box 429
Fort Yates, ND 58538

Dear Mr. Walker:

As was requested on February 19, 2002, the following are probable costs for the projects listed:

1. Cannonball Reservoir	$315,000
2. Solen Rural Water Connection	$588,000
3. Cannonball Intermediate Booster Station	$525,000
4. Wakpala to Little Eagle Pipeline	$2,100,000

If any additional information is needed, please contact this office.

Sincerely,

Daniel Davis
Field Engineer

cc: District Engineer

CONGRESSIONAL RECORD STATEMENT

US Senate Budget Hearing

February 20, 2002

The President's budget includes provisions to decrease funding for National Transportation Projects. This decrease will significantly affect our short and long-term transportation goals. It will have negative impacts to the economy, now and in the future, and will be a significant blow to industries that have invested heavily in order to meet the growing needs of our country's major infrastructure, its transportation system. There are several points I would like to make.

- This region is heavily dependent on transportation to move its raw materials from the producer to the manufacturer. Railroads are abandoning tracks, leaving fewer and fewer elevators to service our farming industry. As the track disappears, more emphasis is placed upon our road networks. The transportation of farm commodities on our county and state transportation facilities results in significant deterioration because of the loads and wheel configurations. Without continuous funding, we can expect these facilities to break down, significantly affecting the wellness of our farming communities.

- Over the past five years as industry geared up to take care of our growing transportation needs, significant capital investments were made. These investments were made in machinery, software, and hardware, but just as importantly, these investments were made in people, knowledge, and skill. By decreasing transportation funding, we will jeopardize those private individuals and state agencies that made investments in our future infrastructure. We will have wasted significant federal money and local money.

- The transportation industry in this region employs many individuals. These people have switched careers and taken on occupations to assist in the development of our transportation infrastructure. By reducing funding, we will ask these people to leave our industry, and when our transportation infrastructure suffers again, as it inevitably will, we will not have the ability or the manpower to meet the needs of this country. Yes there will be short-term impacts, such as unemployed individuals, but more importantly, we will see long-term impacts that will impact the future of this country.

In North Dakota, transportation is the one equalizer we have with the rest of the country. We need good roads and adequate bridges, in order to compete regionally and nationally. We cannot tolerate decreases in funding which will affect our short-term and long-term future.

Respectfully Submitted,

Niles Hushka, PE, Vice President
Kadrmas Lee and Jackson
3237 East Broadway
Bismarck, ND 58502
701-255-0076

MANDAN, HIDATSA, & ARIKARA NATION
Three Affiliated Tribes • Fort Berthold Indian Reservation
404 Frontage Road • New Town, North Dakota 58763-9402

TRIBAL BUSINESS COUNCIL
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February 20, 2002

Honorable Senator Kent Conrad
Chairman
Senate Budget Committee
United States Senate
Washington, D.C.

This Letter Hand Delivered to Senator Conrad 2/20/02 at Field Budget Hearing, Bismarck, ND

Re: Dakota Water Resources Act of 2000
Funding Needs of the Fort Berthold Rural Water System

Dear Senator Conrad:

In February and March of this year I will be testifying before both House and Senate subcommittees on behalf of the Three Affiliated Tribes. My efforts will be to secure funding for the Fort Berthold Rural Water System (FBRW). The FBRW System will be a tribal water supply and delivery system. This project made available to us by the recently passed Dakota Water Resources Act of 2000 (DWRA).

I want to impress upon you how very important this legislation and funding opportunity is for our Reservation. My formal testimony will detail the years of promise and delay our Tribal membership has endured in wait of a clean and dependable water supply. It will provide details of our plans that we intend to aggressively pursue to provide the benefits of this Act to our members and it will discuss the vital role that such water development plays in other associated programs of our Reservation.

My testimony will provide our plan and ability to expend approximately $13 million in 2003 as a start of the infrastructure that will provide benefits in each of the six geographic segments of our Reservation. I will provide additional information that will document a total need of nearly $84 million for all water needs of the Reservation. My testimony will confirm that we are able to fulfill the promise of water to our membership, as offered to us by the DWRA, in a 7 to 8 year period if adequate funds are provided.

In addition I will be discussing the importance such water development has to our ongoing Tribal Housing development and the Tribe having a shortage of 1,000 homes.

We are currently in the process of preparing to issue bonds of approximately $10 M for the initial 54 homes in the year 2002. We intend to use the $25 M to build 250 homes in the six (6) segments of the reservation. This bond money will be available to us in April of this year and once confirmed we intend to begin the housing development process. This contractor service will utilize Twin Buttes Custom Homes to build them.

It is imperative that funds for water project projects be made available to us in a coordinated fashion with our housing development plans. Our envisioned housing developments cannot proceed without assurance of water supply and service to them. We believe we can arrange short term financing for the year 2002 for such work but adequate funding from the Dakota Water Resources Act to retire such obligations will be needed in 2003.

And in subsequent years, as more housing developments are pursued in accordance with our long term Tribal housing plans, we will need continued and dependable appropriations from the DWRA for water development to those areas for the next 8 years. .

Senator Conrad, thank you for your interest in the issues we face on the Fort Berthold Reservation. You have steadfastly provided us with your full support in the various endeavors we undertake on behalf of our residents, Tribal and non-Tribal alike, and Indian and non-Indian alike and to secure them basic comforts and necessities of life. As always the Tribe stands ready to provide testimony and assist in the passage of the budget needed for FY –2003 and subsequent years.

We sincerely appreciate the efforts and support you expend on our behalf and look forward to working with you and your staff in the pending budget process.

Sincerely,

Tex G. Hall
Chairman
Mandan, Hidatsa and Arikara Nation
Fort Berthold Indian Reservation

North Dakota Department of Transportation

David A. Sprynczynatyk, P.E.
Director

John Hoeven
Governor

February 25, 2002

The Honorable Kent Conrad
United States Senator
530 Hart Senate Office Building
Washington, DC 20510

FOLLOW-UP OF BUDGET COMMITTEE HEARING ON HIGHWAY FINANCE AND COMMENTS ON HIGHWAY CONGESTION

Thank you again for your efforts supporting transportation in your February 20 hearing and through your many activities over the last several years. Your hearing was a great opportunity to go on record about this very important issue.

During your presentation, you mentioned several transportation challenges facing our nation. In particular, you mentioned congestion in the eastern and western regions. Congestion does cost travelers in populated areas a lot of time, and time is, in a very real way, money.

In North Dakota and the upper Midwest we have a different but strongly related challenge that exacts its toll from our producers, shippers, and citizens. That challenge is spring load restrictions.

The underlying cause of gridlock and congestion is inadequate width (lanes) for existing traffic. The underlying reason for putting on spring load restrictions is inadequate roadway thickness. During the spring thaw, the ground is waterlogged and can't support a fully laden 18-wheeler on a highway of standard thickness. Building more lanes and building thicker highways are both extremely expensive. Many states, especially those in the north, have little choice, given their current funding, but to limit the amount of weight on highways in the spring. Like congestion, load restrictions slow down commerce and add greatly to the cost of doing business.

We believe that sometimes the heavily populated portions of the nation forget about the great distances that commodities must be hauled before reaching markets everywhere. Increased hauling costs mean less margin for growers and shippers and higher shelf prices. It's fair to say that spring load restrictions in North Dakota affect the east- and west-coast populations much more directly than coastal gridlock and congestion affect North Dakota.

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In addition, one of the few positive trade balances our nation has is in agricultural commodities. North Dakota leads the nation in the production of a number of commodities, including hard red spring wheat, durum wheat, barley, sunflowers, canola, flaxseed, pinto beans, dry edible beans, and honey. Spring load restrictions increase the cost of shipping all these commodities, affecting the delicate positive trade balance.

I met recently with a group of North Dakota shippers who wanted to talk about their rising costs. A grain elevator operator who handles fertilizer said that load restrictions last spring cost him an extra $120,000. Those same load restrictions raised the price of anhydrous ammonia by $4 per ton in some parts of the state. All of these costs are passed on to the farmers.

At our request, North Dakota State University recently completed a study on the impact of load restrictions on grain shipments. The study found that a five-axle farm truck (which can hold 800 bushels), making a hundred-mile trip, will pay an extra $.29 per bushel under a Class A load restriction, an extra $.34 per bushel under a No. 1 load restriction, and $.44 per bushel under a No. 2 load restriction. That's an additional $232 to $352 per truckload, or about 10 to 15 percent of the price of wheat, which is currently at about $2.84 per bushel. That's an extremely heavy additional cost.

I have attached North Dakota's proposed load restriction map for 2002. The attachment contains descriptions of the various load restrictions we use. I have also attached two tables and an explanatory sheet detailing how spring load restrictions in North Dakota add to the cost of shipping. It has already become necessary this spring for us to put load restrictions on many highways in the southern part of the state.

I have gone into detail about spring load restrictions because I believe they are an even greater challenge for our nation than urban congestion. The only solution to load restrictions is increased funding that would allow states to build thicker roadways. Certainly, that solution will be delayed indefinitely if the proposed funding cuts become a reality.

Thank you again for the efforts you have made to secure transportation funding that will meet our state's and nation's needs.

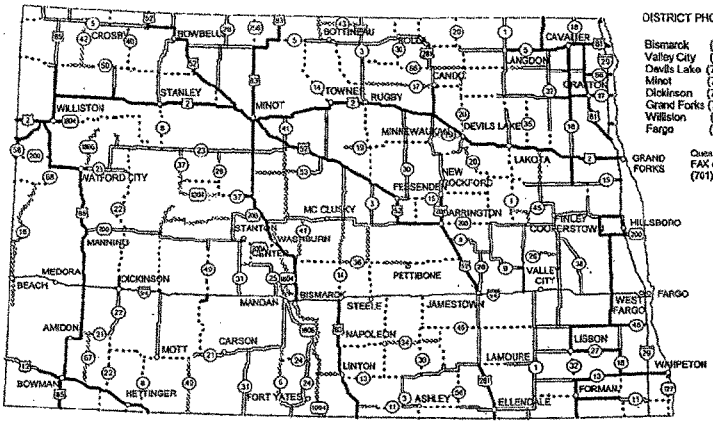
David A. Sprynczynatyk

DAVID A. SPRYNCZYNATYK, P.E., DIRECTOR

56/th/jg
Attachments
cc: The Honorable Byron Dorgan
The Honorable Earl Pomeroy

NDDOT Proposed Load Restrictions For 2002

Central Office (701)328-2545



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Bismarck	(701)328-6950
Valley City	(701)845-8900
Devils Lake	(701)665-5100
Minot	(701)837-7625
Dickinson	(701)227-6500
Grand Forks	(701)787-6500
Williston	(701)774-2700
Fargo	(701)239-8900

Questions regarding FAX distribution call (701) 328-2545

Class A Load Restrictions: ———
Applicable to Axle and Gross Vehicle Loads

Single Axle: Not to exceed 18,000 lbs.

Tandem Axle: Not to exceed 18,000 lbs/axle

3 Axles or More Group: 14,000 lbs/axle. On divisible loads the gross weight of the axlegrouping may not exceed 42,000 lbs.

Gross Weight: Not to exceed 105,500 lbs.

No. 1 Load Restrictions: - - - - - - - - - -
Applicable to Axle and Gross Vehicle Loads

Single Axle: Not to exceed 15,000 lbs.

Tandem Axle: Not to exceed 15,000 lbs/axle

3 Axles or More Group: 12,000 lbs/axle. On divisible loads the gross weight of the axlegrouping may not exceed 36,000 lbs.

Gross Weight: Not to exceed 80,000 lbs.

No. 2 Load Restrictions: - - - - - - - - - -
Applicable to Axle and Gross Vehicle Loads

Single Axle: Not to exceed 12,000 lbs.

Tandem Axle: Not to exceed 12,000 lbs/axle

3 Axles or More Group: 10,000 lbs/axle. On divisible loads the gross weight of the axlegrouping may not exceed 30,000 lbs.

Gross Weight: Not to exceed 65,000 lbs.

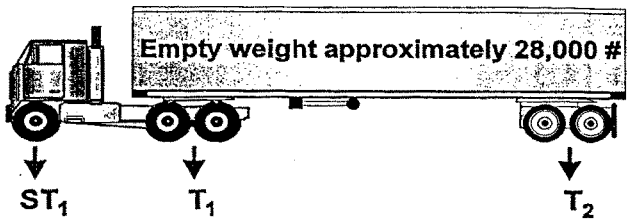
Highways Restricted By Legal Weight ———

Highways restricted by legal weight will be subject to TON-MILE fees in accordance with road restriction permit policy.
Does NOT include Interstate System.

Not Affected ———

Table 1

Impact of Load Restrictions on Commodity Hauling



Restriction	ST_1	T_1	T_2	GVW	Payload	Reduced Payload	Restricted/ Full Payload Ratio
unrestricted	12,000	34,000	34,000	80,000	52,000	0	1
A	12,000	32,000	32,000	76,000	48,000	4,000 #	.92
1	12,000	30,000	30,000	72,000	44,000	8,000 #	.85
2	12,000	24,000	24,000	60,000	32,000	20,000 #	.62

Table 2

Impact of Load Restrictions on Commodity Hauling

Example based on 10 unrestricted loads of commodity/shipper
(Cost/mile = $1.25 with back haul; Cost/mile = $2.50 without back haul)

Restriction Level	Restricted to Full Ratio	# of Additional Trucks/ 10 Truck Movement	Additional Shipper Cost w/back haul (100 mile haul)	Additional Shipper Cost w/o back haul (100 mile haul)
A	.92	10.86 (1)	$125	$250
1	.85	11.76 (2)	$250	$500
2	.62	16.12 (7)	$875	$1750

Explanation of Tables 1 and 2

These tables show how spring load restrictions in North Dakota add to the cost of shipping.

TABLE 1

This table shows, in the right-hand column, the ratio of a restricted payload to a full payload with a Class A, No. 1, and No. 2 load restriction.

TABLE 2

Restricted payloads necessitate more loads. Table 2 presumes 10 truckloads of commodities traveling 100 miles (a common approximate trip length), with and without hauling back a load. (In reality, very few shippers are able to haul back a load after a hundred-mile trip.)

The **second column** shows that with a Class A load restriction, each of the 10 trucks would be only 92 percent full (we arrived at this figure in Table 1).

The **third column** shows that the remaining commodities would require one extra truck to ship. (They would require two extra trucks under a No. 1 load restriction, and seven extra trucks under a No. 2 load restriction.)

The **fourth column** shows that if the shipper were able to haul a load of commodities back, the total additional cost would be $125.

The **fifth column** shows that if the shipper did not haul back a load, the total additional cost would be $250.

Row 2 shows the additional cost under a No. 1 load restriction ($250-$500).

Row 3 shows the additional cost under a No. 2 load restriction ($875-$1,750).

* * *

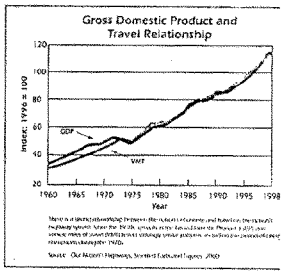
These figures relate to shipping a ten-truck load just 100 miles. Many shipments are larger and must travel farther, and their increased costs would be even greater.

America is at a crossroads. As a nation, we have invested heavily to create the most efficient transportation system in the world. The question facing the nation is: ***Will America continue to make sizable investments in the very infrastructure that has provided us with both military and economic security and made our modern lifestyle possible?*** The highway system is the staple of "just-in-time" delivery: it overwhelmingly dominates all other modes of transportation; it carried you to work today; Dwight D. Eisenhower designed it as the foundation for our role as the undisputed military superpower.

Our nation's transportation system has many components that carry segments of the traveling public for a portion of their trips and a part of the nation's freight. But by far the nation's most used mode of transportation is the highway system. It is critical to the delivery of goods and services, to the commuting patterns of the nation, and to the vacation travel of America. It makes daily life possible — whether it is the delivery of groceries to the stores or grocery purchasers to the stores. It provides not only the ability to move within local communities to accomplish the tasks of daily life but also the freedom to travel coast-to-coast and north and south unimpeded. Failing to provide the necessary resources to repair and improve the most vital element of our transportation system would be folly.

As Congress reauthorizes the federal-aid highway program, it is important to put into proper context the role the National Highway System plays in securing a bright future for the average citizen. Highways are the nation's most heavily used transportation mode, and various scholarly reports, including the landmark Nadiri study, have shown the highway system to be a major contributing factor in the nation's productivity growth and economic prosperity. There is a direct complementary link between gross domestic product (GDP) and vehicle miles traveled (VMT) on highways. Originally conceived of as a vital element in our nation's defense, the Interstate Highway System is again recognized as playing a major role not only in national defense but also as the foundation for our role as the world's undisputed economic power.

Americans use the highway system to make more than 90 percent of passenger trips, and 84 percent of all goods shipped travel on America's roadways. In addition, highways provide vital links between all other modes of transportation; thus, the physical and operational condition of the system impacts every aspect of our economy, not just highway users. The highway system is a fundamental factor in securing America's quality of life.



Myths about the Federal-aid Highway Program

Despite the recognized benefits of the highway system, complacency and mythology have crept into current thinking about the highway system. Some myths that have evolved include:

Myth: America's highway system is pretty much complete.

Myth: TEA-21 increased funding so significantly that most highway needs have been met.

Myth: We can't build our way out of congestion.

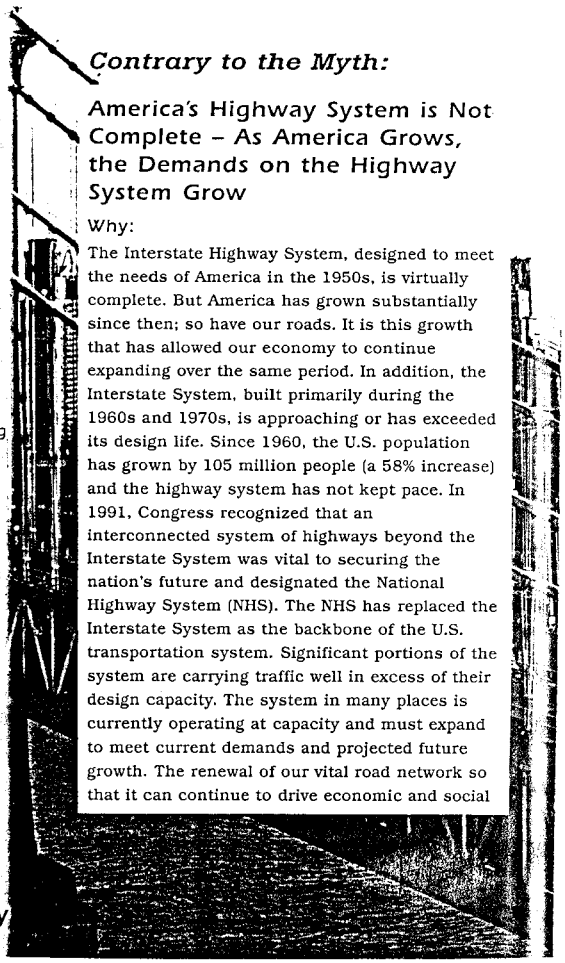
Myth: Increasing highway capacity only adds to congestion and development by encouraging motorists to drive more.

Myth: Improving roads and adding to capacity only deteriorates the environment.

Myth: Highway improvements lead to more driving, which leads to increased highway fatalities.

Myth: Spending federal tax money on highways increases budget deficits, takes resources from other important programs and, therefore, hurts the overall U.S. economy.

As Congress debates TEA-21 reauthorization, it is important to know that the facts overwhelmingly refute these myths.

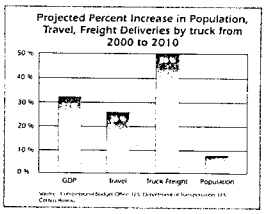


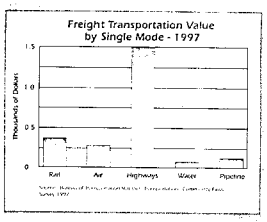
Contrary to the Myth:

America's Highway System is Not Complete – As America Grows, the Demands on the Highway System Grow

Why:

The Interstate Highway System, designed to meet the needs of America in the 1950s, is virtually complete. But America has grown substantially since then; so have our roads. It is this growth that has allowed our economy to continue expanding over the same period. In addition, the Interstate System, built primarily during the 1960s and 1970s, is approaching or has exceeded its design life. Since 1960, the U.S. population has grown by 105 million people (a 58% increase) and the highway system has not kept pace. In 1991, Congress recognized that an interconnected system of highways beyond the Interstate System was vital to securing the nation's future and designated the National Highway System (NHS). The NHS has replaced the Interstate System as the backbone of the U.S. transportation system. Significant portions of the system are carrying traffic well in excess of their design capacity. The system in many places is currently operating at capacity and must expand to meet current demands and projected future growth. The renewal of our vital road network so that it can continue to drive economic and social





benefits, as well as ensure our security, is a pressing local and national concern.

Consider the following:

We're driving more...

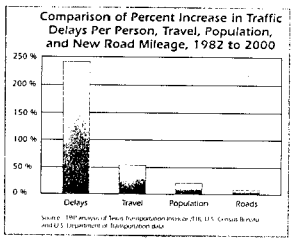
- Federal Highway Administration reports show that from 1990 to 2000 the number of vehicle miles traveled (VMT) on the highway system increased by 28 percent.
- VMT is projected to increase an additional 50 percent by 2020.
- In 1990, 57 percent of households owned two or more vehicles. By 2000, 63 percent of households owned two or more vehicles.

But we're building fewer roads...

- Since 1988, the number of miles added to the highway system has increased by only 1 percent.
- States are faced with rapidly escalating maintenance costs and are able to make only relatively small reinvestments to significantly improve the existing system to meet increasing demands.

More cars and trucks will be using existing roads...

- The U.S. population grew by 33 million people (a 13.3 percent increase) since 1990 and is projected to increase by an additional 23 million people (a 8 percent increase) over the next decade.
- Real (inflation-adjusted) gross domestic product (GDP) grew 38.8 percent from 1990 to the third quarter of 2001—from $6.7 trillion to $9.3 trillion, according to the Bureau of Economic Analysis. The Congressional Budget Office projects a further 32 percent increase in real GDP from 2001 to 2010.
- Much of the forecasted economic growth will result in products being carried by trucks on U.S. highways. Truck travel has already increased by 37 percent over the past ten years. Freight deliveries by truck are projected to double, from 8 billion tons in 1998 to 16.8 billion tons by 2020.



CONCLUSION:

Our highway system met the challenge of the past. The economic growth of the last 50 years would not have been possible without the investment in the nation's highway system. Fifty years of progress was brought to you by the highway system. The system must now be renewed, including rebuilding pavements, lane expansion, rebuilding bridges, adding new interchanges, improving safety, and adding needed capacity. Will we provide our children the same critical elements of ecomonic security that we have enjoyed?

Contrary to the Myth:

While TEA-21 Increased Highway Funding, Public Demands on the System Continue to Escalate

Why:

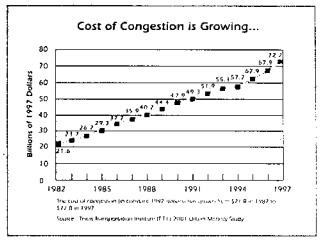
The Transportation Equity Act for the 21st Century (TEA-21) increased federal investment in highways and transit by close to 44 percent over a six-year period. TEA-21 also put into place a mechanism to ensure that highway user fee revenue would be dedicated, as intended, for transportation improvements. The funding has helped to address a significant backlog of needs that had developed because of inadequate investment in highway improvements in the past.

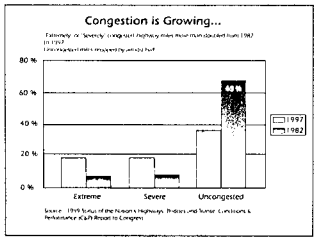
Despite this higher level of funding, increased investment is desperately needed to make necessary roadway safety improvements, to address inadequate road and bridge conditions, and to provide traffic congestion relief. Much of our highway system is operating at capacity. The closer to capacity a system operates, the more severely it will react to disruptions and, therefore, the greater the impact of its uncertainty on users. While highway users have shown an increase in their general satisfaction level with highway quality in general, from1995 to 2000, FHWA surveys also reveal a significant increase (20 percent) in dissatisfaction with traffic delays. Forty-three percent identified heavy traffic as the biggest reason for travel delays. The public demands improvements to traffic flow, safety, and pavement conditions.

Consider the following:

Safety improvements are needed...

- Poor roadway conditions are a factor in an estimated 30 percent of traffic fatalities.
- There are nearly 42,000 traffic deaths each year on the nation's highways and 3 million people are injured annually.
- The cost of highway accidents approached $182 billion in 1999.
- Highway crashes represent the single largest category of accidental deaths in the United States and are the most frequent cause of death for children and young adults.
- After a dramatic drop in highway fatalities — from 47,000 in 1988 to 40,658 in 1994 — highway fatalities increased by 3 percent between 1994 and 2000, to 41,821.





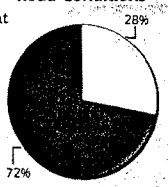
Congestion is a significant threat to the nation's transportation system and our economy. We need to address congestion choke points or many of the successes brought about by TEA-21 will not be fully recognized. As we begin the TEA-21 reauthorization process, expanding highway capacity must be a factor in solving our congestion problem and keeping America moving.

Congressman Don Young (R-AK) • Chairman, House of Representatives, Transportation and Infrastructure Committee

Congestion is increasing and costing motorists...

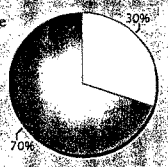
- Extremely or severely congested highway miles more than doubled between 1982 and 1997. In 1997, 36 percent of roads were extremely to severely congested and 46 percent of peak period travel was congested.
- A Texas Transportation Institute (TTI) study estimated that the cost of congestion more than tripled, from $21 billion to $72 billion, between 1982 and 1997.
- 4.3 billion hours per year in productive time are wasted on congested roads.
- Congestion is predicted to increase by 50 percent over the next 10 years.

Road Conditions



Source: 1999 Status of the Nation's Highways, Bridges, and Transit

Bridge Conditions



Source: 1999 Status of the Nation's Highways, Bridges, and Transit - Conditions and Performance Report to Congress

- Motorists pay an additional $49 billion annually — $259 per driver — in extra costs to operate motor vehicles on roads that are in poor or mediocre condition.

Roads and bridges still show signs of significant deterioration...

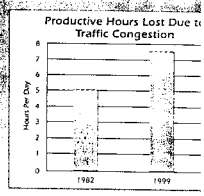
- 28 percent of the country's roads are in poor or mediocre condition.
- 30 percent of the country's bridges are structurally deficient or functionally obsolete.

CONCLUSION:

TEA-21 began the process of making up for past underinvestment. Significant progress in renewing our highway system to meet the challenge of the future has been made in the past six years but the job is not done as long as the public demands on the system continue to escalate. Security requires ongoing vigilance — we can never rest on the accomplishments of the past. Increased investment will be needed to produce a 21st Century as prosperous as the 20th Century.

Contrary to the Myth:

The Public Demands a Comprehensive Solution to Address the Mounting Congestion Problems. The Solution Must Include Additional Highway Capacity



Why:

The existing highway system is straining to handle current demand in many locations. Additional road capacity is a necessary part of a comprehensive plan to reduce traffic congestion and accomodate economic growth. While traffic congestion is intensifying across the country, cities that have aggressively added road capacity in response to regional growth have successfully reduced traffic delays. Clearly there are two factors when calculating congestion — traffic volume and road capacity. Added capacity must be considered as part of the solution.

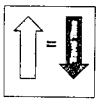
Consider the following:

It takes longer to get there...

- The Texas Transportation Institute (TTI) found that, on average, the percentage of daily traffic in congested periods increased from 32 percent (about five hours per day) in 1982 to 45 percent (about 7 hours per day) in 1999.
- Highway trips are longer than they used to be and involve more interstate travel. There are fewer alternative routes for many of these trips and more bottleneck situations have developed in many regions, causing significant user delay.
- On average, one-third of the daily traffic in urban areas is congested. Congestion tends to be worse in the larger urban areas.

Adding road capacity decreases travel time...

- An analysis of traffic congestion trends in the nation's largest urban areas found that, relative to population growth, areas that were more aggressive in increasing regional road capacity experienced 40 percent less congestion increases than areas that were less aggressive in adding lane mileage.



- Adding roads reduces the rate of increase in the amount of time it takes travelers to make trips during periods of high traffic volume (rush hour). In general, as urban areas keep pace with travel growth by adding capacity, travel time is reduced.
- It appears that the growth in highways has to be at a rate greater than travel growth in order to maintain constant travel times.

Conclusion:

Congestion robs our economy of productivity and limits opportunities for the future. Refusing to address our congestion problems is unrealistic and shortsighted and leads to gridlock. We must confront this rapidly growing epidemic and devise a long range plan of attack. The answer to the nation's congestion problems is a combination of initiatives, including increased transit ridership in urban areas and telecommuting. However, even doubling transit ridership would only reduce auto commuting from 90 percent to 88 percent. Clearly, increased highway capacity is a significant part of the solution.

Contrary to the Myth:

Increasing Highway Capacity Alleviates Congestion and Accommodates the Mobility Needs of Americans

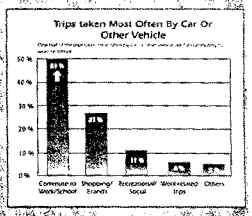
Why:

People are driving out of necessity, not pleasure; the traffic is already there...

- A Federal Highway Administration (FHWA) survey of road users shows that 51 percent of the trips taken by car or other vehicle are for commuting to work or to school. Shopping and errands account for an additional 27 percent of trips.
- 72 percent of the estimated $7 trillion worth of goods shipped from sites nationwide is transported on trucks. An additional 12 percent is transported by courier services, bringing the total of all goods shipped over roads to 84 percent.
- Average daily vehicles per lane on urban interstates rose 43 percent between 1985 and 1999, from 10.3 million to 14.7 million.
- Development in outlying areas can be attributed to citizens attempting to avoid the traffic congestion caused by the failure to add necessary road capacity to meet the growth in VMT.

New Roads Reduce Congestion...

- A 1998 FHWA report found that increased vehicle travel on expanded road capacity is largely the result of diverted traffic — either from nearby routes or from shifts in travel times — moving to an improved road. Overall regional traffic congestion is reduced by this movement.
- The General Accounting Office (GAO), an independent arm of Congress, examined the relationship between highway development and urban dispersal. GAO reported to Congress in 1999 that there is no one main contributing factor



leading to urban dispersal. Many factors contribute and the relationship between these factors is so complex that it is very difficult to assess what roles individual factors, including highway development, play.

- Furthermore, a study by the University of Illinois at Chicago of regional development patterns in the Chicago area did not find a connection between road building and rapid growth of neighborhoods there.

CONCLUSION:

Highway capacity grows to accommodate the mobility needs of Americans. Individuals exercise their freedom of choice in deciding where to live based on many factors. Traffic congestion impacts the quality of life of both those who choose to live in the core urban area as well as those who choose a suburban setting. Road improvements in growing areas and in mature areas provide individuals the opportunity to live their vision of the American dream unimpeded.

Contrary to the Myth:

Road Improvements and Added Highway Capacity Improve Air Quality and have other Environmental Benefits

Why:

State Departments of Transportation balance the need for providing mobility with the need to preserve the environment and are required to do so by law. These twin challenges are being met in virtually every aspect of these DOTs' work, from planning and building facilities to operating and maintaining them. In recent years, the highway program has focused on providing context sensitive design, mitigating environmental impacts, and enhancing community values.

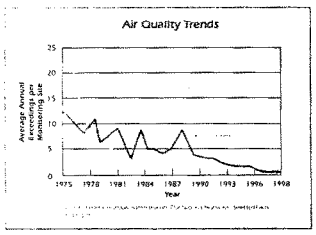
AIR Quality has improved...

- Air quality has improved nationwide primarily because motor vehicle emissions have decreased substantially. From 1980 through 1998, overall motor vehicle emissions of volatile organic compounds (VOC), nitrogen oxides (NOx), and carbon monoxide were reduced by 41 percent, 10 percent, and 35 percent, respectively. This improvement came despite a 72 percent increase in travel during that period.
- These air quality improvements are the result of using an array of cleaner fuels that virtually eliminated lead and other pollutants, and reformulated gas that reduces smog and tailpipe emissons. New engine technology, and vehicle design and construction have reduced tailpipe emissions in the average car in use today by 95 percent compared to the average car in use in the 1960s.
- Despite these improvements, idling in traffic significantly increases air pollution. Eliminating bottlenecks and traffic congestion can reduce carbon monoxide emissions by as much as 45 percent and ozone-forming VOCs by 44 percent. Automobiles operate at a higher efficiency at higher speeds and emission rates for major air pollutants increase at slower speeds.
- EPA studies show that air quality by 1996 had improved to the point that 80 percent of Americans lived where air quality met the standards for six criteria air pollutants, nearly double the number from 10 years earlier. Since 1996, air quality has continued to improve. In the past 10 years, the average number of days the air in major metropolitan areas failed to meet federal ozone (smog) standards has been cut in half. Violations of the National Standards for carbon monoxide have been virtually eliminated. All of this progress has been made despite increased motor vehicle usage.

The American people are increasingly intolerant of transportation delays. I believe that it is imperative that we address these concerns by advancing new and innovative initiatives that streamline the planning process while delivering transportation projects in timely, community based, cost effective ways that exceed environmental standards.

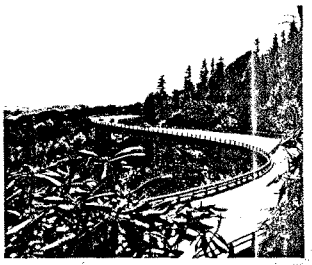
Brad Mallory • President, American Association of State Highway and Transportation Officials (AASHTO)

- EPA studies estimate that an additional 32 million tons of emissions per year (22 percent) will be eliminated between 1997 and 2015 because of better motor vehicle technology.



Recycled materials used...

- The construction industry as a whole recycles more material than any other industry, and highway construction is a significant part of this effort.
- Approximately 200 miles of concrete pavement are recycled each year. Approximately 5,996 tons of concrete can be reclaimed from every mile of concrete pavement. A total of 44 states now use recycled concrete as a road base.
- Eighty percent of the asphalt pavement that is removed each year during widening and resurfacing projects is reused in pavements.



Parklands and green space added...

- The federal highway program is creating two acres of wetland for every acre lost.
- A significant percentage of federal highway dollars is invested in environmental improvements each year, including walkways, bike paths, recreational trails, landscaping and stabilization, wild flower propagation, noise abatement, emissions testing facilities, scenic and historic site protection, and wetlands replacement and mitigation.

The Brookings Institute proclaimed Strengthening the Nation's Highway System as number 7 on its list of the Government's 50 Greatest Endeavors of the Second Half of the 20th Century.

Conclusion:

Improving the highway system is not incompatible with environmental preservation and enhancement. Transportation has had a positive impact on the nation's environment through the use of innovative design and construction practices, large-scale recycling of materials, cleanup of hazardous wastes, and providing usable green spaces and parkland in conjunction with highway improvement projects and reducing congestion.

Contrary to the Myth:

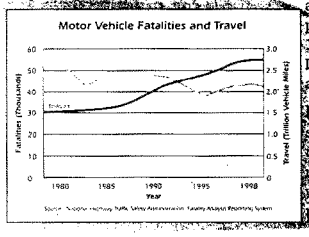
Highway Improvements Accommodate Growing Truck and Automobile Travel and Allow Everyone to Travel More Safely

Why:

Every year, approximately 42,000 people are killed on our nation's highways and 3 million are injured. Highway crashes cost the U.S. economy $182 billion per year. However, significant improvements have been made in traffic safety over the past several decades, with both injury and fatality rates declining (the number of deaths fell from 47,000 in 1988). The decline in deaths and injuries is the result of many factors, including improvements in infrastructure design, roadside hardware, and traffic engineering. However, these rates of decline have leveled off. Continued investment is essential to improving roadways and continuing the drop in traffic-related deaths and injuries.

Good roads save lives...

- Poor road infrastructure conditions are a factor in approximately 30 percent of all highway fatalities.
- Improving highway infrastructure by removing obstacles, adding or improving medians, widening lanes and shoulders, upgrading roads from two lanes to four, and providing better signage and signals reduce accidents, injuries, and deaths.
- Every $100 million invested in highway improvements saves an estimated 145 lives over a 10-year period.
- Seventy-seven percent of fatal crashes occur on two-lane roads, while only 14 percent of fatal accidents occur on roads with four or more lanes. Fifty-seven percent of major U.S. roads, excluding the Interstates, are two lanes. Only 13 percent of fatalities in 1998 occurred on the Interstate system, an average annual total
- Making roadway safety improvements that better meet the needs of older drivers will be critical in reversing a recent increase of 39 percent between 1989 and 1999 in the number of older drivers killed in traffic accidents. Roadway improvements that can make driving safer for older Americans include wider lanes, paved shoulders, larger lettering on signs, and better designed intersections including clearly-marked turn lanes.



Conclusion:

Providing motorists with a road system that is free of structural hazards must be a priority. Infrastructure improvements can have an immediate and significant positive impact on traffic accidents, injuries, and fatalities. Security for the driving public includes eliminating as many potential roadside hazards as possible.

The nation's infrastructur system is outdated an overburdened. Failure t improve our highway system wi have devastating consequence on our nation's businesses abili to transport their goods, whic drives our economy an enhances our quality of life.

Tom Donohue • President • Unit States Chamber of Commer

Contrary to the Myth:

The Highway Program Is Financed by a Dedicated User Fee System Whereby the Users of the Roads Pay for the Road Construction

Why:

The federal-aid highway program is supported by the users of the system through a federal motor fuels user fee. Revenue from this and several other transportation-related user fees is deposited in the Highway Trust Fund to support transportation improvements on a pay-as-you go basis. Highway Trust Fund expenditures, by law, cannot exceed its income. A functioning highway system is vital to meeting the nation's future trade demand ghway investments contribute significantly to the economic well-being of the country by increasing productivity and allowing for the efficient movement of goods.

Consider the following:

Good roads add to economic prosperity...

- Every dollar invested in the highway system yields $5.70 in national benefits in the form of improved safety, reduced delays, and reduced vehicle costs.
- The highway system is responsible for 25 percent of the yearly productivity growth rate in the United States over the past fifty years.
- Every $1 billion of highway investment contributes 42,100 full-time jobs to the economy.
- Domestic manufacturing output and international trade have increased, so there are more goods to be physically moved through the economy. Some 84 percent of the $7 trillion worth of commodities delivered annually from sites in the United States are transported on the nation's highways.
- Freight movement is increasingly intermodal, placing particular importance on intermodal connections that almost always involve a highway component.
- Highway network improvements more than pay for themselves when measured in terms of gains in industry productivity.

CONCLUSION:

Fifty years ago, Congress had the foresight to not only make the decision to invest in a nationwide system of highways but also the ingenuity to create a funding mechanism that assured that needed revenue would be provided to make that investment. Congress created the Highway Trust Fund to finance highway construction critical to the economic and military security of the nation. In TEA-21, Congress reestablished this belief that highway user fees should be used for transportation investments. Congress is once again called on to have the foresight to ensure that the future economic and military strength of the nation is secure.

AGC's Reauthorization Recommendations

America's transportation system is the key component to securing America's quality of life. As the world's most reliable and efficient transportation system, it provides both economic and national security. Preserving, protecting, and enhancing our national transportation asset is a top national priority and a primary goal of AGC. The nation must make a commitment to build a highway system that meets America's mobility, safety, and economic challenges.

To accomplish this, AGC calls on Congress and the President to implement the following simple, straightforward strategies as a basis for reauthorization.

We must:

INVEST — IMPROVE — ENHANCE

"Beginning in 1956, the Eisenhower Interstate Highway System has played a vital role in the growth and maintenance of the nation's economy, defense, and quality of life, by providing the means by which people and commerce move back and forth from coast to coast. Sadly, the terrorist attacks of September 11, 2001, have served as a graphic reminder of just how vulnerable our great transportation infrastructure, including our highway system, is and places a huge burden on us to work hard to keep our highways safe and secure for now and for future generations."

Norman Y. Mineta
Secretary of Transportation

INVEST – More Resources to Continue to Improve the System

TEA-21 was the initial down payment that was needed to stop the deterioration of our nation's transportation system. TEA-21 substantially increased federal funding in surface transportation. Current and projected growth demands on the transportation system require additional investment. Congress and the President must make a commitment to greater investment in our surface transportation system.

Preserving the Gains Made in TEA-21 —

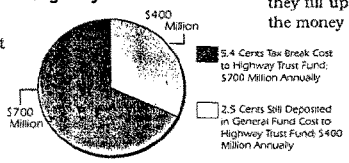
- Continue to dedicate all revenues coming into the Highway Trust Fund to the highway and transit programs.
- Maintain the budget "firewalls" and budget guarantees included in TEA-21 that protect the highway user fees from being used for purposes other than transportation improvements.
- Maintain the Revenue Aligned Budget Authority (RABA) included in TEA-21, which mandates that all federal user fee revenues must be used for surface transportation programs. A central tenet of the federal-aid highway program is that every state pays into the Highway Trust Fund and every state benefits.

Increasing Investment —

- Invest the Growing Balance in the Highway Trust Fund
  - When Congress approved TEA-21's spending components, they had the proper intent: to spend all the money that comes into the Highway Trust Fund on the highway and transit programs. Despite Congress' intention, a balance has been accumulated in the Highway Trust Fund. This balance needs to be invested in our nation's road system.
  - The balance in the Highway Trust Fund will be approximately $28 billion when TEA-21 is reauthorized.
  - In addition to spending all the income, the Highway Trust Fund can sustain spending $5 billion of the balance annually, and maintain a prudent balance.
  - Result: $5 billion more annually for the highway program without increasing taxes.
- Indexing the Gas Tax
  - As the cost of building highways increases annually with inflation, the federal gas tax remains a static number. Therefore, the real investment in highways goes down every year.
  - Indexing the gas tax ensures that revenue will keep pace with inflation.
  - Twelve states currently index their gas tax.
  - Assuming a conservative rate of inflation of 2.6% annually.
  - Result: $19 billion more for the highway program over 5 years.
- Capturing Revenue Lost to Ethanol Tax Break
  - In order to encourage the use of ethanol because of its proclaimed environmental benefits, Congress provided ethanol a significant tax advantage. To preserve the continued use of ethanol, yet stop the shortchanging of the Highway Trust Fund, we recommend the following:

- A 2.5 cent tax per gallon of ethanol should be transferred to the Highway Trust Fund from the general fund.
- The Highway Trust Fund should be repaid the revenue lost from the 5.4 cents per gallon ethanol tax break.

Total Cost of Ethanol Tax Treatment to Highway Trust Fund



Total Loss to Highway Trust Fund Minimum $1.1 Billion

- Ethanol consumption is rising because it is mandated in many areas, consequently a tax incentive to encourage its use is unnecessary.
- It is important to remember that ethanol users and producers benefit from highway improvements. They, too, should pay for the system.
- Result: $1.1 billion annually at a minimum.

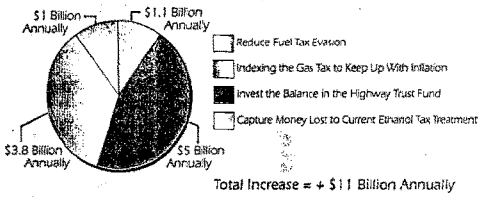
▶ Eliminate Fuel Tax Evasion

- Motor fuels excise tax evasion is a continuing problem.
- No one should be permitted to evade taxes.
- Fuel tax evasion reduces revenues to the Highway Trust Fund by more than $1.5 billion a year.
- We must increase focus on and punishment of fuel tax evaders.
- Result: $1 billion annually

▶ Other important Investments

- The current ratio of revenue from the Highway Trust Fund for the mass transit account should be maintained and not altered. This revenue is paid by motorists when they fill up their vehicles at the fuel pump; the money is then credited to the Highway Trust Fund.
- Recognizing the desire to build and improve passenger rail, AGC supports establishing a dedicated user fee to be imposed on passenger and freight rail to support passenger rail infrastructure improvements. The 4.3 cent per gallon fee that railroads pay into the general fund should be the basis for the rail program. Because road needs are so extensive, AGC strongly opposes using Highway Trust Fund revenue for passenger or freight rail improvements.
- New funding mechanisms are needed to finance road and bridge improvements to supplement the motor fuels user fee. These mechanisms should include tolling and greater ability to use tax exempt financing within public and private partnerships.
- With the increased use of more fuel efficient vehicles and alternatively fueled vehicles, an equitable mechanism must be developed for capturing the revenue that is lost to the Highway Trust Fund. These vehicles will use the same highways, but will not generate the same level of income to the

How AGC Funding Proposal Dramatically Increases Highway Investment



Total Increase = + $11 Billion Annually

"Motorists pay 100% of the cost of the federal highway program. Those taxes should be dedicated to road and bridge improvements; yet, more and more highway dollars are being diverted to other programs and projects. The federal government needs to keep its commitment to motorists by dedicating our highway taxes to highways."

William D. Fay
President and CEO
American Highway Users Alliance

(STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ). Under TEA-21, these programs have restrictions on what types of projects states can use the money for, regardless of the needs of each state.

- AGC supports allowing states to move funds freely between the different funding categories so that each state can meet its highest priority highway and bridge needs.
- Similarly, AGC opposes efforts to shift more Highway Trust Fund money from highway construction accounts into accounts that prohibit highway and bridge construction. Additionally, we oppose funding Amtrak from money in the Highway Trust Fund that is paid by highway users.

▶ Eliminate funding sanctions that are used to enforce federal mandates. Holding highway funds hostage to enforce federal mandates is not appropriate.

▶ Improve Efficiency of the federal-aid highway program

- The open competitive bid system should be relied on as the contracting method of choice in the federal-aid highway program. This long-standing practice encourages competition and provides equal access to all bidders.
- The use of the design-build procurement method should be restricted to instances where it will not lessen competition compared to the predominant and preferred method of contracting, the competitive bid system. Moreover, if alternative contracting practices are used, they should be incorporated into the low bid system.
- AGC members are deeply committed to ensuring quality in highway construction. Toward that end, AGC believes the principles of the National Partnership for Highway Quality and the "National Policy on the Quality of Highways" should be incorporated in the federal-aid highway program as the method for ensuring and promoting quality in the program. We strongly believe warranty and guarantee requirements should not be mandated by the federal government because they impose long-term commitments and unreasonable risks on the contracting community. Moreover, states are free to enter into warrantee agreements when they determine it is prudent.
- The FHWA should be given more flexibility to provide exemptions to the Buy America Act when there are limited suppliers of specific products. This will allow projects to be finished faster and at lower cost.
- Congress should recognize the unique nature of construction industry drivers when addressing the restrictions on hours of service. Because construction industry drivers have different driving patterns than long-haul truck drivers, Congress should exempt construction

industry drivers from the regulations or establish a separate construction industry driving category.

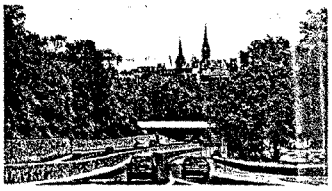
- The 10 percent Disadvantaged Business Enterprise (DBE) goal requirement in the federal-aid highway program should be sunsetted. AGC believes the flawed program should be replaced with a program that truly promotes and mentors new emerging disadvantaged businesses. AGC's mentor-protégé program is a good example of a program that teaches new businesses how to succeed.

ENHANCE – Safer, More Reliable, Less Congested Roads

- Work zone safety is a paramount concern.

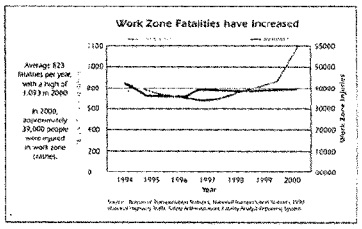
  Improving the safety of our workers and motorists is the primary concern of AGC of America. In 2000, there were 1,093 fatalities in highway construction work zones. This is unacceptable! The following recommendations will make work zones safer for motorists and workers:

  - All contractors should be required to have the same safety requirements so that safety is not compromised. Require states to use unit price bid items for work zone safety items including, but not limited to, positive barriers, variable message signs, barrels, and law enforcement.
  - Enhance safety by increasing speed limit enforcement in work zones, including making photo enforcement and other innovative enforcement practices eligible for 100 percent federal funding.
  - Provide federal funds to states with no state match requirements for other work zone safety items including, but not



limited to law enforcement presence at job sites, signage that shows driver speeds in work zones, and use of positive barriers.

- Other highway enhancement intitiatives:
  - Priority should be given to projects that improve safety.
  - Transportation enhancement funds should be eligible to be used to eliminate unprotected at-grade rail crossings and for hazard elimination.
  - States should be given maximum flexibility to eliminate congestion bottlenecks, including significant streamlining of the paperwork burden when congestion mitigation and hazard elimination can be documented.
  - Encourage the creation of a 25-year, long-range national transportation and infrastructure development plan.



Conclusion

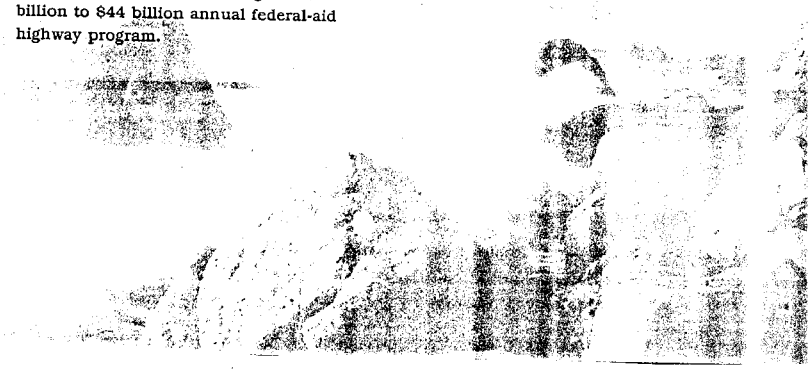
AGC urges the Congress and the President to create a highway program that will continue to make America's highway system the envy of the world. By adopting the recommendations detailed in this document, we can build a highway system that meets America's mobility, safety and economic challenges. We must build on the investments made in TEA-21 by keeping the promise of TEA-21: investing and increasing the money that comes into the Highway Trust Fund.

The increased revenue would result from (1) investing the growing balance in the Highway Trust Fund; (2) indexing the federal gas tax; (3) capturing the revenue lost to the ethanol tax break; and (4) eliminating fuel tax evasion. These four initiatives will result in an increased investment of $11 billion annually to the Highway Trust Fund, resulting in a $40 billion to $44 billion annual federal-aid highway program.

To ensure that the increased investment produces an improved national transportation system, AGC urges the Congress and the President to streamline the environmental review and permitting process. AGC also strongly supports allowing the states the ability to move funds freely between funding categories so they can meet their highest priority highway and bridge needs.

As AGC contractors work to improve the highway system, we must make our work zones a safer place in which to work. It is imperative that we make a national commitment to improving work zone safety.

The reauthorization of the federal-aid highway program should be a historic piece of legislation that will secure America's future by meeting our nation's mobility, safety, and economic challenges.



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THE PRESIDENT'S FISCAL YEAR 2003 BUDGET

FRIDAY, FEBRUARY 22, 2002

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Grand Forks, ND

The committee met, pursuant to notice, at 10:30 a.m. in the Grand Forks Education Center, Conference Room 1, 2400–47th Avenue South, Grand Forks, North Dakota, Hon. Kent Conrad (chairman of the committee) presiding:

Present: Senator Conrad.

OPENING STATEMENT SENATOR CONRAD

Chairman CONRAD. This hearing will come to order.

Chairman CONRAD.Now we will have our first witness, Dr. Wayne Sanstead, North Dakota Superintendent of Public Schools. Welcome. It's very good to have you here.

STATEMENT OF WAYNE G. SANSTEAD, NORTH DAKOTA, SUPERINTENDENT OF PUBLIC INSTRUCTION

Mr. Sanstead. We appreciate your leadership. Clearly, the chair of the budget committee makes a great difference. We had an event at Bismarck, at the capital, in which we saluted Senator Conrad for the Initiative in Rural Education Program. Sad to say, when that became the first major cut that I noticed in the group of cuts which accompanied the President's brdget, I was greatly dismayed. The two leaders in the Nation in the Rural Education Initiative, Achievement Initiative, were Senator Conrad and Senator Collins, and both were recognized by the National Rural Education Association for their leadership.

And you need to know the first call I got this morning was from Mary Conk, the Legislative Director for the American Association of School Administrators. She pointed out to me, again, that they were going to, in their national efforts, make every effort to try to restore the grant money, but there were a number of other programs, as well, and I am just looking at some of those cuts, the close-up fellowships. We have one of the finest close-up programs in the nation. For students on close-up fellowships, 1.5 million were deleted. The National Board—knowing how many educators count on this program—the National Board for Professional Teaching Standards, 10 million was cut.

National Writing Project here at Grand Forks; Initiative in Writing, we have at Minot State; both programs cut in National Reading Initiative, so while there was some good news in the 2003

budget for education, certainly these caused great concern on our part, and I will move to the official testimony.

I do have the 1,200-page document. This is Secretary Page's Partnership to "Leave No Child Behind". All the chief State schools officers were in Virginia and we spent a day with the President and Secretary. This was the document that was used as a resource notebook for our work at that time. I brought that back. At that time we had no idea there was not going to be a followup. I hasten to add, from the chiefs perspective, we thought indeed the budget was going to move forward in totality, and when that didn't happen, I know—and I am chair of the legislative committee for the chief State school officers and we will be in D.C. in March, and we will be at both White House and the Congress urging that, once again, it become a priority, "No Child Left Behind." That was, indeed, the rhetoric that accompanied the initial effort.

So I am happy, Senator, to be present. I am the Chief State School Officer, and I always say "longest serving."

Thanks for the opportunity, again, to be with you this morning and to appear before the committee in this very important education future decision making.

Chairman CONRAD. Thank you, Dr. Sanstead. Thank you very much for that testimony. As we look at this budget I think we have to be concerned because education, by all accounts, is the No. 1 priority of the American people, outside of strengthening national defense.

If you ask the American people what is the single most important thing to them outside of defending this Nation, they will say, overwhelmingly, the education of our children. And a budget ought to reflect that. A budget ought to reflect those priorities. That is really what a budget is all about. It is a blueprint of the priorities.

[The prepared statement of Dr. Sanstead follows:]

TESTIMONY FOR SENATE BUDGET COMMITTEE
HEARING ON FY 2003 EDUCATION BUDGET

GRAND FORKS EDUCATION CENTER
GRAND FORKS, ND
FRIDAY, FEBRUARY 22,2002

Dr. Wayne G. Sanstead, State Superintendent

Good morning Senator Conrad and members of the Senate Budget Committee. My name is Dr. Wayne G. Sanstead, North Dakota Superintendent of Public Instruction. Welcome to North Dakota and thank you for taking input on the 2003 federal budget.

North Dakota is a rural state. We have lots of square miles with not very many people. That does mean that we need less infrastructure or fewer resources to provide our citizens with excellent transportation, health care or education. While we generally do quite well on standardized measurements of educational achievement we have other problems of delivery and quality caused by distance and numbers. We have looked to the Federal government to provide some assistance in surmounting those obstacles to quality education across the state.

It is with considerable disappointment that I note that President Bush's 2003 budget falls short of fulfilling the promises made in the "No Child Left Behind Act" that was signed with much fanfare just last month. There is something wrong with leading the American people to believe that we are prepared to do great things in education but only a month later the big plans are not funded.

The Rural Education Achievement Program has been zeroed out by President Bush. This program addresses those problems of location and small enrollment. It helps

level the playing field. It provides a formula grant program to school districts with fewer than 600 students and a population density of less than 10 people per square mile. The second part of the program provides grants through the state education agency. As you know the program permits districts to consolidate formula funds with current funds under technology, safe and drug free schools and several other categories. I have read that the Administration argues that all rural concerns are being addressed. That is not true and the elimination of funding for this important rural program will make flexibility more difficult and it will also stop a targeted stream of funds to our most needy rural schools. This program is important to rural districts because it provides funds and it allows the flexibility small rural districts need to put small pots of money together to fund educationally sound local projects. Without both the funding and the flexibility it does not offer the assistance needed in our rural areas.

After much discussion about full funding of Special Education the 2003 budget makes that discussion seem like much ado about nothing. Under the President's proposal students will have to wait 33 years to reach full funding for special education. Obviously our students deserve better and our school districts need this assistance in order to provide a quality education for all students.

While I am pleased that there will be some increase in Title I funding I am concerned about our ability at the state level to provide assistance to local districts. An example is the Reading First program provides extra program funding but no funds are provided for my agency to assist in implementation of the program. Meanwhile none of the other Title I responsibilities will go away.

I am also concerned that the President is not investing in the reforms that he said were very important just last month. Education programs in technology, teacher training, professional development and vocational education are among the 40 eliminated from the budget. It is important to us in the field to know if there is a seriousness of purpose in the federal role in education. If there is, then there needs to be a seriousness of funding continuity that will sustain our efforts.

Thank you for the opportunity to appear before you this morning.

Chairman CONRAD. We are also privileged to have with us the Chancellor of the North Dakota University system, Dr. Larry Isaak, who recently was chosen as the president of the State Higher Education Executive Officers, a national organization of 30 statewide boards of higher education.

Larry, I think I can speak for all North Dakotans and say that you have done us proud to be selected the head of that national organization. You know, it's interesting how often our North Dakotans become the heads of their national organizations, and you follow in that proud tradition. It's awfully good to have you here.

I can just say I have worked with Dr. Isaak for many years, and higher education could not have a more persuasive spokesman and advocate than Dr. Isaak. Welcome, and please proceed with your testimony.

STATEMENT OF LARRY A. ISAAK, CHANCELLOR OF THE NORTH DAKOTA UNIVERSITY SYSTEM AND PRESIDENT OF THE STATE HIGHER EDUCATION EXECUTIVE OFFICERS

Dr. Isaak. Thank you, Senator. Before my prepared remarks, let me say it is a real pleasure to be here today. Your position as Chair of the Budget Committee is certainly one that North Dakota can also be very proud of, and I think it brings a lot of great, not only honor to North Dakota, but it also brings North Dakota to the forefront on the national scene, and we need that. If we re going to grow in North Dakota and grow the State's economy, we need people in key legislative positions in Washington from the State of North Dakota, and we need people who are going to exercise their leadership, and I am just very pleased that you are in a position to do that.

You know, North Dakota higher education has received a lot of attention in the last couple years. We have had a statewide rouridtable of 61 people from across the State: Legislators, private sector people. Dr. Sanstead was on the round-table, and it really has chartered a new path for higher education in North Dakota to link more closely with economic development. And as you look around the country, the key to turning States around is an investment in higher education, not only in the traditional things we do, but in things such as research and public service and work force training. North Dakota is leading the charge on that.

We just received a national award the other day, and more will be coming out on those efforts. We're being recognized across the country as a State of best practices, so I think that the future is bright for North Dakota in many respects.

I am pleased to be here today to offer comments regarding President Bush's budget, not only as Chancellor of the North Dakota University System, but also as President of the State Higher Education Executive Officers.

Chairman Conrad, first and foremost, I'd like to thank you for your commitment to students. The lead role you played to ensure that new Federal student loans made after 2006 will bear a fixed interest rate to student borrowers, with the goal of providing a stable source of funding, will stabilize and lower a student's loan indebtedness. Also, thank you for your many efforts to improve research and program capabilities at all of our campuses.

My fellow SHEEO's and I recognize that you and members of the Budget Committee are faced with many challenging budget decisions, and I have visited with several of them in anticipation of this hearing. We believe, and I should say "strongly believe," adequately funding various needs-based financial aid programs has always been a way to provide financially needy students access to higher education, and that this should continue to be a high priority for the Federal Government. They have asked me to express concern that the President's budget may slow achievement of this goal to provide this broad access to postsecondary education irregardless of an individual's income level.

The reasons for the SHEEO's concerns about financial aid are as follows:

One, the President's fiscal year budget proposes no increase in the maximum Federal Pell Grant award of $4,000 for academic year 2001–03, and has requested supplemental funding to cover a projected shortfall for fiscal year 2002 and beyond in the Pell Grant program. Let me just, as an aside here, I understand that the proposal to cover that supplemental funding for the shortfall would come out of many projects that Congress has approved across the country.

Those projects are valuable projects which assist citizens and students. For example, one of them that would fall by the wayside is a program in which Minot State has, been funded to work with rural law enforcement communities across the State and provide leadership and service to those communities. That is pretty critical in this day and age, so I don't see the connect at all to that. So I would hope that that isn't where the supplemental funding comes from.

The President's budget also proposes level funding for three campus-based programs: the Federal SEOG program, Perkins Loans, and Work-Study programs. It eliminates funding for the Federal LEAP Program, which is a program that uses funds to match funds that States provide.

Also, let me say that our concerns are founded because students financial aid will be even more critical because of the current recessions's impact on States budgets.

My role as President of the State Higher Education Executive Officers also challenges me to look at postsecondary education from a national perspective. My counterparts, the SHEEO's, are currently struggling with State appropriation shortfalls in the billions in many cases, and are considering major tuition increases to offset these shortfalls. This, compounded with States occupational shortfalls, for example, in teachers and information technology workers, poses even greater challenges.

To enhance a partnership between the States and the Federal Government to address these concerns, we ask the Congress to consider: Increasing the Federal Pell Grant maximum award.

Expanding the Hope Scholarship and Lifelong Learning tax credit to include non-tuition costs.

Forward-fund the various need-based programs rather than supplement-funding them.

Expanding the loan forgiveness for math, science and special education teachers; critical, critical shortages, from $5,000 to $17,500 as is proposed.

Enhance TRIO and Gear-Up funding to ensure needy children do not fall through the cracks throughout their educational cycle. These are critical programs to that population.

Increase the Title IV loan limits for incoming freshman. As you know, an incoming freshman is only eligible to borrow up to $2,625 in Federal Stafford loans, and in many cases ends up assuming much higher cost alternative loans. This will even be more important if the Federal Pell Grant remains the same, and might I add, as tuition increases are taking place across the country.

Continue to explore ways to make financial aid funding available for part-time students, and students who take courses from several campuses simultaneously.

And support the increased funding in the President's budget for research as reflected, for example, in the proposed National Institute of Health budget. Cutting edge research will keep this country in a lead role in the world for decades to come. It is a sound investment.

Let me add one more bullet point that isn't in my prepared remarks, Mr. Chairman, and that is an issue closer to home, and it's not even within the North Dakota University System campuses, it's the United Tribal Technical College. I believe that funding for that college is important. They are very important partners to providing education to all citizens of the State, and we're trying to partner more and more with those tribal colleges, and their future is very important to ours, as well.

We understand, and we support the President's agenda for homeland security and defense. However, in light of today's slowed economy, the question must be asked, "Do the revenue reductions which are now planned over the next several years mean a reduction in maintaining affordable access to postsecondary education? Let us hope that the economic stimulus predicted as a result of last year's revenue reduction plan will happen soon so that revenue growth will fund our important security and defense needs and, also, continue to fund affordable access to higher education for all of our citizens.

Chairman Conrad, thank you for this opportunity to visit with you today and share our thoughts. Don't hesitate to contact me personally if I can be of further assistance as the Budget Committee and you move forward with your deliberations.

[The prepared statement of Dr. Isaak follows:]

Budget Committee
Hearing with Senator Conrad

Testimony of Larry A. Isaak
Chancellor of the North Dakota University System and
President of the State Higher Education Executive Officers
February 22, 2002

Good morning.

I am pleased to be here today to offer comments regarding President Bush's FY2003 budget not only as Chancellor of the North Dakota University System but also as president of the State Higher Education Executive Officers (SHEEO's).

Senator Conrad, first and foremost, I'd like to thank you for your commitment to students. The lead-role you played to ensure that new federal student loans made after 2006 will bear a **fixed interest rate** to student borrowers, with the goal of providing a stable source of funding, will stabilize and lower a student's loan indebtedness. Also, thank you for your many efforts to improve research and program capabilities for our campuses.

My fellow SHEEO's and I recognize that you and members of the Budget Committee are faced with many challenging budget decisions. I have visited with several of them. We believe adequately funding various needs-based financial aid programs has always been a way to provide financially needy students access to higher education, and that this should continue to be a high priority for the federal government. They have asked me to express concern that the President's budget may slow achievement of this goal to provide broad access to a postsecondary education irregardless of an individual's income level.

The reasons for SHEEO's concerns about financial aid are:

- The President's FY2003 budget proposes no increases in the maximum Federal Pell Grant award of $4000 for academic year 2002-03 and has also requested "supplemental" funding to cover a projected shortfall for FY2002 and beyond in the Pell Grant Program.

- The President's budget proposes level-funding for the 3 campus-based programs, e.g., Federal SEOG, Perkins Loan, and work-study programs.
- The President's budget eliminates funding for the Federal LEAP Program (State Grant Program).
- Student financial aid will even be more critical because of the current recession's impact on state budgets.

My role as President of the State Higher Education Executive Officers also challenges me to look at postsecondary education from a national perspective. My counterparts, the SHEEO's, are currently struggling with state appropriation shortfalls and are considering major tuition increases to offset these shortfalls. This, compounded with states' occupational shortfalls, e.g., teachers and information technology workers, poses even greater challenges.

To enhance a partnership between the states and the federal government to address these concerns, we ask the Congress to consider:

- Increasing the Federal Pell Grant maximum award.
- Expanding the Hope Scholarship and Lifelong Learning tax credit to include non-tuition costs.
- Forward fund the various need-based programs. Doing this means students will be assured access to an education.
- Expanding loan forgiveness for math, science and special education teachers from $5,000 to $17,500 – as proposed in the President's budget.
- Enhancing TRIO and Gear-Up funding to ensure needy children do not fall through the cracks throughout their education cycle.

- Increasing the Title IV loan limits for incoming freshmen. As you know, an incoming freshman is only eligible to borrow up to $2625 in Federal Stafford loans and, in many cases, ends up assuming much higher cost alternative loans. This will be even more important if the Federal Pell Grant remains the same.

- Continuing to explore ways to make financial aid funding available for: (1) part-time students, and (2) students who take courses from several campuses simultaneously.

- Supporting the increased funding in the President's budget for research as reflected, for example, in the proposed NIH budget. Cutting edge research will keep this country in a lead role in the world for decades to come. It is a sound investment.

We understand and support the President's agenda for homeland security and defense. However, in light of today's slowed economy, the question must be asked, "Do the revenue reductions which are now planned over the next several years mean a reduction in maintaining affordable access to postsecondary education?" Let us hope that the economic stimulus predicted as a result of last years revenue reduction plan will happen soon so that revenue growth will fund our important security and defense needs, and, also continue to fund affordable access to higher education for all of our citizens.

Senator Conrad, thank you for this opportunity to visit with you today and share our thoughts. Don't hesitate to contact me personally if I can be of further assistance as the Budget Committee moves forward with its deliberations.

Chairman CONRAD. Thank you, thank you both for your testimony, and thank you, Dr. Isaak, for the leadership that you provide in higher education in North Dakota. I can tell you the word is getting out. As I have talked to businesses who are considering coming to North Dakota—I talked to one last night, at the Innovators Conference. The awards were being made for those who were business innovators in North Dakota. I had a businessman approach me about a very substantial investment that he was thinking of making here in Grand Forks, North Dakota—very substantial, in the millions of dollars. And the thing that was attracting him was the higher education facility and the excellence of it at the University of North Dakota. It was the potential partnership of his company with graduates and faculty members at the University of North Dakota that intrigued him about making a multi-million dollar investment here. We agreed to continue to pursue the matter in the days ahead.

Dr. Cupcella, your ears must have been ringing last night. You were at that dinner. When this businessman approached me, he talked to me about what he saw as the excellence of the institution that you lead. You would have been very proud to hear his comments. This man represents a very important company, and with deep pockets and the ability to make the kind of investment that was being discussed, so we hope that this will come about.

Dr. Isaak, if I could go to the question of Pell grants—I want to come back to you, Dr. Sanstead, on the Rural Education Program, if I could, but Dr. Isaak, starting with you, we have got a shortfall of $1.3 billion in Pell grants. The President, instead of just sending up a supplemental request to fund this, said, Cut $1.4 billion in previously passed programs including $800 million out of other education programs. This is, again, the kind of now-you-see-it-now-you-don't accounting that is very troubling to me. Can you tell us the importance of the Pell Grant program, as you see it, to students in North Dakota? Dr. Isaak. It's incredibly important to students in North Dakota, especially for a rural State like North Dakota. When you look at income levels of North Dakotans compared nationally, the economy that we have here, the struggles that are going on in the agricultural community, the Pell Grant is the main ingredient that will determine whether a student goes to college or not. I mean it's the bottom line in many eases. It's the defining moment for students whether they will go on or not. And so for a State like North Dakota, where we lead the Nation, I think, Wayne, and the number of high school students that go on to college, you can see how critically important that is even with the economy of North Dakota, as it is in a rural State, we still lead the Nation. North Dakotans consider higher education so important. It's just in our fabric, and without that Pell Grant and without maintaining an adequate level of the Pell Grant, there are students and their families that, no question, they will be denied access because it is the first and it is the main determinant of whether some families or some citizens or some students can go on.

Chairman CONRAD. We clearly have got a problem with Pell Grants. I agree with you, in visiting with students in North Dakota they tell me, look, you've got to have that money, you've got to expand the Pell Grant award amount to keep up with inflation, at

least, and of course that is not being done. But I guess the most troubling thing I find is that we're covering the shortfall by taking money out of other education accounts, primarily, and that really can't be the answer.

Dr. Sanstead, if I could go back to the elimination of the Rural Education Achievement program and what that means, I must say, as the author of the program along with Senator Collins, it's absolutely bipartisan. We have bipartisan support for the legislation, overwhelming, and in the first budget cycle they eliminate it and they say there is no problem with rural education, all the funds that are needed are being provided. You indicated in your testimony that that is not the case. Can you tell us what it will mean for meeting the goals that have been set if we have a program like this eliminated? What does it do in terms of the challenge that you face?

Mr. Sanstead. Yes, I think, Senator, you make the point that it is the focus on which rural education really has looked to the future, and by arguing, as the administration did, and proposing its immediate elimination in the 2003 budget, it is really a setback. Really, No Child Left Behind, as even an argument point for the Administration at this time, it's showing a lack of understanding, in my view, of how necessary the rural areas are to this State, and certainly this State, but most especially this Nation. So from that perspective I think they don't understand that Rural Achievement has been the basis for so much of the expansion and success in our economy as a Nation. These folks who have left the rural areas have built a lot of the industry and the business and the scientific progress that has made this country work.

So the flexibility point I made in my earlier comments, it increases the opportunity for rural school districts to combine rural program money into the area that they need it most in, and most especially that includes technology, because technology is the bridge that we have been using to try to overcome the factors of distance and transportation.

So the fact there wouldn't be a targeted stream of money flowing to those rural districts I think is going to be a major handicap for education in the country. I know the NREA colleagues, that is our Nationwide Rural Education colleagues—by the way, the State next most involved with North Dakota is New York, and a lot of people don't think of upstate New York as being rural, but in my contacts with NREA spokes persons across the country, they have focused a lot on upstate New York, not just what we normally think about as farm territory out here in the midwest.

And I would want to piggyback on the comments of Larry in the sense of the need for the Pell shortfall money. You know, to take some of that is—some of the cuts that I mentioned earlier come because they move money over to Pell Grants, and that is robbing K–12 education, to do the Pell Grants. But in one respect I'd rather see it there because of the access and the opportunity it presents to students, but I don't want to be put in that position, because it means that, indeed, opportunity is going to be lost for kids across this country to go forward, and particularly, as you point out so well, in a State where we've got such high regard for higher education and when we maintain such an open system for students to

attend at any level of higher education, so that is a major and a severe cut.

Chairman CONRAD. I'd just say this: Honestly, when I saw this kind of transferring of funds and they say, OK, now they don't have a big announcement that they are going to fill in the gap on Pell Grants, which all agree is absolutely essential to do, then you get the budget, and they funded it by cutting 800 million of No Child Left Behind programs. Well, I mean that can't be the way we do it.

Dr. Sanstead, would you consider this budget a commitment to the No Child Left Behind program that was just signed into law a month ago, or how would you take it?

Mr. Sanstead. Yeah, I think, clearly, now, and I know we had, you know, September 11th, and I know there are other considerations on the home front besides education protection, really, for all of us, but the fact of the matter is to have the No Child Left Behind to be the major Presidential initiative, that had we not had September 11th, very clearly would have moved education as the first item before the budget process. It was so disheartening and so discouraging, I think to educators across the country, to see the tremendous fanfare we had with this kind of a—I have been to Mount Vernon before, but never under the circumstances that we were there when the President and the Secretary arrived to tell us all the things that were going to happen because of this great initiative, and then suddenly have the budget come out and have it be a total disappointment; I think that is the part that causes—and that is every educator in the K–12 system, and I think all of our colleagues in the higher education system who see it now simply as a fanfare move.

Chairman CONRAD. Well, we have got a tremendous outpouring, I can tell you that, from across the country on that issue, and people feel strongly. It was the right commitment, but it's got to be funded. A commitment verbally doesn't make much difference. The rhetoric has to be matched with resources.

If I could go to Dr. Isaak, you note that the President's budget would eliminate the LEAP program. That is a program that encourages States to establish scholarships and grants to encourage young people to go to college. What impact will that have on students in North Dakota? And can you maintain a program without any Federal support?

Dr. Isaak. Mr. Chairman, we hope that that stays in there. We have had some difficult funding challenges with that program in the State in the last few years, and we are hoping to regain that level of support with prorations from the next legislature. Without that in place, you know, it's always good to go to the State legislature and say, you know, if you folks put up a little bit more here, we can bring in a little bit more here and we can match what you are going to do, and so forth. So it s absolutely critical, it seems to me. It's an incentive to the States and to the legislators in the various States to put more money into financial aid as well, and that incentive will be eliminated as a result of that. And you know, I happen to think that some of these things that partnership between the States and Federal Government are pretty good, and we try to develop partnerships. That partnership and that incentive

for the States that would do more for students, as well, will be eliminated, and I don't know if the legislature—then we don't have that argument when we go down the halls in Bismarck to say, "If you do this we can help, also, the students, with a Federal match."

Chairman CONRAD. Just a final question: We re seeing Pell Grant applications increase nationally at the rate of about 8 percent. Are you seeing a similar trend here in North Dakota?

Dr. Isaak. I don't have the statistics, but absolutely, yes, we are, because we're seeing our enrollments increase. It's kind of wild that while we're having these challenges, our enrollments are actually increasing, and they are increasing and for part-time students and students taking on-line courses. We saw a tripling of about 70 percent of students taking on-line courses from last spring to this spring. So the applications, I would guess, are up quite a bit. And also, when you look at the income levels of individuals and what is happening in North Dakota recently, that is driving it, as well. I know the 10-year history, it just goes off the roof when you look at the 10-year history in terms of financial aid and applications, so the need is being demonstrated even greater than it has been before for these types of grants. And I don't have statistics, but based on our enrollments I have to know it's growing.

The other thing that I think is important is we have taken a leadership role in this State in opening up access where students can take courses from multiple institutions to get a degree. We have an on-line associate's degree that just went into place a few months ago. We are part of a development program that the Department of Education a few years ago gave us a grant to take a leadership role, for North Dakota to take a leadership role. More and more part-time students, they are having to take their courses on a part-time basis just because of cost. The Federal programs for these grants do not—you know, you have to be a full-time student at one institution to get a grant. That is not the way things work in 2001, and I mention that point, and my colleagues, as well, I know, are very concerned that as we move to the future, that that be expanded in terms of eligibility for those grants.

Chairman CONRAD. It's just got to be changed, because of realities of higher education today doesn't fit this old template where somebody went to one school, stayed there, went to all their classes there. Now you have got these partnerships with other institutions of higher education, and you take, perhaps, most of your classes at one institution, hut you take some specialty class elsewhere, and actually that improves the effectiveness of the use of taxpayer money because that reduces duplication. Isn't that——

Dr. Isaak. Absolutely. But even more importantly, it's in the students best interests, and we ought to be providing the opportunities for that to happen for them.

Chairman CONRAD. Very well stated. I want to thank you both. I appreciate your being here today.

As the second panel is coming up, we're going to take just a short break, because I believe the television station would like to interview Dr. Isaak and Dr. Sanstead. We were told last night that they'd like us to take a just a brief break to give them a chance to talk to Dr. Isaak and Dr. Sanstead. We will do that. We will take a 10-minute break and then we will be back.

[Recess.]

Chairman CONRAD. We will bring the hearing back to order. We invite our second panel: Tanna Kincaid, North Dakota State Board of Vocational Education; Bev Nielson, representing the North Dakota School Board Association; JoNell Bakke—I hope I am pronouncing that correctly—Grand Forks Education Association, and Dean Kreitinger, the business manager for Grand Forks Public Schools. Welcome to you all. I appreciate very much your being here.

Tanna, why don't you begin.

STATEMENT OF TANNA M. KINCAID, IT SUPERVISOR FOR THE NORTH DAKOTA STATE BOARD OF VOCATIONAL EDUCATION, AND DIRECTOR OF THE NORTH DAKOTA TEACHING WITH TECHNOLOGY INITIATIVE

Ms. Kincaid. Thank you very much, Senator Conrad. I would like to just open with a brief statement, and that is there are many days when I wake up in awe of the great education system we have in this State, and the commitment and dedication of the educators, and I think that is what keeps me going in this job from day to day, is just seeing that and seeing that involvement, and knowing that that is not the case in every State. I think we have a unique situation here and a lot of great people here that are working to do the best that they can for our kids. And I am proud that—I have two little ones, one of which is already in school, that they go to public school in North Dakota and know that they are getting the best education that they can get. So for those of you that are educators or have anything to do with education in North Dakota, I want to thank you for that and for my family's opportunity.

I will move to the formal testimony here. Chairman Conrad and Members of the Committee, it is an honor to appear before you to discuss the impact of the President's Fiscal Year 2003 Budget Request on education in North Dakota and America.

For the record, I am Tanna Kincaid. I am the Information Technology Supervisor for the State Board of Vocational and Technical Education, as well as the Director for Teaching with Technology Initiative which is a technology-based challenge grant program.

For the purposes of this testimony, I am going to confine my statements to two major areas, one being vocational and technical education, and the other being educational technology. I will start with vocational and technical education.

Vocational and technical education was slated for level funding in the 2003 budget. It is our feeling that if we're to provide students with the knowledge and skills necessary to perform in the new economy, we can not be expected to do this on level funding. With the increasing needs, particularly in information technology and in the area of career development, it is very difficult to maintain the traditional educational, vocational educational opportunities, and offer increasing opportunities in information technology.

As you know, North Dakota is one of four States that receive minimal funding. We receive a minimum amount, and we believe that the minimum should be increased.

Another concern is the elimination of the Occupational and Employment Information program. This program has provided a lot of

informational resources and other valuable resources to our students, schools and counselors in the State, and there is really no replacement for that, so that is a big concern.

And then, finally, the Career Clusters project, which isn't really mentioned in the 2003 Budget, but I am going to slip it in here, should be continued and the development of that should remain at the secondary education level. The Career Clusters have the potential to reshape how we look at vocational and career education, and it will help to provide a continuous ladder for students to—will provide students the ability to start and stop and to reenter education without hitting the dead end that they currently do.

With respect to information technology, this a career cluster that is critical to student success and the economic viability of our State and our Country. North Dakota's successful progression into the information economy hinges heavily on IT career education and the preparation of students from K to adult.

The increased need for information technology programming is costly. The training costs for teachers, the equipment costs, the curriculum costs, are weighing heavily on our department, I know, and it's difficult to continue to expand in those areas and still meet the other vocational area needs without any increase in funding.

The last part of my comments are revolving around educational technology. I'd first like to thank our entire congressional delegation, but in particular, Senator Conrad, for support and for securing funding in technology and education technology. I think that they have done a tremendous job for us in this State. I am also very appreciative of the Senator's support and help in ensuring that the Teaching with Technology initiative, which is the TICG Federal Grant, received full funding for our last year. That is going to make a big difference for us in the State with regard to educational technology.

My first concern with educational technology, the way it seems to be moving with the 2003 Budget, is revolving around the disregard that it seems to take into account for current lessons learned and best practices. There has been a wealth of knowledge and best practices that have resulted from the Technology Innovation Challenge Grant and other programs that are slotted for elimination. There is a concern that these investments made in the programs are largely going to go by the wayside because there is a lack of a plan for the dissemination and use of those lessons learned, and I hate to see us reinvent the wheel again in new programs without taking into account the progress we have already made. One specific example is the fact that 25 over $600 million was invested in the TICG program, yet there is no plan to utilize the evaluation data from those initiatives and best practices models to form new programs.

Another missing element in the fiscal year 2003 Budget is the total lack of funds for true innovation. There appears to be no target program to promote and seed innovative approaches. The loss of targeted programs may affect our ability to efficiently and effectively move forward as a State and to innovate as a Nation. I think that would be a mistake to not have that in place.

Another concern is from a regional perspective, and that is the potential loss of the consortium that are focused on educational

technology. That would be, for instance, the North Central R-Tech and High Plains R-Tech. Those two R-Techs, in particular, have provided a lot of support and resources for us in educational technology in this State, and with the limited funding that they had in the first place, I think that they provide an invaluable and top-notch resource to us as a Nation, and I hope that there is some replacement or some other way that we can keep that type of resource going.

Another real concern is the elimination of the PT3 program, and particularly failure to provide for a comparable program. If we really want to systemically change the way our education system works in this State and the Nation, we need to start by changing the way we educate future administrators and teachers, and there doesn't seem to be any additional means to do that in the new budget.

Finally, there is a fear that the guidelines for the distribution of the Educational Technology Block grants may result in limited flexibility for our State to align the funding processes to support current State priorities. For instance, the investment in our statewide network and the educational use of that network.

And as a last point, there is also some indication that schools may be able to choose not to use the funds intended in the Educational Technology Block grants for educational technology, and depending on how those guidelines work out, this could very well result in perpetuating inequities in schools with regard to educational technology.

I thank you for the opportunity to present this testimony.

[The prepared statement of Ms. Kincaid follows:]

"Impact of the President's FY2003 Budget Request on the Department of Education"

Testimony before the Senate Budget Committee

Tanna M. Kincaid
IT Supervisor for the ND State Board of Vocational Education
and
Director of the ND Teaching with Technology Initiative

February 22, 2002

Chairman Conrad and Members of the Committee, it is an honor to appear before you to discuss the impact of the President's FY 2003 Budget Request on education in North Dakota and America. For the purposes of this testimony, I will confine statements to two major areas 1) Vocational and Technical Education and 2) Technology in Education.

Vocational and Technical Education

Vocational Education, namely Carl Perkins, funding, is slated for level funding in the Bush budget, for the 2003 at $1.18 billion. If we are to provide students with the knowledge and skills necessary to perform in the new economy we cannot expect to do that on level funding. While there is a demand to offer more vocational technical classes across the board, the increasing needs in the areas of Information Technology and Career Development are not being met. Additional funding would assist us in providing needed programming and training in Information Technology as well as assist in the career education of students.

Although there was an increase in 2002 funding of $80 million, the increase did not benefit North Dakota because we are a minimum funded state. North Dakota, and the four other minimum funded states, all who receive $4.2 million (VT, WY, AK, DC), would benefit if the minimum funding level were increased. (South Dakota received an increase of $315,000).

One program under Perkins that is slated for elimination is Occupational and Employment Information. It is currently funded at $9.5 million nationally. In North Dakota the information that has traditionally been provided through this program (North Dakota Career Resource Network – NDCRN) is of value to students, schools, and counselors. It would be very hard to replace the assistance that they provide in career education. Out of the $170,000 NDCRN budget, North Dakota receives $108,000 in federal funds under Perkins.

Career Clusters is a project that is also in jeopardy. Though the funding for this comes out of the Perkins "National Programs" which was level funded at $12 million, there is a move within the department to move this project out of secondary education into

community colleges. This is the wrong approach; if we are to prepare students for future careers where better to start the process than at the beginning of their education? Moving the project to the community colleges will limit its acceptance at and effectively kill it for secondary education. The Career Clusters have the potential to reshape education into a continuous career ladder approach where students can start, stop, and continue their education without a series of frustrating dead ends.

While it is not a part of the 2003 budget, the administration is indicating that it wants to eliminate occupational knowledge and skill preparation at the secondary level. If this happens it will seriously impact students. Secondary vocational technical education prepares students for future careers and further education. Post secondary education has to be part of a students mix but if we do not provide occupational programming at the secondary level students who want to enter a particular field will be severely disadvantaged. Occupational skills help student understand the relevance of their education and provide a focus for their education.

The Role of Information Technology in Vocational Education

Specific concerns regarding the need and value of Information Technology programming at both secondary and postsecondary levels merit some additional points.

Information technology is a career cluster that is critical to student success and the economic viability of our state and country. Information Technology (IT) has, no doubt, had major impacts on education, work, and home life in America. It is expected that, in the coming year, over 425,000 IT positions will go unfilled due to a lack of skilled applicants. All students need to be competent with technology in order to work and live in our technology infused society. We need to prepare students who are network savvy, have technology trouble-shooting abilities, and are engaged as life-long learners in technological advances. North Dakota's successful progress into the Information Economy hinges heavily on the IT career education and preparation of students K-adult.

Schools must keep up with the constant changes in the IT industry to ensure that their programs remain relevant. Statewide coordination and support play a big factor in maintaining this momentum. The Information Technology Program Area of the State Board for Vocational and Technical Education has made great strides in assisting schools with high tech opportunities for students. The increased need for Information Technology programming costs money. It is difficult to continue to expand information technology opportunities and meet other areas of need without any increase in funding.

The benefit of funding and coordinating IT on a statewide basis cannot be overstated. Constant visioning and change is needed to stay aligned with IT needs. The demand for new or changing curriculum, equipment, and training is overwhelming for individual schools to address. Our ability to provide a solid foundation and infrastructure for schools in North Dakota is important.

Educational Technology

Our congressional delegation as a whole and particularly Senator Conrad has been instrumental in supporting and securing funding for technology in education. I am very appreciative of the assistance in insuring that our last year of funding on the ND TWT initiative (TICG) was secured.

In addition to the specific concerns listed below, major concerns regarding FY2003 educational technology funding fall into two areas. First is the concern and likelihood that the investment in learning via programs slotted for elimination will not be leveraged through a solid plan for dissemination and use of the best practices. Over 600,000 dollars was invested in the TICG program, yet, there seems to be no plan to utilize the evaluation data and best practices models to inform new programs. This will result in unnecessary backtracking and a waste of a huge federal investment not just with TICG but with other programs such as PT3 and Star Schools. The second concern is the missing element of funds for true innovation. There appears to be no target program to promote and seed innovative approaches with regard to technology and educational advancements.

The FY 2003 proposed decrease in educational technology spending has us concerned. North Dakota educators and students have benefited greatly from programs such as the Technology Innovation Challenge Grants, Preparing Tomorrows Teachers to Use Technology, and The Regional Technology in Education Consortia, to name a few. From a regional perspective, the potential loss of consortia focused on educational technology like NCRTEC and HPRTEC would have a very negative impact on innovation in educational technology. These entities have provided invaluable, topnotch, resources for use nationwide.

The elimination of the PT3 program and failure to provide a comparable program is a great concern as well. If we are to improve educators' ability to engage and instruct students we must work harder on the initial education of future teachers. It is time consuming and expensive to work primarily with inservice educators on professional development in educational technology, teaching and learning strategies, standards-based education and so on without making the same advancements in teacher education programs. If we really want to systemically change the way our education system works in this state and nation, we need to start by changing the way we educate future administrators and teachers. The PT3 program provided opportunities to establish effective models in this area.

The consolidation of the Technology Innovation Challenge Grant program (TICG), although expected, has a lot of implications regarding our states ability to continue assisting educators in moving toward transformation in technology integration. The funding of the statewide ND TWT initiative through the TICG program has exposed more educators to principles of instructional design, technology integration, teaching and learning strategies, engaged learning principles, and standards-based education than would have been possible without focused funding. The loss of targeted programs on technology integration may affect our ability to efficiently and effectively move forward as a state.

There is a fear that the guidelines for the distribution of Block grant funds may result in limited flexibility for our state to align funding processes to support current state priorities such as the educational use of the new statewide network and the continued implementation of proven processes such as the progress made through the implementation of the ND TWT professional development model.

There has also been some indication that schools may be able to choose NOT to use funds intended for educational technology if they have higher priorities. If this is true, the digital divide and effective instructional use of technology will only become more severe than is already the case. There is a need for balance between locally controlled funds and the availability of funds to support initiatives and processes common to all schools.

There is a lot of merit in pooling resources to design and implement statewide initiatives that equitably serve all schools. This is particularly true given our state's predominance of small schools. As individual entities, our small schools would have difficulty researching, designing, and implementing a professional development model such at ND TWT. We do not want to loose our ability to focus resources on educational initiatives and innovations that have been decided by a broad statewide group of stakeholders to have significant merit and impact for our schools as a whole.

Chairman CONRAD. Thank you. Excellent, excellent testimony. We're going to go right down the panel, and then we will have questions, as well.

Welcome. Glad to have you here. Again, JoNell is President of the Grand Forks Education Association.

STATEMENT OF JONELL BAKKE, PRESIDENT, GRAND FORKS EDUCATION ASSOCIATION

Ms. Bakke. I appear on behalf of the North Dakota Education Association. Gloria Lokken, the president, was unable to be here today, and she asked that I give this testimony on her behalf.

I work with the Grand Forks public schools and I have worked with them for 19 years in elementary and special education. My husband and I have four children, and I am in my second year as president of the association.

The NDEA strongly believes that the Federal Government should provide real resources to implement the "No Child Left Behind Act" and to assure that every student has a high quality education. We support guaranteed full funding of IDEA by mandating increases of $2.4 billion in each of the next 6 years.

The Federal Government should also have increases for critical educational programs, including $5.65 billion increase for Title I and increases for other important programs, such as teacher quality, math and science partnership, and after-school programs. NDEA opposes efforts to eliminate funding in Fiscal Year 2002 for important elementary and secondary education programs, or to pit the ESEA programs against higher educational needs and funding.

Without these Federal dollars, rural States like North Dakota will not be able to recruit and retain quality teachers to ensure that every student receives a quality education.

In recognition of the importance of public education in the United States, the reauthorization of the Elementary and Secondary Education Act, ESEA, was signed into law on January 8, 2002 in a public schoolhouse rather than in the White House.

Less than 1 month later, President Bush's proposed budget eliminated 29 earmarked project funds in Fiscal Year 2002's ESEA Appropriations Bill. In his proposed 2003 budget for ESEA, 40 educational programs were eliminated, another 16 programs were cut in funding but not totally eliminated, 66 programs were frozen, 22 programs were increased, 4 programs were added, and there is now a new tax provision.

For 2002, the Bush budget proposal would reduce the appropriations increase from $3.507 billion to $2.794 billion. The 2002 reductions and the reductions for 2003 were brought forward less than 4 weeks after celebrating the big increase in funding for education, ensuring that, indeed, "no child would be left behind." With these reductions the proposed ESEA Fiscal Year 2003 Budget contains the smallest increase since 1996.

Well, you may say, at least in these difficult times there is an increase. Please remember that this 1000-plus page new law makes great changes to Federal educational policy in many areas including testing, accountability, and educator quality. We know that mandates cost real dollars. Where are these dollars going to come from? We are still struggling to obtain the promised 40 percent

Federal support of IDEA which was mandated 29 years ago. Bush's proposed budget does not include support for IDEA, but at the rate of $1 billion a year, it will take 33 years to achieve the promised 40 percent Federal support for IDEA. We are not against accountability, we wholly support IDEA and most assuredly we are for quality; however, we also understand that funding must support mandates.

It is not possible at this time to discuss all the affected programs in Bush's budget, but we will discuss one that is critical to our State. For the first time, and largely due to your support and leadership, Senator Conrad, Rural Education was established and authorized in ESEA. $300 million a year was authorized for 6 years for rural, small and poor schools to allow them to combine certain ESEA programs. Rural schools educate a significant number of America's children. Nearly 40 percent of school-age children attend public school in rural areas or small towns, 49 percent of the Nation's public schools are located in rural areas and small towns, and 41 percent of public school educators teach in those rural community schools.

Nationwide, according to the National Education Association research, smaller class sizes and greater community involvement have resulted in higher average student achievement scores, higher graduation rates, and greater involvement in extracurricular activities among rural students. However, among the challenges facing the rural schools are funding deficits, lack of programs targeted to students with special needs, difficulties in recruitment and retention of teachers, and inadequate facilities.

The ESEA appropriations bill provides $163 million for 2002 Rural Education Funding. President Bush's proposed budget rescinds the 2002 funding and eliminates the program in 2003.

In other words, Bush's proposal doesn't fund the Rural Education Achievement Program. This is a huge blow to our State. North Dakota has the highest percentage of school districts eligible for rural funds, over 78 percent.

The funding impact of the Rural Education Achievement Program in North Dakota, even with very conservative estimates, could be over $5 million in 2002. We, in rural America, have fought long and hard, along with our congressional team, to be recognized for our funding needs.

It is painful to finally gain recognition for rural schools only to hear that the funding might be eliminated. Be assured that our congressional team will continue working to make sure that the funding is not yanked away.

The proposed Bush Budget also includes private school tax credits with a 5-year cost of over $3.7 billion. This is a voucher issue. Both the House and the Senate defeated voucher proposals with strong bipartisan votes during the reauthorization of ESEA. The $3.7 billion must be used to fund rural education along with many of the proposed eliminated and cut programs that are so vital to quality education.

We are faced with the reality with a war on terrorism, homeland defense, an economic stimulation package, the needs of public education, and the implementation of the ESEA law.

We support an economic stimulation package that includes assistance for States, and help for low income families impacted by economic crisis. Federal funding for school construction could help create local construction and related jobs, as well as provide fiscal relief to local school districts. Such funding could act as an economic stimulus.

North Dakota's school buildings need major improvement. Twenty-three percent of North Dakota schools need a building extensively repaired or replaced. Sixty-two percent are in an unsatisfactory environmental condition, and 29 percent have poor ventilation. Twenty-eight percent have bad plumbing.

Our State and local governments also need broader economic help. For instance, temporarily increasing the Federal matching rate for Medicaid would help States meet increased costs due to rising caseloads and free up funds to help balance their budgets without tax increases or program cuts.

This is not the time to reduce our commitment to public education. We know that reform without resources is punitive. We know that strong public education for all is the true basis of freedom and economics growth, and must be valued in words, deeds and funding as the frontline of our homeland defense. Thank you.

[The prepared statement of Ms. Bakke follows:]

North Dakota Education Association •410 East Thayer Ave, Bismarck ND 58501

NDEA Testimony before Chairman Senator Kent Conrad Budget Committee Hearing, February 22, 2002, Grand Forks, ND

Thank you, Senator Conrad, for this opportunity to share the views of the North Dakota Education Association (NDEA) regarding the federal budget and its impact on public education in our state. I am speaking at the request of the NDEA President Gloria Lokken, who was unable to be present today, but wanted this testimony delivered.

Good Morning, I am JoNell Bakke, I have taught in the Grand Forks School District for 19 years in the special education field. My husband and I have four children. This is my second year as president of the Grand Forks Education Association.

The NDEA strongly believes that the federal government should provide real resources to implement the "No Child Left Behind Act" and ensure that every student has a high quality education. We support guaranteed full funding of IDEA by mandating increases of $2.4 billion in each of the next six years.

The federal government should also provide increases for critical education programs, including a $5.65 billion increase for Title I, and increases for other important programs such as teacher quality, math/science partnerships, and after-school programs.

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For 2002, the Bush budget proposal would reduce the appropriations increase from $3.507 billion to $2.794 billion. The 2002 reduction and the reduction for 2003 were brought forward less than four weeks after celebrating a "big" increase in funding for education ensuring that indeed "no child be left behind." With these reductions the proposed ESEA FY2003 budget contains the smallest increase since 1996.

Well, you may say, at least in these difficult times there is an increase. Please remember that this 1,000+ page new law makes great changes to federal education policy in many areas including testing, accountability and educator quality. We know that mandates cost real dollars. Where are those real dollars going to come from? We are still struggling to attain the promised 40 percent federal support of IDEA, which was

mandated 29 years ago. Bush's proposed budget does include support for IDEA, but at the rate of $1 billion a year, it will take 33 years to reach the promised 40 percent federal support for IDEA. We are not against accountability, we wholly support IDEA, and most assuredly we are for quality, however, we also understand that funding must support mandates.

It is not possible to discuss all the affected programs in Bush's proposed budget, but we will discuss one that is critical to our state. For the first time, largely due to your leadership Senator Conrad, Rural Education was established and authorized in ESEA. $300 million a year was authorized for six years for rural, small and poor schools to allow them to combine certain ESEA programs.

Rural schools educate a significant number of America's children. Nearly 40 percent of school-age children attend public schools in rural areas or small towns, 49 percent of the nation's public schools are located in rural areas and small towns, and 41 percent of public school educators teach in rural community schools.

Nationwide, according to the National Education Association (NEA) Research, smaller classes and greater community involvement have resulted in higher average student achievement scores, higher graduation rates, and greater involvement in extracurricular activities among rural students. However, among the challenges facing rural schools are funding deficiencies, lack of programs targeted to students with special needs, difficulties in recruitment and retention of teachers, and inadequate facilities.

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North Dakota's school buildings need major improvements. Twenty-three percent (23 percent) of North Dakota schools need a building extensively repaired or replaced. Sixty-two percent (62 percent) are in unsatisfactory environmental condition, and 29 percent have poor ventilation. Twenty-eight percent (28 percent) have bad plumbing. *(ASCE's 2001 Report Card for America's Infrastructure)*

Our state and local governments also need broader economic help. For example, temporarily increasing the federal matching rate for Medicaid would help states meet increased costs due to rising caseloads and free up funds to help balance their budgets without tax increases or program cuts.

This is not the time to reduce our commitment to public education. We know that reform without resources is punitive. We know that strong public education for all is the true basis of freedom and economic growth and must be valued in words, deeds and funding as the frontline of homeland defense.

Chairman CONRAD. Thank you very much for that excellent testimony.

Next we will hear from Bev Nielson, who is representing North Dakota School Boards Association. Welcome. Please proceed.

STATEMENT OF BEV NIELSON, ASSISTANT TO THE EXECUTIVE DIRECTOR, NORTH DAKOTA SCHOOL BOARDS ASSOCIATION

Ms. Nielson. Thank you, Senator Conrad. Before I begin my remarks, I feel like we are sounding like broken records, and even when I was listening to Dr. Sanstead and Dr. Isaak, I decided that that was a good thing because maybe if you hear it a hundred times or a thousand times, that someone might start to take notice; so while some of this may sound repetitive, please understand that we all prepared our testimony independently of each other. So we re kind of going over some of the same territory.

The remarks that you hear in my testimony will reflect frustration of those who actually provide the educational services to every child. Local school boards cannot, nor would they ever want to leave any child behind. It's the law. It's also our desire and our mission to do so, to meet the needs of every child.

And as an aside, I must have to say that that is not the case with private schools. The law does not make the same requirements of them, and that they very often specify which students they will or won't take. Those students who are very poor or who the $2,500 wouldn't help at all, or students with extreme special needs, or those with behavior problems are just sent out the door by the private schools and back into the door of the public schools. And I think that this is something in this discussion that we need to remember when we compare public and private. While the quality can be very good, the mandates and restrictions and the mission of public schools is entirely different than that of private schools. We educate every child in the country.

With that I'll begin my formal remarks.

Senator Conrad and members of the Senate Budget Committee, for the record, my name is Bev Nielson. I am Assistant to the Executive Director of the North Dakota School Boards Association.

I want to express appreciation on behalf of the locally elected school board members of North Dakota for including their perspectives in your deliberations today. Even though school boards are the governmental unit where the "buck stops" regarding the implementation of and accountability for federally mandated education programs, they are often treated as the "poor relatives" and not invited to the party. So thank you, Senator Conrad, for inviting us to your party today.

I want to begin my remarks with brief comments regarding the President's proposed budget and impact on local boards planning and budgeting processes in general, and then I will spend some time sharing boards concerns specifically with IDEA funding. Additional information concerning these topics is provided in your packet and the committee's packets, and also in the audience packets.

The fiscal year 2003 President's budget proposal for Elementary and Secondary Education, I am afraid, sets the stage for yet another yo-yo budget cycle for local school boards. Even as the myriad of Federal mandates contained in the reauthorization of ESEA are

just beginning to sink in, and the impact they will have on local districts for the need for resources, staff time, and so forth, boards are now looking at a budget which again changes the focus, the requirements and the funding levels of Federal programs.

This schizophrenia in financial support makes budgeting for program sustainability virtually impossible for local school boards. Many can't afford, or are asking themselves if they can afford to take the money.

The Executive Budget includes a 2.8 percent increase over the 2002 program level.

I want to stop here just a minute because this is how figures work. We are all quoting a little bit different figures, and I believe that in preparing mine, it was the differential from the appropriated amount, not the authorized amount. The deficit comes from the authorized amount in 2002 to the proposed amount for 2003, so that is where that differential is. We all understand that authorizing money doesn't get it to your pockets, so that is where that difference is.

This is, however, even using the 2.8 percent increase, misleading, given the fact that the budget eliminates 28 current programs. The number is larger than 28 if you add sub programs that are under one improvement line item. This includes our Rural Education program, which you heard about.

Another one, too, that just kind of slipped in under the radar was funding for the State testing, which is a requirement of the "Child Left Behind." Again, we have a mandate of the testing, which is not free in time or resources or materials, and in the 2003 proposed budget, the testing for the State is gone, but the mandate is still there. We will still have to do the testing.

Title one increases, which we had—of course we never want to say that we don't appreciate an increase, because we certainly do. One, I think common misconception, or maybe a fact that is little known about rural States, and particularly North Dakota, is that even qualifying for the Title funds can be difficult in very small communities, because the parents will not release their income levels or apply for free and reduced lunch. They are a very proud people, they don't want any type of charity, which is very admirable, but what is hard to explain to them is that it reduces the amount of Federal aid that we can receive, and so what do you do? We don't want to go out and try and convince people to lay their income levels out and apply for free and reduced lunch. Again, I think there needs to be some better ways to get the money to where it needs to go, and that is one example.

The Block grants in Title I, while local school boards do appreciate the flexibility of Block grants, we kind of prefer the way it came in the Rural Education bill directly to the districts—not that we don't trust it when it goes to the Governor or to the legislature for doling out, but you have to understand that is one more political agenda hurdle that local school boards have to get over in order to get the money into the classroom where we need it. So we would prefer that those grants would go to directly to school boards.

The executive budget also includes provisions for refundable education tax credits for parents—I can't believe we're still talking

about this—who transfer their children from what is considered a failing, in someone's opinion, public school, to another public or a private school. This proposal is predicted to cost up to $175 million in 2003, and as much as $3.7 billion over the next 5 years. None of that money will be invested to improve that failing school. Think about that. What it says is if a child is failing in school, we will give you money to take them somewhere else. The thousands of students left back in that struggling school don't get a penny. They actually lose money. Thousands of children will be left behind with this initiative. As a matter of fact, nearly $100 million is cut from the President's "No Child Left Behind Act" by his own Executive Budget.

North Dakota boards are especially dismayed to see that the Rural Education program was cut in the President's proposed budget. Thanks to Senator Conrad's strong leadership and the bipartisan passing of this Act, almost $163 million was to be made available to meet the unique needs of rural schools.

Federal programs, for those of us that have been in this way too long, and longer than we'd like to admit, 20, 30, 35 years, we have come to see that they concentrate so often on urban needs, and we were pleased to see the attention finally given to rural issues, which are just as necessary but often overlooked. Rural children are now again left behind in this newly proposed budget.

Here is where local school boards are so often left up in the air: Programs are mandated, funding is promised. Next cycle: Mandates remain, funding is cut or eliminated, or grant money is provided for new programs; now, not necessarily programs that any schools have asked for, but programs that someone else wanted. And then after the schools develop the program, hire the staff, the money dries up or it is pulled away. The time and resources required to develop and implement new programs in our public schools is significant, and when sustainability is questionable, schools become hesitant to make the investment. They often ask, on the grants, can we afford to take the money, which is a real interesting predicament to be in. Public schools are set up for failure when they are mandated to raise student achievement or lose resources, yet are not given the resources necessary for the improved required student achievement. You follow that?

Schools cannot improve simply because Congress or the President tells them to. It takes a continued, meaningful Federal partnership that includes consistent resources, not one-time increases. It's a matter of trust. When you have a partnership or a marriage, or whatever, you need to be able to trust that promises will be kept, because action is done assuming that the trust will be there, and unfortunately, what has happened, again, maybe with some of us that have been here way too long, you begin to feel that you don't dare go forward because 4 weeks from now, or 6 months from now, or 9 months from now we're going to be going in an entirely different direction. And the public school system in this country is a mess, and the cogs move slowly, not because people are so opposed to change, but because it's a huge system and it requires time and resources to make those changes.

Probably the best example of this conundrum is the IDEA, and I would like to visit with you a little bit about that. In our opinion,

IDEA simply must be placed within the mandatory spending portion of the Federal budget. We heard argument this past fall that the government was fearful of creating an entitlement. Well, unless I misunderstand the word and the law, the entitlement is already there. The children with special needs are entitled to these services by law. The only thing that hasn't been forthcoming is the guarantee of the money of all the partners, the Federal partners, the State partners, and the local partners, and that is what puts local districts in a bad spot.

For too long, local school district property taxpayers have been paying for the Federal share of IDEA, and we can no longer meet all those financial requirements imposed by both IDEA, and now the new one, the ESEA. We would agree with MEA's position, and the National School Boards Association testified before several committees on their plan for the $2.5 billion a year, plus inflationary adjustment, which would, hopefully, get the Federal Government to its 40 percent committed level within the decade.

Chairman CONRAD. Some are saying now that there was no commitment.

Ms. Nielson. Interestingly, though, and I can't say it because I didn't go back and look at the record, the actual minutes or the records, but I have it in here, so I am hoping it's right, that the commitment or our intention is to pay 40 percent of these costs. It was not only made when it was first enacted, but it was, also, in 1997, with the reauthorization, it was made again.

Chairman CONRAD. Very explicit.

Ms. Nielson. I thought so, but then people read things differently——

Chairman CONRAD. It is very interesting now, because I was there in 1997. Everybody understood this was going to be the commitment. Now it is not the commitment, I think it is the No. 1 frustration. I see Dr. Sanstead nodding. Really, as I go around, it is the thing that people talk to me about the most. How can the Federal Government come in and tell us they are going to pick up 40 percent of the cost? They make the requirement, and then they don't keep their word on the thing. The mandate is there, the requirement is there, but they don't keep their word on their share of the funding, and I hate to say it, but history is repeating itself with "No Child Left Behind."

"No Child Left Behind." We have all these new requirements. Send them out there—and I voted for it on the basis the money was going to follow the requirement. Now the money doesn't follow the requirement. I think when you talk about trust and credibility, that is very hard to trust the word of the Federal Government when it makes its promise. It didn't make this promise 5 years ago, it made it 1 month ago. It said, OK, we can have these new requirements and we're going to send you the money. They put the requirements in place, and now cut the money. I mean, really, that is poor.

Ms. Nielson. Thank you, Senator. I was a little windy on my side.

Chairman CONRAD. Sorry for interrupting, but it just struck me about——

Ms. Nielson. Exactly. And just to dovetail a little on that, you know, those of us out in the field, when we hear so often about the

public schools being such miserable failures, and we pumped all this money into education, and new things aren't happening in the classroom, and so forth, and part of that frustration is that money was funneled into paying for mandatory programs that are underfunded or not funded, and we don't get the money for teacher salaries or curriculum or those types of things. So ESEA is going to be, unfortunately, perhaps, another opportunity for those who choose to do so, to point their fingers at public schools and say, "See, told you," you know, "you are failing." And it's a miserable position to be in. Thank goodness we have committed teachers and blessed volunteers who run for school boards, and people who care so much about education that. you just keep doing the very best you can every single day, you know, regardless.

But the President's budget leaves a $10.1 billion shortfall, again, in that 40 percent commitment. Local school districts in North Dakota, the governmental level at which there are really the fewest funding resource opportunities at the local level, are currently paying 58.75 percent of the cost of IDEA in North Dakota, 58.75 percent, while the Federal Government pays 12.4, which is a far cry from the 40 percent that was the commitment.

Chairman CONRAD. Let me just go over that. I want to stop you on that question because, in North Dakota, your calculation is the Federal Government is only paying 12.4?

Ms. Nielson. Yes. Senator, do you have my packet in front of you?

Chairman CONRAD. Yes.

Ms. Nielson. OK. I have the summary of special ed expenditures from 2000–2001, and it includes the total amounts, the dollar amounts as they break out, and then the percentages are on the third page. In 2000–2001 the Federal was 12.4 percent, the State was 28.85, which is really good from the State level, considering——

Chairman CONRAD. Yeah, this is even worse. I am sorry I had you testify.

Ms. Nielson. I am so glad I came.

Chairman CONRAD. It's even worse than I thought.

Ms. Nielson. I just love being the bearer of good news whenever I can. And just for your further information, because I did some calculations last night myself, for that last year where it was 12.4 percent from the Federal and 58.75 percent from the local, that is $22.2 million more coming from local property tax than would have had to have come from local property tax had the 40 percent been made.

Now, $22 million is generally, over the years, what we have looked at in increases for foundation aid, and when you add those up over the 10 years that are on this chart, we're just talking about, you know, hundreds of millions of dollars that could have gone to teacher salaries and things that we really, really struggle to provide here in North Dakota.

Chairman CONRAD. Can I interrupt you one more time?

Ms. Nielson. Absolutely.

Chairman CONRAD. If you were to identify the single most important thing the Federal Government could do to help States and

communities with education, would it be the keeping of promises on IDEA?

Ms. Nielson. From the local school boards perspective I think clearly we can say yes, that is. Now, we have gotten extremely dependent on Title I funds. We wouldn't want it to have to come out of that. We don't want any of those smoke and mirrors like there are in this new budget. If it goes to full funding of IDEA, we don't want it to be at the expense of other programs.

Chairman CONRAD. No. I am assuming that it is actual new money, in terms of priorities for new money; that keeping the promise on IDEA would be the most well received from the people that you represent, the school boards across the State?

Ms. Nielson. Absolutely. I would take it a step further, Senator, and say that in my opinion, one of the best nationwide economic stimulus packages that you could provide would be to fully fund IDEA in the mandatory portion of the budget and allow for property tax relief in 50 States across the country in however many thousands of communities, to where that money then actually is right there in the community.

Chairman CONRAD. Or they could make a decision to take those additional dollars and use it to improve education, yeah. OK.

Ms. Nielson. Yeah. But right now it is definitely money that is causing some other problems that I will get to in just a second.

Local districts justifiably ask how its government can in good conscience continue to mandate and not fund its committed portion. The answer from Washington, and evident in this new budget proposal we have, is that we just can't afford to fund the 40 percent because we have other critical budgetary issues as well. Even given the fact that we supposedly had surpluses a year ago, and we were doing tax cuts and sending money away, and I can remember saying to my kids that I thought that was kind of a neat idea because if I decided not to pay my bills I'd have a lot of surplus money in the bank, as well. And I consider this a bill, you know, it's money due and owed and promised, and when you don't pay it, you can say that you have money left over.

Chairman CONRAD. I just hate to say this, but you know, we have just had this debacle with Enron, and Enron got in trouble because they didn't face up to their debt.

They hid their debt. They hid it from their investors, they hid it from creditors, And I hate to say it, but the Federal Government in many ways is going down the same path because we're, in effect, hiding our debt to these trust funds of Social Security and Medicare. We don't even carry on the books of the United States the liability of those programs. You know why we don't? We call it "contingent liabilities" on the theory that the Congress of the United States could end those programs in 30 days, and so it's not carried on the books and records of the United States, the liability to Social Security and Medicare. Is that stunning? That is trillions of dollars. Trillions of dollars that we just make believe doesn't exist.

I tell you, I think, honestly, if the American people find out about this, they will be stunned. It is nowhere on the books and records of the United States that we owe the people who are eligible for Social Security and Medicare. It's not there. Alan Greenspan, the chairman of the Federal Reserve, came to my office before he testi-

fied before my committee in Washington, and this was his No. 1 concern. He said, you know, we're fooling ourselves. We have got all these bills that are going to come due and we make believe that they are not going to come due. That is exactly what Enron did, exactly. They hid their debt. They put it in these partnerships. They were off the balance sheet, as though they didn't exist. Next thing you know, the seventh largest company in America goes right down the drain. Why? Because they were fooling themselves, and they were fooling others. They acted as though they didn't have these debts, when they did, and our country is doing the same kind of, what I would call "funny money accounting."

To say that we don't owe the people who have paid taxes all their life on Medicare and Social Security because Congress could end the program in 30 days, does anybody believe that is real? I sure don't. We've got an obligation, just as clear as it can be. And that obligation ought to be carried on the books and records of the country, just like it would be carried on the books and records of any company. So I am sorry to digress, but it's very troubling. I think we're not being honest with ourselves. I think we fool ourselves. We talk about these surpluses. There are no surpluses. The money is all gone. It's all committed. It's over-committed. Now we're getting around to spending the money twice. I don't know anybody that can do that. It sounded to me like you had a theory that maybe you could do that.

Ms. Nielson. Well, Senator, the only thing I know for sure is that local school boards are not going to be able to meet the under-funding of Social Security like we do the IDEA. We are going to have to find another level, a subdivision to do that.

Chairman CONRAD. We're searching for something.

Ms. Nielson. And unfortunately, the State does what it can, and then says to us, we just can't fund anymore than what we are. And this, of course, leaves the burden of over 50 percent of the special ed costs with the local property taxpayers, because "we can not afford it" is not a legal option for local school boards. Legally, we cannot say we can't afford it. Legally, the services have to be provided, whether the Federal Government meets their obligation, or the State, or whatever.

When property taxes can no longer be raised—in North Dakota you can reach your cap—cutting of regular education programs is necessary to keep up with the IDEA mandate. This unfortunate reality begins to create divisiveness and resentment within a community, and I think this is part of the under-funding that we don't often hear about. We hear about the cost to the property taxpayers, but taxpayers and parents and students unjustly blame IDEA children and IDEA children's parents for burdening the district to the point of having to cut regular programs, regular ed programs and staff. It's difficult for school boards to dispel these perceptions. All we can say to our public is that the mandate to provide the service is there and the funding is not.

Everyone agrees that the inclusion of students with disabilities in public education is critically important; however, we would ask the Federal Government to also acknowledge that the ever-increasing scope and expense of the provision of these services is part of their obligation to meet.

Special ed expenses have escalated so rapidly. Couple reasons: The definition, the scope of the definition of disabilities is nowhere close to what it was back in 1975 when IDEA was first enacted. We now have behavioral problems and emotionally disturbed. The number of kids and kids parents who believe that they have a legal right to an IEP is exploding, and the courts are going along with it.

And also the cost of what we term "related services," which really are not directly related to education, are increasingly being paid with education dollars.

And Senator Conrad, for you and the committee and for those in the audience, I do have in my handout some explanation of "related services." We have, of course, medical personnel who have to be on-site now with some of our more disabled students. We have manipulative devices, adaptive devices that have to be purchased. We have occupational therapists who are in on life-skills type of training, psychiatrists, psychologists, social workers, all of which are necessary for the overall life of this child. But you will see, toward the end of my testimony, where I talk about our recommendations, it is our firm belief that some of those categories need to be shifted over to other governmental services, budgetarily, so that we don't continue to use education dollars for things that are really so far removed from the actual education, academic education of the child.

North Dakota board members are struggling mightily to financially support their schools. Our teachers salaries are among the lowest in the country; our test scores among the highest, which is something we are very proud of, but in order to recruit and retain quality educators, we must concentrate resources on staff compensation. Many of our schools are unable to update their curriculum materials any more often than six to 8 years. We have schools that have social studies curriculum that they have been unable to update that don't even show proper geography anymore, as fast as times are changing. Districts have extensive technology needs and buildings which barely meet safety codes. We are a sparsely populated State with limited resources, and every dollar which goes to make up for the Federal shortfall in IDEA funding should be going to meet the other financial needs of our local school district.

Finally, we would support the following in regards to IDEA:

Fully funding the Federal share of IDEA so more local funds will be available to support local services for all students;

Transfer financial responsibility for non-educational related services to service providers outside school districts so that resources from local school budget can support IDEA education services;

Reduce the costs related to due process hearings and litigation by capping the local districts portion of plaintiff attorneys fees. I didn't touch on that much, but I think you all know what we mean. The school district pays the plaintiff's expenses in IDEA lawsuits and there is no cap on that. That can break a school district real fast.

Also unrelated to the budget, but something that is critically important is to create a safer learning environment by not requiring

a local school district to operate dual discipline systems, so that the safety of the kids is on equal footing.

Attached to my testimony you will find a budget summary; a North Dakota funding history for IDEA; a summary of IDEA mandatory funding proposal, which NSBA and NDSBA support; and a copy of a resolution passed by the North Dakota School Boards Association at their convention in November relating to full funding of IDEA; along with a letter that we sent to Senator Conrad, and the resolution was sent to the entire congressional delegation, to the President, to our State, and to our State officials.

So I want to thank you, Senator Conrad, and other members of the Senate, particularly, for your support of the IDEA Full Funding Amendment. I know that that was a struggle, and we appreciate the work you did on that, and we appreciate your continued commitment to locally controlled public schools.

Please feel free to contact our office if you require any more information.

[The prepared statement of Ms. Nielson follows:]

TESTIMONY OF: BEV NIELSON, ASSISTANT TO THE EXECUTIVE DIRECTOR NORTH DAKOTA SCHOOL BOARDS ASSOCIATION

BEFORE THE U.S. SENATE BUDGET COMMITTEE
FRIDAY, FEBRUARY 22, 2002
GRAND FORKS, NORTH DAKOTA

Senator Conrad and members of the Senate Budget Committee, for the record, my name is Bev Nielson. I am Assistant to the Executive Director of the North Dakota School Boards Association.

I want to express appreciation on behalf of the locally elected school board members of North Dakota for including their perspectives in your deliberations. Even though school boards are the governmental unit where the "buck stops" regarding the implementation of and accountability for federally mandated educational programs, they are often treated as the "poor relatives" and not invited to the party. Thank you for inviting us to your party, Senator.

I would like to begin my remarks with brief comments regarding the President's proposed budget and the impact on local boards' planning and budgeting processes. Then I will spend some time sharing boards' concerns with the IDEA funding proposal specifically. Additional information concerning these topics is provided in your packets.

The FY 2003 President's budget proposal for Elementary and Secondary Education sets the stage for yet another yo-yo budget cycle for local school boards. Even as the myriad of federal mandates contained in the reauthorization of ESEA are just beginning to sink in, boards are now looking at a budget which again changes the focus, requirements, and funding levels of federal programs. This schizophrenia in federal financial support makes budgeting for program sustainability virtually impossible for local school boards.

The Executive Budget includes a 2.8% increase over the 2002 program level. This is, however, misleading given the fact that the budget eliminates 28 current programs (including the Rural Education program) and level funds others in order to fund more "new" programs such as $100 million for charter school facilities and $50 million for private school choice demonstration. Neither of these new programs assist local public schools in educating the nations' children. They are "left behind." **Refer to Attachment: President's Proposed Budget.**

The Executive Budget also includes provisions for refundable education tax credits for parents who transfer their child from what's considered a "failing" public school to another public or **private** school. This proposal is predicted to cost $175 million in 2003 and as much as $3.7 billion over 5 years. None of that money will be invested to improve the "failing" school. Thousands of children will be "left behind" with this initiative.

As a matter of fact, nearly $100 million is cut from the President's "No Child Left Behind Act" by his own Executive Budget proposal.

North Dakota boards are especially dismayed to see that the Rural Education program was cut in the President's budget proposal. Thanks to Senator Conrad's strong leadership, $162.5 million has been made available to help meet the unique needs of rural schools. Federal programs so often concentrate on urban needs, and we were pleased to see attention to rural issues in ESEA. Rural children are "left behind" in this newly proposed budget.

Here is where local school boards are so often left up in the air. Programs are mandated, funding is promised-----next cycle mandates remain, funding is cut or eliminated. Or grant money is provided for new programs, and after schools develop and staff them, the money dries up. The time and resources required to develop and implement new programs in our public schools is significant, and when sustainability is so questionable, schools become hesitant to make the investment. Public schools are set up for failure when they are mandated to raise student achievement or lose resources, yet, are not given the resources necessary to provide for the improved student achievement.

Schools cannot improve simply because Congress or the President tells them to; it takes a continued, meaningful federal partnership that includes consistent resources, not one-time increases.

Probably the best example of this conundrum is the IDEA. IDEA must be placed within the mandatory spending portion of the federal budget. For too long, local school district property taxpayers have been paying the federal share of IDEA and we can no longer meet all of the financial requirements imposed by IDEA and ESEA without greater federal support for IDEA.

When IDEA was first enacted in 1975 and when it was reauthorized in 1997, Congress affirmed its intention to fund 40% of the costs for special education. The President's budget leaves a $10.1 billion shortfall in that commitment.

Local school districts in North Dakota, the governmental level with the least funding

resources, are currently paying 58.75% of the cost of IDEA, while the federal government pays only 12.4%. A far cry from 40%. **(See Attachment: Summary of Special Ed Expenditures and Revenues)**

Local districts justifiably ask how its federal government can, in good conscience, continue the mandate and not fund its committed portion. The answer is always,"We just can't afford to fund our 40%." The state does what it can and says, "We just can't afford to fund anymore." This, of course, leaves the burden of over 50% of special education costs with local property taxpayers because "We can't afford it" is not a legal option for local school districts.

When property taxes can no longer be raised, cutting regular education programs is necessary to keep up with IDEA mandates. This unfortunate reality creates divisiveness and resentment within the community. Taxpayers, parents, and students unjustly blame the IDEA children for burdening the district to the point of having to cut regular programs and staff. It is difficult for boards to dispel these perceptions. All we can say is the mandate is there and the funding is not. Everyone agrees that the inclusion of students with disabilities in public education is critically important, however, the government must also acknowledge the ever increasing scope and expense of the provision of these services.

Special education expenses have escalate so rapidly because the definition of "disabilities" continues to expand and services not directly related to education are increasingly being paid with education dollars.

North Dakota board members are struggling, mightily, to financially support their schools. Our teacher salaries are among the lowest in the country. In order to recruit and retain quality educators, we must concentrate resources on staff compensation. Many of our schools are unable to update curricular materials more often that every 6-8 years. Districts have extensive technology needs and buildings which barely meet safety codes. We are a sparsely populated state with limited resources, and every dollar which goes to make up for the federal shortfall in IDEA funding should be going to meet the other financial needs of the school districts.

Please help local school districts fund IDEA requirements. We support the following:

- Fully fund the federal share of IDEA so that more local funds would be available to support education services for all students.

- Transfer financial responsibility for non-educational "related services"

to service providers outside school districts so that resources from local school budgets can support IDEA education services.

- Reduce the costs related to due process, hearings, and litigation by capping the local school district portion of plaintiff attorneys' fees.

- Create a safer learning environment by not requiring local school districts to operate dual discipline systems.

Refer to Attachment: IDEA Funding: Time for a New Approach

I want to thank Senator Conrad and other members of the Senate for their support of the IDEA full funding amendment. We appreciate your continued commitment to locally controlled public education. Please feel free to contact our office for any additional information you may require.

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President's Proposed Budget for FY 2003

The President's proposed budget includes an overall increase in discretionary spending of $1.3 billion (2.8%); bringing the budget authority of the U.S. Department of Education to $50.3 billion. Within the budget there are proposals to eliminate many programs and to provide increases for a few. Many of these cuts and/or program eliminations are used to offset the increased spending on select programs (some new) within the budget. Additionally, there are many programs that were level funded, again to provide increases for the programs in the budget where greater spending is provided.

INCREASES PROPOSED

Title I - $1 billion increase, most of which directed to the Targeted Grants component of the Title I program. A $100 million increase is proposed for the Reading First program.

IDEA - proposed increase of $1 billion. This would move school districts from a federal funding shortfall of $10.5 billion in FY 02 to $10.1 billion in FY 03

Educational Research - $53 million

NEW PROGRAMS PROPOSED

Charter School Facilities - $100 million

Private School Choice Demonstration - $50 million

PROGRAMS LEVEL-FUNDED OR RECEIVING MINOR INCREASES

Title I - Concentration Grants
Title I - Education Finance Incentive Grants
Early Reading First
Migrant Education
Title I - Comprehensive School Reform
Impact Aid
Improving Teacher Quality State Grants
Education Technology State Grants

21st Century Learning Centers
Innovative State Programs
Charter Schools
Magnet Schools Assistance
Safe and Drug-Free Schools - State Grants
State Assessment Grants
Indian Education
Bilingual and Immigrant Education State Grants

EDUCATION PROGRAMS ELIMINATED

Listed below are those significant programs that are eliminated under the President's budget proposal. There are many smaller programs listed under the "Fund for the Improvement of Education" which is controlled by the Secretary and many programs under that category have been proposed for elimination. They are listed under the Fund for the Improvement of Education heading indicated below.

Rural Education
Gifted and Talented Education
Preparing Tomorrow's Teachers to Use Technology (PT-3)
Fund for the Improvement of Education
Elementary and Secondary School counseling
Smaller Learning Communities
Star Schools
Ready to Teach
Foreign Language Assistance
Physical Education for Progress
Community Technology Centers
Arts in Education
Parental Assistance Information Centers

SUMMARY OF SPECIAL EDUCATION EXPENDITURES AND REVENUES 2000-2001

The following summary of special education expenditures and revenues for the fiscal years 1991 through 2001 is based on fiscal data reported by school district and special education unit personnel. The revenue data does not include fall state pupil payments for state child placements made by agencies of the state nor is the spring pupil payment for children placed outside their district of residence for instructional purposes included since the payment would have been made for the children had they not been receiving special services because of a disability.

SPECIAL EDUCATION EXPENDITURES BY FUNCTION FOR FISCAL YEARS 1991-2001

School Year	Boarding Care	Transportation	Instruction	Support/Related Service	Total Expenditures
1990-91	$277,195	$2,280,446	$34,682,674	$ 9,955,840	$47,196,155
1991-92	$289,575	$2,279,948	$35,809,435	$10,875,107	$49,254,065
1992-93	$368,208	$2,250,803	$38,202,741	$10,690,059	$51,511,811
1993-94	$454,562	$2,432,628	$39,953,655	$11,719,277	$54,560,122
1994-95	$637,382	$2,455,230	$42,543,852	$10,985,745	$56,622,209
1995-96	$389,252	$2,283,082	$44,718,035	$12,486,743	$59,877,112
1996-97	$366,727	$2,275,323	$47,960,520	$13,027,317	$63,629,887
1997-98	$376,013	$2,365,044	$50,769,415	$14,281,178	$67,791,650
1998-99	$296,793	$2,650,707	$54,185,793	$16,242,835	$73,376,128
1999-00	$550,064	$2,584,895	$55,645,457	$18,023,820	$76,804,236
2000-01	$500,013	$2,777,325	$58,480,360	$18,983,929	$80,741,627
2001-02					$85,723,385*
2002-03					$91,012,518*
2003-04					$96,627,991*
2004-05					$102,589,938*

* Estimate based on 5-year average of 6.17%

REVENUE FOR SPECIAL EDUCATION BY SOURCE FOR FISCAL YEARS 1991 TO 2001

School Year	Federal	State	Local
1990-91	$4,191,052	$13,704,212	$29,300,891
1991-92	$4,606,933	$13,015,493	$31,631,639
1992-93	$5,417,533	$15,834,154	$30,260,124
1993-94	$5,265,257	$17,144,628	$32,150,237
994-95 *(Revised)*	$5,170,960	$15,782,260	$35,668,989
995-96 *(Revised)*	$4,888,783	$17,603,349	$37,384,980
1996-97	$4,725,090	$18,619,336	$40,284,461
1997-98	$5,806,197	$19,399,166	$42,586,287
1998-99	$7,035,827	$20,623,626	$45,716,675
999-00	$8,402,302	$22,648,382	$45,753,552
2000-01	$10,008,169	$23,296,937	$47,436,521

PERCENT OF EXPENDITURE BY REVENUE SOURCE FOR FISCAL YEARS 1991 TO 2001

School Year	Federal	State	Local
1990-91	8.88%	29.04%	62.08%
1991-92	9.35%	26.43%	64.22%
1992-93	10.52%	30.74%	58.74%
1993-94	9.65%	31.42%	58.93%
1994-95	9.13%	27.87%	63.00%
1995-96	8.16%	29.40%	62.44%
1996-97	7.43%	29.26%	63.31%
1997-98	8.56%	28.62%	62.82%
1998-99	9.59%	28.11%	62.30%
1999-00	10.94%	29.49%	59.57%
2000-01	12.40%	28.85%	58.75%

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IDEA Funding: Time for a New Approach Mandatory Funding Proposal

Overview

In 1975, our country took a major step forward in promoting the inclusion and equality of one of our most disenfranchised groups of citizens. Passage of the Education for All Handicapped Children Act (now known as the Individuals with Disabilities Education Act) reaffirmed the American principle that all children deserve a free and appropriate public education.[1] More than six million children with disabilities are no longer limited by their family's ability to afford a private education; they are no longer forced to attend a costly state institution, or worse, stay home and miss out entirely on the benefits of an education. IDEA ensures that children with disabilities can attend a public school in their hometown alongside their peers. There is no question about it; students, schools, and communities are enriched when all children have a right to free, appropriate public education.

November 2000 marked the 25th anniversary of IDEA. Despite all that has been accomplished on behalf of children with disabilities, much more remains to be done. In the 27-year history of the Individuals with Disabilities Education Act, the federal contribution has always fallen far short of the congressional commitment to fully fund IDEA. Local and state budgets have been forced to absorb the shortfall; they pay for 87 percent of special education costs.[2] In the last several years, Congress has made significant progress, but IDEA appropriations still need a 140 percent increase before IDEA is fully funded.[3] After 27 years, the magnitude of that shortfall demands a new approach. It is time to make special education funding mandatory and deliver on a long overdue promise.

Basics of the Proposal

- Make IDEA funding mandatory to ensure the federal government pays for its share.
- Increase the federal contribution from 17 percent to 40 percent.
- Accomplish full funding gradually over six years.
- Require states to maintain their level of effort.
- Encourage schools to intervene early in a child's life and provide developmentally appropriate programs and services. Developmentally appropriate intervention during the early years can dramatically reduce later referrals to special education and eventually help curb the costs of special education.

What is full funding of IDEA?

Part B of IDEA envisions that Congress will contribute up to 40 percent of the average per pupil expenditure (APPE) for each special education student.[4] In 2002, the average per pupil expenditure is expected to be $7,320[5]. With 6,153,000 students served under IDEA, schools are qualified to receive $18.01 billion in federal funds. Unfortunately, schools are only receiving $7.5 billion. In other words, schools are currently receiving roughly 17 percent rather than the federal commitment of 40 percent of APPE.[6] Although that is a significant sum, schools will spend more than $102 billion on those students in the same year[7] (of which approximately half will be for special education services).

How close is the federal government to fully funding IDEA?

Federal funding is $10.5 billion short of full funding this year. IDEA needs a 140 percent increase to be fully funded.[8]

How does the federal shortfall hurt school districts?

While much attention has been paid to rising federal expenditures for special education over the past few years, new federal funding has not kept pace with rising special education costs at the local level. As a result, special education costs for local school districts are rising substantially faster than new federal funding. Even with recent increases in federal special education funding over the past few years, the local financial burden has increased from 39 percent of total spending to 45 percent during the same time period.[9]

The federal government is shortchanging local school districts more than $10.5 billion in FY 2002 alone. If IDEA had been fully funded for the last 27 years, state and local governments would not have been responsible for more than $311 billion. That $311 billion would have been available to increase teacher salaries, to reduce class size, or to purchase new computers and up to date textbooks. That $311 billion could have been used to build more than 43,000 new elementary schools or hire more than 300,000 new teachers and pay their salaries for the last 27 years.

Why should the program be funded through mandatory spending instead of discretionary funds?

For 27 years Congress has promised to fully fund IDEA, yet funding is roughly 17 percent. For 27 years, Congress has required schools and taxpayers to pay for the federal share, in addition to the considerable shares provided by the states and school districts. IDEA is a federal mandate; accordingly, the federal contribution should be mandatory like the requirements placed on school districts.

How will the proposal for mandatory expenditures solve the problem?

The proposal would gradually increase federal spending over the

next six years through an increase of $2.4 billion for each of the next six years. Funding for IDEA would be moved out of the discretionary budget and into mandatory spending. To accomplish full funding in six years the federal share of APPE spending must be increased by an average of 3.8 percent of APPE each year.

How would the shift from discretionary funding to mandatory funding affect other education programs and improve services for all students?

When IDEA funding is shifted to mandatory spending, the overall budget cap for function 500 would not be decreased. In essence, $7.5 billion in discretionary funding would be freed up for other programs. Although this would include health and labor programs, education programs would likely receive some share of the new function 500 funds. Without the pressure to make large increases in IDEA each year, appropriators would have much more freedom to fund other programs. All children, including children with disabilities, would benefit from increased funding for other education programs if IDEA were shifted to mandatory funding sources.

Would mandatory funding relieve the funding burden on state and local governments?

IDEA allows school districts a 20 percent flexibility exception to the local maintenance of effort, supplement not supplant and excess cost requirements of IDEA. Specifically, the law and its implementing regulations state that for any fiscal year in which the appropriation for Part B state grants exceeds $4.1 billion (as it has since 1999), a school district may treat as local funds up to 20 percent of the annual increase that exceeds the amount received in the previous fiscal year.[10] However, the cost of IDEA is increasing so rapidly that no school districts are able to take advantage of the flexibility. When IDEA funding nears the 40 percent commitment, schools will finally be able to free up resources for other purposes. The proposal requires that any local funds freed up by the new federal funds be spent on other education programs and services.

What is the approximate cost of the full funding proposal?

By FY 2008 the federal share of special education will be an estimated $22.2 billion.[11] To fully fund IDEA by FY 2008 would cost approximately $95.5 billion over the next six years.[12] If IDEA funding were frozen at current spending levels, the next six years would amount to $45.7 billion in expenditures.

This year offers the best opportunity to help IDEA.

Central to the reauthorization of IDEA this year is the need for full funding. The failure of Congress to provide full funding for the past 27 years has adversely impacted the ability of local schools to provide educational services for all children. In the current economic climate, states are experiencing budget deficits ranging from $25-40 billion nationwide. Given this situation, now, more than ever it is imperative for Congress to meet this commitment. Students with disabilities have a right to the same educational opportunities as all

other students, and the federal government has an obligation to pay for part of it. It is past time to remove IDEA from the annual funding showdown and make good on a 27-year-old promise.

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[1] See Education for All Handicapped Children Act of 1975, 20 U.S.C. § 1400 et seq.

[2] According to a 1988 Dept. of Education study conducted by Moore et al., the cost of educating a special education student is 228 percent of the cost to educate the average student. As indicated in Appendix I, FY2002 APPE is an estimated $7,320. Therefore, the excess cost created by the average special education student is 128 percent of APPE, or $9,369. With 6,153,000 children served by IDEA, each costing an average excess $9,369, approximately $57.6 billion was spent on excess special education costs. The federal share of $7.5 billion is only 13 percent of that amount.

[3] Current funding for IDEA is $7.5 billion. The FY2002 IDEA authorization level was $18.01 billion (see Appendix I). Therefore, the program is $10.5 billion short of full funding this year. A 140 percent increase is needed to fully fund IDEA.

[4] 20 U.S.C. § 1411(a).

[5] See Appendix I.

[6] To calculate percentage of APPE funded by current law: (current funding)/(APPE*Enrollment) or ($7.5 billion)/($7,320*6,153,000)= 16.71 percent, rounded to 17 percent.

[7] Based on a 1988 Dept. of Education study by Moore et al, educating a special education student costs 2.28 times as much as a regular education student, or $16,689 per pupil. With 6,153,000 students, that amounts to $102.69 billion.

[8] See Appendix I for difference between FY2002 Appropriation and FY2002 Authorization.

[9] Parish (in press). Who's paying the rising costs of special education? Journal of Special Education Leadership. Council of Administrators of Special Education.

[10] 20 U.S.C. § 1413(a)(2)(C); 34 C.F.R. §300.233 (1999).

[11] See Appendix I.

[12] Current funding is $7.5 billion. To reach full funding of $22.5 in 6 years, funding needs to be increased by roughly $2.45 billion each year. At an increase of $2.45 billion a year, an additional $50.4 billion would be added to the program. Added to the $45.17 billion of base funding ($7.5 billion a year, for six years), $95.5 billion will be spent on IDEA during the six year period.

Chairman CONRAD. Thank you very much. That was just excellent.

Dean, I hope you are up to following these three. These are pretty high quality witnesses. Good to have you here, and please proceed with your testimony.

STATEMENT OF DEAN KREITINGER, BUSINESS MANAGER OF GRAND FORKS PUBLIC SCHOOL DISTRICT #1 AND GRAND FORKS AIR FORCE BASE SCHOOL DISTRICT #140

Mr. Kreitinger. Thank you. Again, my name is Dean Kreitinger. I am the business manager for the Grand Forks Public School District #1 and Grand Forks Air Force Base School District #140.

I have been asked to testify on a specific program, and that program is the Impact Aid program. For the audience, or for you that are not aware of it, that is in lieu of tax payments for students living on Federal property. In other words, a good example of that is the Grand Forks and Minot Air Force Base School Districts, and also students on reservations.

You will find my theme is twofold: One is to thank you for your past effort, and asking for your continued support. I appreciate the opportunity to testify on this this morning.

Again, I would like to specifically mention the Impact Aid Coalition. Senator, you and other senators' leadership in this area is, in developing the coalition, is just very crucial to the Impact Aid program. We believe that the Impact Aid program is functioning at a high level regarding both payment amounts and timing of payments, and in large part this is due to the Impact Aid Coalition.

After I have said that, however, we ask for your continued support, and ask that the appropriation level be increased to help meet the challenges resulting from increasing costs and demands. As you are aware, the 2002 appropriation was $1,143.5 million and the present fiscal year 2003 proposal was $1,140.5 million, or $3 million less than last year's appropriation level.

Chairman CONRAD. So we're going backwards?

Mr. Kreitinger. Yes. The MISA, the Military Impact Schools Association, and the National Association for Federally Impacted Schools (NAFIS) goal is $1,642 million.

In light of the numbers outlined this morning, we know that is a large increase; however, we feel it is very crucial and well deserved.

As I indicated, that Impact Aid program is in lieu of tax payments. If I can use the Grand Forks Air Force Base School District as an example, this is a coterminous district, and what that means is that its school district boundary lines are the same as the base outline. So, in other words, we have not tax revenue, we have no tax base, so the Impact Aid program is the funding for all the basis of the education.

Another component of that large increase is the fact that a little over half of the increase in funding is being asked for for construction needs. Once again, we'd like to thank you for your support regarding the construction needs, but as in prior testimony, you heard the demands for construction because of the shape that the buildings are in.

I would lilke to interject that all of you know that this building is not indicative of the school buildings around the State.

Chairman CONRAD. A lot of Federal money in this building.

Mr. Kreitinger. Can I digress just a moment on who funded this? Insurance money and FIMA. Again, thank you for your support of that. A plug in for that, as well.

At the Grand Forks Air Force Base School District, in addition to having 40-year old science labs we would like to replace, we have inadequate library, music, classroom, and gymnasium space due in part to a shifting in students because of housing renovations. I bring that up because the Air Force Base School Districts are unique. What is happening here is that an entire community is being relocated to a different school, and as a result we no longer have adequate space in that building, so we need funding to upgrade that building and modernize it.

The last item I'd like to mention is the Department of Defense Supplemental Appropriation. Once again, thanks for the past support. The MISA and NAFIS request for the supplemental appropriation is $50 million. This has been and would continue to be a good augmentation of funding for trying to meet the construction and operating needs of our school districts. Once again, thank you for past support and any future support.

[The prepared statement of Mr. Kreitinger follows:]

Testimony on the Impact Aid Program Submitted at the Senate Budget Committee Hearing

Dean Kreitinger, Business Manager of Grand Forks Public School District # 1 and Grand Forks Air Force Base School District #140

February 22, 2002

I appreciate the opportunity to testify at this Senate Budget Hearing and would like to thank you Senator Conrad as well as the other Senators and Congressman for your support of Impact Aid. I would like to specifically mention the importance of the Impact Aid Coalition and commend you and others for the leadership shown in developing the coalition. We believe that the Impact Aid Program is functioning at a high level regarding both the payment amounts and timing of payments.

We ask for your continued support and ask that the appropriation levels be increased to help meet the challenges resulting from increasing costs and demands. As you are aware the 2002 appropriation was $1,143.5 million and the President's fiscal year 2003 proposal is $1,140.5 million. The Military Impact School's Association (MISA) and the National Association for Federally Impacted Schools (NAFIS) goal is $1,642 million.

We also thank you for your support regarding funding of construction needs. We ask for your continued support in this area. There is a large need for construction funds due to the extremely poor condition of the school buildings across our entire state. At the Grand Forks Air Force Base School District, in addition to having forty (40) year old science labs that we would like to replace, we have inadequate library, music, classroom, and gymnasium space due in part to a shifting in students because of housing renovations.

The last item I would like to mention is the DOD Supplemental Appropriation. Once again we would like to thank you for your past support and ask for your continued support. The MISA and NAFIS request is for a $50,000,000 appropriation for DOD supplemental funding. This has been and would continue to be a good augmentation of funding for trying to meet the construction and operating needs of our school districts.

Once again thank you for all your past support.

Chairman CONRAD. Thank you. Thank you very much for your testimony. Thank you all.

I think the record is really very clear from the testimony that has been provided here this morning, the commitments that have been made, the rhetorical commitments, are not matched by the resources that are in this budget. I have tried to be fair about this, I think it is fair, and that leaves us with a recommendation, because, as I expressed the other day in Bismarck at the hearing on road construction, the budget for road construction and water projects, including flood control, the Budget Committee is left with this set of choices: Either accept these cuts, or raise taxes to pay for the spending, or take the money out of the Social Securtiy Trust Fund. Those are the choices that are left to the Senate Budget Committee. You talk about a bad set of choices. We can either take this budget and the cuts that are entailed, and the lack of resources for something that everybody says is their priority, or we can raise taxes to pay for it, or we can continue to raid the Social Security Trust Fund.

You will notice that I dropped talking about the Medicare Trust Fund. You may wonder, why isn't he talking about the Medicare Trust Fund? That is because all tlhe money is gone. There is no more money to take. It's all gone. $500 billion, according to the President's own calculations, are taken out of the Medicare Trust Funds. There is no money there. Social Security Trust Fund, there is $2.3 trillion over the nex 10 years. They have already taken $1.65 trillion of that $2.3, and that is based on an assumption in the President's budget. The Congressional Budget Office estimates the cost of Medicare in the next 10 years as $300 billion. They have the lowest rate of increase for medical expenses in the heistor of the Medicare program as an assumption behind their budget. Anybody believe in the next 10 years medical costs are going up at the lowest level they have gone up since 1965? Anybody believe that? I don't think so. I think Medicare costs, I think health care costs are going to increase, especially Medicare. When you've got the baby-boomers going to start to retire in six years, those costs are going to go up more than they ever have gone up, not less than they have ever gone up.

So I feel a little like the guy that has been handed a live grenade. Somebody asked me how I felt when I became Budget Committee Chairman. You know, I knew we were headed for a train wreck last year. I predicted it. I went repeatedly to my colleagues—you cannot count on a 10-year projection. I pleaded with them not to be reckless. I pleaded with them not to put at risk the intergity of the trust funds of Medicare and Social Security and they plunged right ahead, and the President leading the charge, and took us right off the cliff. We are going to be paying the price for this for a long time. We are going to be paying the price in education—funding that is not adequate to meet the need. We're going to be paying the price for it in every part of the budget. We have got a proposal on road building. The President's budget cut buildings 30 percent. It cost North Dakota $50 million. We have a major project to protect the City of Grand Forks from flooding. The President's budget has $30 million. The Corps of Engineers say they need $75 million.

These choices that are made really matter. They really have a result, and I don't exactly know yet how to cope with all this. I have got to find a way to do it in the next six weeks, to write a budget for the United States in the next six weeks, and this has been a great help, I can say that. You have really, I think, very clearly analyzed this budget. I can tell you, you are four of the best witnesses I have ever had before the committee either in Washington or in the State. You speak very clearly, and I think you have represented the concerns of the parents of North Dakota and spoken on behalf of the students in a way that is very effective, and I thank you for it.

We will decalre the hearing closed, and we will also, without objection, make a statement by the North Dakota Reading Association a part of the formal hearing record.

[The prepared statement of the North Dakota Reading Association follows:]

Testimony by Jen Maier,
President, North Dakota Reading Association Education
Budget Hearing For Senator Kent Conrad
Grand Forks, ND February 22, 2002

In my position as an educator and an educational leader in the state of North Dakota, I am very aware of the impact that the President's Proposed Budget will have on the students in our state. I applaud his attempts to even the playing field for all students through the Title I, Reading First, Technology, and After School Programs, As a teacher I am very aware of the assistance that Title I programs have given to students and teachers in our state. I have first hand experience with the Title I programs as a sibling to two sisters who utilized Title I services for reading assistance. As a preservice teacher, I worked with students who were assisted by Title I specialists. As a teacher in the Bismarck Public School System for 15 years, I had the opportunity to work with many fine Title I educators. The Bismarck Public Schools Title I Coordinator is Joyce Hinman, our North Dakota Reading Association State Coordinator. Many of the Title I specialists in our state serve as officers in the North Dakota Reading Association as well as other professional organizations. As the mother of a child who struggled with reading due to a learning disability, I am encouraged to see that Mr. Bush along with the Senators and Representatives are concerned about early intervention for children. The Reading First Program has promise if we be sure to include the appropriate amount of money to ensure that the educators of the young children are well versed in early childhood reading strategies. As a Technology Support Specialist and Director of a Rural Systemic Initiative Grant, I fully understand how important technology is and can be in assisting children to meet their full potentials. Also in this time of two income families, I applaud the After School Programs that are being considered for funding. As a former elementary teacher and working mother, I know how important it is for people to have quality afterschool care for their children.

But on the other hand, I am concerned about the programs that Mr. Bush proposes be "zeroed out" for funding. Growing up and living in the rural state of North Dakota, I faced challenges that children and adults in

other states do not face. One such challenge is the number and quality of teachers for our children. As a state, we fall way too short in providing quality pay for quality teachers. Also it is very difficult for teachers in the smaller rural communities to have access to high quality professional development opportunities. When you are qualifying for free and reduced lunches for your own children, it is too difficult to come up with the money needed to pay for the travel, housing and costs for credit for courses to stay current in your field of study. This is especially true in the areas of math, science, and technology. The Rural Education dollars would have gone a long way to assisting small districts in our state in providing relevant, quality professional staff development.

Also I am very concerned about the cut in funding to the BIA Prime monies. I currently work at United Tribes Technical College. We need those dollars to provide a quality educational support services for the Native American students that we serve on our campus. If we are to truly provide opportunities for students so that "no child is left behind", I feel that Mr. Bush and Congress must not forget the Native American students who have left the unfortunate conditions on the reservations to try and make a better life for themselves and their children. They must provide the funding to the Tribal Colleges and Universities so that universities and colleges can assist the Native American students to become productive successful members of society.

I greatly respect Mr. Bush and his concern for "Leaving no child behind" but I wonder how taking away the over 40 educational programs that benefit small rural states like North Dakota will aid us in "leaving no child behind". First of all, we do not have the tax base that larger states have due to our small population, yet we are expected to provide the same educational experiences available to children living in larger population states. Secondly, North Dakota and the other Plains states have suffered through the last five years of a horrible farm economy. In addition, the events of September 11th did not help the farmers and ranchers of North Dakota and the Plains States in any way. As the daughter of a large animal veterinarian, I have watched first hand how the farm economy has sucked the life out of the small town that I grew up in! Each week there are notices of businesses closing and farmers selling out! How are we supposed

to be able to provide the students of our state with the same educational opportunities as states who do not rely on agriculture for their educational funding? This is a case for not cutting the Rural Education dollars. Please restore and help the dedicated, hard working educators in our state!

So as a tax payer, mother, educator, sister, and daughter living in North Dakota and the United State, I implore the United States Congress to SERIOUSLY look at the Educational programs being considered for no funding. Please don't let the students be the ones "left behind".

November 9, 2001

The Honorable Senator Kent Conrad
530 Hart Senate Office Building
United States Senate
Washington, DC 20510-3403

Dear Senator Conrad,

The North Dakota School Boards Association's statewide Delegate Assembly voted unanimously to forward the enclosed "Resolution" to you with the hope that you will use your position in the Senate to give North Dakota public schools the financial assistance so desperately needed to fund the federally mandated IDEA.

As you are well aware, the scope of services required by IDEA has steadily expanded through federal legislation, court actions, and parental awareness and demand. The notion that the federal budget cannot accommodate meeting its obligation rings hollow when its clear that the state and especially the local budgets cannot meet the obligations either.

It seems only reasonable that a federal government that talks of tax cuts and economic stimulus would consider relieving local tax payers of the huge burden of this federal mandate. Local property tax relief could be the most successful economic stimulus.

Please give the amendments making full funding of IDEA mandatory for the federal government your support. North Dakota property tax payers will be most grateful.

Sincerely,

Jon Martinson, Executive Director
North Dakota School Boards Association

FEDERAL FUNDING FOR SPECIAL EDUCATION

A resolution presented unanimously by the North Dakota School Boards Association's statewide Delegate Assembly to members of the North Dakota Congressional Delegation, members of the Executive Branch of the State and Federal Government and other public officials urging Congress to keep its promise to pay no less than 40 percent of the excess cost for Special Education.

Whereas, Congress enacted the Education For All Handicapped Children Act, Public law 94-142, in 1975;

Whereas, before the enactment of Public Law 94-142 in 1975, Congress found that the special education needs of children with disabilities were not being fully met and many children with disabilities did not receive appropriate educational services or were excluded entirely from the public school system;

Whereas, Congress, in 1997, re-authorized the Act as the Individuals With Disabilities Education Act (IDEA), 20 U.S.C. Sections 1400, et seq.;

Whereas, in 1975, 1994 and in 1999, Congress promised state and local governments that it would fund 40 percent of the excess costs of special education (20 U.S.C. Section 6062, House Concurrent Resolution No. 84);

Whereas, Congress has failed to keep its promise;
Whereas, the cost of federal mandates in special education have escalated in the last 26 years;

Whereas, the excess cost of special education in North Dakota encroaches upon the local general education budgets by approximately $46 million per year and the state general education budgets by approximately $23 million per year and approximately $69 million must be transferred from regular education to special education every year;

Whereas, there are insufficient funds to make needed reforms in general education as a result of federal mandates for special education;

Whereas, the United States Supreme Court in Cedar Rapids Community School District v. Garret F., based on the language of the IDEA, ruled that school districts must pay for continuous nursing care to special education students while they are in school;

Whereas, such continuous nursing care is extremely expensive and will further require the transfer of general education funds to special education;

Whereas, the federal government should fund the costs of its mandates, including nursing services, related services and the excess costs of special education as promised;

Whereas, Congress is considering legislation to fund excess costs of special education at the 40 percent level or higher;

Whereas, Congress has failed to do so;

Now, therefore, be it resolved that NDSBA forward this resolution to members of the North Dakota Congressional Delegation, members of the Executive Branch of the State and Federal Governments and other public officials urging Congress to keep its promise to pay no less than 40 percent of the excess cost for Special Education.

On behalf of the North Dakota School Boards Association's Board of Directors and Statewide Delegate Assembly,

Dr. Jon P. Martinson
NDSBA Executive Director

Chairman CONRAD. Let me also indicate I'll leave the record open for 10 days. If there are others who wish to submit written testimony, we will take that testimony for the next 10 days. It can either be delivered to my office here in Grand Forks, or it could be sent to us in Washington, or e-mailed to us in Washington. Either way we'd be happy to accept it.

Let me just conclude by saying, again that our witnesses did a very superb job today.

[Whereupon, the hearing was adjourned.]

ASSESSING THE NEED FOR NATURAL DISASTER ASSISTANCE

TUESDAY, AUGUST 20, 2002

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Fargo, ND.

The committee met, pursuant to notice, at 9:30 a.m., in NDSU Memorial Union, Prairie Rose Room, Fargo, North Dakota, Hon. Kent Conrad (chairman of the committee) presiding.

Present: Senator Conrad.

OPENING STATEMENT OF SENATOR CONRAD

Chairman CONRAD. Good morning and welcome. It is good to have you here. This is a hearing before the Senate Budget Committee on the question of disaster assistance as a result of drought and flooding in various parts of the country and certainly in various parts of North Dakota. The Committee on the Budget has a special interest because if the Congress decides to provide disaster assistance, Congress may have to waive the Congressional Budget Act in order to provide additional emergency spending. Thus, the purpose of this hearing is to determine the level of losses due to natural disasters in 2001 and 2002, the resulting need for assistance and the overall impact of natural disasters on Federal outlays for agriculture.

The amount of the losses incurred by agriculture during 2001 is already well established. Here in North Dakota many producers suffered losses last year stemming from excessive moisture that led to floods, preventive planning, yield losses, and quality reductions. As part of the original Senate-passed farm bill, the Senate included nearly $2.5 billion in disaster assistance in order to cover some of the losses incurred by farmers in 2001.

As a member of the conference committee that negotiated the final farm bill, I can tell you when the four of us sat down, Senator Harkin, the chairman of the Agriculture Committee—I was there as a senior member of the Senate Agriculture Committee. We met with our colleagues from the House: Congressman Combest, the chairman of the House Agriculture Committee; Congressman Stenholm, the ranking member. We were told by Congressman Combest there were two subjects we could not discuss in the conference committee. Those two subjects were opening up Cuba to trade and disaster assistance.

He said the Speaker of the House has to make these decisions on behalf of the House, they could not be made by the conferees. That is a highly unusual circumstance. And when the Majority

Leader of the United States Senate called the Speaker of the House for his answer, he said clearly and unequivocally, the Speaker of the House, that no disaster assistance would be permitted in the final farm bill.

I must say Congressman, I was especially surprised to see your opponent invite the Speaker to North Dakota to deliver the message that he needed a different Congressman from North Dakota. That is the kind of help that we don't need. Very frankly, we need disaster assistance. We have always provided it in the past for others, and we have received it ourselves when disaster struck. That has been the history and it is critically important.

I have gone all over North Dakota during the July break, during this break. I have been in every corner of the State. I have met with producers. I have talked to people, and the message that they have delivered to me is as clear as it can be. If there is not disaster assistance provided this year, thousands of farmers are going to be in jeopardy of failure. That is a fact. That is a reality.

Now, the President went to South Dakota and said that there would be no disaster assistance this year, he would not support it, and he said that the help will come from the farm bill. I would remind the President there is no disaster assistance in the farm bill. He opposed having disaster assistance in the farm bill. The Speaker opposed having disaster assistance in the farm bill. So there is none. Looking to the farm bill for disaster assistance is an empty gesture.

Let me just say for those who argue that we ought to cut other provisions of the farm bill to provide disaster assistance, that is not going to help producers. We can't rob from Peter to pay Paul. We can't take out of one pocket to put it in the other pocket and have made any difference for the people that have been so hard hit by overly wet conditions. We saw in Minnesota the worst flooding in many years. In North Dakota, you go to southwestern North Dakota, the crops are gone. And no crop insurance program makes up for it. No part of the farm program makes up for it; there are no disaster provision. So to say to people we will just rely on the old pioneer spirit says to farmers, you are on your own, good luck, tough luck, you lose. I don't think that is the way we operate.

I tell you, the pioneer spirit that I remember was when your neighbor suffered a disaster, others neighbors helped out. That is pioneer spirit. Pioneer spirit was we helped our neighbors when they suffered a calamity and that has been the history of the United States. When there was a disaster we helped out.

Let me just point out that on the fiscal side of this issue, there are going to be savings from the farm bill and they are going to be substantial. Why? Because prices are higher than was previously anticipated. Prices are higher because of these disaster conditions.

Let me just point out that under the price projection of the Congressional Budget Office, wheat was estimated to be in 2002 $2.82, it is higher; soybeans $4.26, they are higher; corn, $2.16, corn is higher. We are talking now national prices. And they are higher because of these disasters. That is going to mean savings to the farm program. I believe we ought to think about those savings as one way of providing the resources for disaster assistance. This

isn't the way President is proposing it. The President is saying cut some other part of the farm program to pay for it. That doesn't help us. To eliminate direct payments to farmers, to eliminate LDPs, that is not going to help us out of this crisis situation.

CBO's March 2002 Price Projections

Commodity	Estimated 2002 Season Price
Wheat	$2.82
Soybeans	$4.26
Corn	$2.16

And, so, I hope the President reconsiders. I hope he thinks very carefully about the implications. He says he is interested in economic development. There is going to be precious little economic development with a disaster that is forcing farmers and ranchers across this State—and not just this State but other parts of the country as well—to the brink of the financial failure. That will have a ripple effect that will affect every city and town in North Dakota. Make no mistake about it.

Let's go to the next chart. Secretary Veneman said on August 12, the cost of the disaster aid must be offset by cuts in farm bill spending. That is not a reasonable expectation. That would be a double whammy. First, the farmers suffer an economic disaster, a loss of crops because of flooding or drought, and then they are told to take it out of the rest of the farm bill, cut out direct payments to farmers, cut out loan deficiency payments. That is no help. That cannot be the answer.

SECRETARY VENEMAN ON DISASTER ASSISTANCE

(August 12, 2002)

- **The cost of disaster aid must be offset by cuts in Farm Bill spending**

Let's go to the next one. The President was quoted as saying, "As we move forward to help our ranchers with drought relief, I expect that help to come from the $180 billion in the farm bill." I would remind the President, there is no disaster assistance in the farm bill. His opposition and the opposition of the Speaker precluded it. It was in the Senate bill. It was prevented from being in the final version of the farm bill because of his opposition. So saying that you are going to look to the farm bill for disaster assistance is an empty gesture. There is no assistance there.

PRESIDENT BUSH ON DISASTER ASSISTANCE

"...as we move forward to help our ranchers with drought relief, I expect that help to come from the $180 billion" in the Farm Bill.

— August 15, 2002

Let's go to the—now, let me just indicate where we are with respect to various options. One is the Baucus, Burns, Daschle, Conrad, Dorgan's Disaster Assistance that provides full eligibility for 2001 and 2002 for crop- and livestock-related losses. And as I indicated there will be savings out of the farm bill. There will be savings because prices are higher than were anticipated, and I believe those savings ought to be applied, not by cutting other farm programs as the President proposes, but by taking account of the savings generated by higher prices than were anticipated. It is a fundamentally different approach and far more fair.

Major Disaster Assistance Bills Pending in the 107th Congress

- S. 2800 BAUCUS, BURNS, DASCHLE, CONRAD, DORGAN ET AL
  - provides full eligibility for 2001 and 2002 crop and livestock-related losses
- S. 2830 ROBERTS ET AL
  - requires farmers and ranchers to choose between coverage for either 2001 or 2002 losses
  - producers ineligible if they declined crop insurance coverage
- S. 2768 HAGEL
  - provides $620 million to fund the Livestock Assistance Program
  - producers must choose between eligibility for either 2001 or 2002 losses
  - funding offsets include reductions in Farm Bill loan rates, cuts in the Environmental Quality Improvement Program and other Farm Bill conservation programs
- H.R. 5310 THUNE ET AL
  - similar to the Baucus bill except no "emergency" designation

Senator Roberts of Kansas requires farmers and ranchers to choose between coverage for either 2001 or 2002 losses. Well, to provide disaster assistance he would make farmers choose. We have never done that before in a disaster. Farmers didn't choose if they were going to have a disaster. I don't think we ought to make them choose now whether they get assistance for 1 year or another. We have never, ever done that in any disaster in the history of the country, say to those who are the victims of disaster, you choose which disaster you get covered for. It would be like saying to a patient who has heart disease or cancer, choose which one you want to get treated for. We don't operate like that as a society. We didn't do that to California when they were hit by mudslides and earthquakes. We didn't say choose which one you want help with. And I don't think it is fair to say to farmers in North Dakota and Minnesota and South Dakota, choose which disaster you are going to get help with.

The Hagel Bill, Senator Hagel provides $600 million to fund the livestock assistance program and, again, producers have to choose between 2001 and 2002. And they partially paid for it by funding offsets, including reductions in farm bill loan rates, cuts in the Environmental Quality Improvement Program and other farm bill conservation programs. Again, I don't think it is a reasonable matter to go to a producer and say you have suffered a loss, now we are going to cut the loan deficiency program to make up for it.

You know, the fundamental tenet of disaster assistance has been that it is emergency funded, unanticipated. You don't take it out of the other parts of the farm program which are critically important to maintaining the viability of our family farmers out across the land.

Finally, there is the Thune bill. That is similar to the Baucus bill except it is not paid for. It is not provided for as an emergency designation, which means it is not paid for, which means there is no money. If you don't allow an emergency designation that allows you to be on top of the other matters that have been budgeted for the farm bill, you are going to have to take it out of other provisions of the farm bill—in essence, taking it out of one pocket and putting it in the other. That is no additional help. Again, it violates the tradition of what we have always done for people in disasters.

Well, look, we have got a lot at stake as a State. I had a producer call me the other night in anticipation of this hearing, somebody who has been one of the most respected farmers in this State for over 30 years, and he told me, Kent, if there is not disaster assistance for 2001, I am done. My banker has told me unless Congress comes forward and helps out like we have always helped out before, I am finished.

Now, that story is repeated time and time again across this State, and the question is: Are we going to extend a helping hand the way we have always done? When the people of Grand Forks were flooded and had a terrible disaster, the people in the country helped out. When people in California had natural disasters, we helped out. When the people of Florida were hit by a hurricane and had enormous devastation, we helped out. I don't think it is unreasonable to ask the same now.

I saw a report night before last on television of a farmer in southwestern North Dakota walking his fields with a television reporter. There was nothing left. He didn't even bother to run the combine because there was nothing to harvest. And he made very clear if there isn't some assistance coming, he is gone.

Now, that farmer suffered those losses through no fault of his own, and the question is: How do we function as a society? When somebody is devastated by a natural disaster, do we help out or do we turn our back on them and say you are on your own? This has always been a generous country, one that cares about the citizens who have something bad happen. I tell you, that is the culture of North Dakota. And when the President talks about the pioneer culture, that is the pioneer culture I know about. The pioneer culture in this State is if the barn burned down at your neighbor's, all the rest of neighbors got together and helped fix the barn, build a new one. And when somebody was sick—I was just at a farm where the neighbor across the road has been sick for a year, and you know what the neighbors did? They planted his crop, they harvested his crop, and they helped him out. And they made it possible for that guy to go on. That is pioneering tradition, helping out your neighbor when they have had a disaster, and I hate to see us lose it.

With that, I turn to my colleague Congressman Pomeroy for his remarks and then we will go to our witnesses, starting with the Governor.

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

Mr. POMEROY. Thank you very much for holding this field hearing and thank you for including me. There are simply a couple of headlines, front pages, and I think they tell the story of what North Dakota has at stake, first, for the 2001, 2002 seasons under discussion, as well as the prospect of going forward, because, really, the matter before us is a critical test. Will we get disaster relief that we need due to the growing circumstances of last summer and this summer? And will we be able to establish that there shall be emergency disaster assistance for production loss truly of a devastating character under this farm bill? That is what is at stake.

The opponents not only want to deprive us of what we need now. They want to make certain we never get it in the future. In crops and livestock North Dakota we are a State of extremes. We produce in areas subject to volatile weather, dramatic changes in precipitation, and what could demonstrate it more convincingly than this summer, when we had disasters from drought and disasters from flooding and—in between those—disasters from disease, because of too much precipitation yet again. The reach goes far beyond the individual producers affected, although many, many have been affected. This creeps fundamentally into the small-town economies throughout North Dakota.

My dad was a farm retailer. I learned growing up when the farmers do well, we all do well; when the farmers are hurting, the entire State is hurting. Agriculture is the number one component of our economy, and having our State face a future of unprotected farmers in light of disaster losses is unacceptable. That is what makes this test so completely critical. It is not whether disaster as-

sistance is needed. It is how much we need it. How unfortunate that the question we are fighting about is whether we will get any relief at all.

As far as I am concerned, this is strike three for Secretary Veneman, the point person on behalf of the administration in terms of trying to prevent disaster assistance. Strike one was when she tried to stop the farm bill in the House. Strike two was when she tried to stop, successfully delaying, for a time, passage of the farm bill in the Senate. In the end they lost. We moved the farm bill and restored price protection for farmers.

Now, the next question. Shall there be disaster assistance? Just looking across North Dakota, you see some troubling statistics. Yields for wheat, down 12 percent from last year; soybeans, 8 percent; corn, 9 percent. But those statistics hardly tell the story because that is an average. It is like getting completely wiped out and the other fellow not being wiped out and on average you are down 50 percent. The losses for many are 100 percent. Farmers have told me some really horrifying stories of their financial predicaments in light of their financial loss going backward when they didn't have backward to go, in terms of room on credit. Every day you meet people in the coffee shops up and down the highway that are hauling hay from sometimes hundreds of miles away just trying to feed their crop—they happen to have access to CRP hay. Senator Conrad, I commend you for the efforts you lead, and I was proud to be a part of that in terms of getting that CRP opened up. But the cost of extracting it for our farmers is extraordinarily significant. I am part of the legislation in the House, bipartisan, of course, to get the disaster assistance which includes as lead sponsors, Congressman Thune out of South Dakota. We are working it through to fund savings of the Commodity Credit Corporation in light of the fact that countercyclical payments will not be paid this year and the LDPs will be significantly lower. But I agree with you this is less than what I would hope for in terms of a disaster response.

We crafted a bipartisan package to try to overcome objections to the Speaker of the House to provide disaster assistance for farmers. He represents Illinois. That reminds me of Chairman Lugar, former Chairman Lugar, represents Indiana, where you don't have the volatility and production circumstances that some of us have out here in the high plains. It seems the need for disaster assistance is completely unheeded in light of the changing production circumstances that we have to deal with. I hope that this August work period has been a time where Members of Congress that were not with the program have been able to go back and see firsthand just how devastating the losses have been. How can Senator Roberts spend a month in Kansas and not come back as a full-fledged partner in your efforts to get disaster assistance?

I hope we've made some converts. And the circumstances are such that I can't imagine that we haven't. But beyond that, it is the advocates collecting, in this most effective form possible, the information from this summer, supporting the need for the 2002 disaster assistance coupled with the 2001 disaster assistance we have already been fighting for. That is why I so value this hearing, Mr. Chairman. I appreciate being allowed to participate and look for-

ward to the witnesses. Your stories will be recorded, your arguments will be recorded. We will be using what you tell us this morning as we try to convince our colleagues in the few weeks remaining in this congressional session.

So with that let's get on with the hearing.

[The prepared statement of Mr. Pomeroy follows:]

STATEMENT
REPRESENTATIVE EARL POMEROY
BEFORE U.S. SENATE COMMITTEE ON THE BUDGET
AUGUST 20, 2002

First, I would like to thank Chairman Conrad for his invitation to appear at this hearing and commend him for his work to continue to keep the US Senate's attention on the plight of farmers. His voice on agricultural issues as the Chairman of the Budget Committee is welcome.

A LONG WAY FROM JANUARY

Sitting here today, we are a long way from January 8 of this year, when Senator Conrad held a hearing in Bismarck on the farm bill. At that hearing, I made the statement that I only wished that we were discussing farm bill implementation instead of the delay in the farm bill that happened in late 2001. Now, that we are in the third month since the farm bill was signed into law, I again wish we were sitting down to discuss farm bill implementation rather than the continuing need for emergency disaster assistance.

It was extremely disappointing when the disaster assistance provision was stripped out of the farm bill at the urging of the Administration. Now, we are faced with the task of pursuing disaster assistance for both 2001 and 2002. This task is made that much harder by a budget picture that continues to worsen. Nevertheless, we are continuing the fight and are joined by Midwest and Plains States legislators who have seen the bread belt, the rangelands, and the pastures dry up, particularly in 2002.

FLOOD AND DROUGHT

Precipitation totals show the terrible drought situation occurring in the nation's primary agricultural regions. Nationally, the latest USDA forecasts on crop production demonstrate the problem. Corn production this year is forecast to be the lowest since 1995. Yields for wheat are down 12% from last year, for soybeans 8% from last year, and for corn 9% from last year.

North Dakota has been uniquely affected. This year's weather has squeezed North Dakota farmers between two evils: too much water or too little water.

The overabundance of rain in the east and its absence in the west and south has made most of our state's agricultural industry suffer weather-related loss this year. In North Dakota, yields in 2002 are projected to be 15% lower for spring wheat and 18% lower for barley than in 2001. However, even this yield forecast does not adequately address the considerable regional challenges posed for some of our producers. Producers in the southern half of the state will likely see much larger yield decreases than average, and decent yields in north central North Dakota will likely increase the state average.

Our livestock producers, in particular, are feeling the brunt of this agricultural crisis. According to North Dakota Agricultural Statistics Service, more than half of the state's pasture or rangeland is rated poor or worse. This combined with high grain prices -- caused by the short supplies -- will continue the squeeze on livestock producers struggling to feed and sell cattle in a down market.

The combined weight of poor crop and range conditions and low cattle prices place our producers in a financially precarious position. This is particularly true for producers coming off a hard 2001 crop year also with weather-related losses.

Despite this evidence, the Administration continues to be reluctant to support disaster assistance. I know that when Congress comes back into session in September, many Members, including myself and Senator Conard, will continue to fight for disaster assistance. Unfortunately, the lack of Administration support makes the fight that much harder.

Not only is Administration support vital to passing disaster assistance, it's also important for the Administration to proceed with correcting flaws in the crop insurance program. Congress has put more funding into the crop insurance program to make it stronger and to increase participation at higher levels of coverage. We have also stated more than once the need for quality losses to be better addressed by the Risk Management Agency. While a better accounting of these losses will not solve all of our disaster problems, it would certainly make many of the quality losses we have seen in the past two years better indemnified by the crop insurance program. I continue to urge the Risk Management Agency of USDA to direct more resources to this continuing problem.

I have cosponsored the Emergency Farmer and Rancher Assistance Act (HR 5310) with a bipartisan group of my House colleagues. This bill would provide livestock assistance and a crop disaster assistance program much like we have seen in previous years. It would also require the USDA to estimate the savings from the farm bill and use funds from the Commodity Credit

Corporation in that amount to fund the disaster assistance programs. I do not believe that this mechanism is the only way to pursue this funding, but I do hope that the Administration and other disaster assistance opponents take a look at savings of the money that was allocated in the budget for the farm bill.

I look forward to hearing from the panelists today on the nature of the problem in the different regions of North Dakota, as well as on how best we can mitigate the short and long term effects of this drought situation.

Chairman CONRAD. Thank you so much. Thank you for everything that you have done to help persuade colleagues that we do need to take action. That is the first threshold question. Do we take action? The second question is: How do we pay for it? We believe it is important to have an emergency designation. This is an emergency. This was not anticipated. And to say, as the Secretary of Agriculture has said and the President has said, that the other provisions of the farm program should be cut to pay for it doesn't help, doesn't solve the problem, doesn't help dig out of this deep financial hole that people have been thrust into as a result of drought and many cases of flooding in this State.

Next we will turn to our witnesses. We are pleased to welcome the Governor, the Honorable John Hoeven, and our Commissioner of Agriculture, the Honorable Roger Johnson. Welcome. It is good to have you both here.

Governor Hoeven. Thank you, Senator. I appreciate the invitation.

Chairman CONRAD. We appreciate your coming.

Governor Hoeven. Congressman, good to see you.

Chairman CONRAD. We will ask the Governor to go first and provide his testimony, and then we will go to our Commissioner of Agriculture, and we very much appreciate—I know that there are a scheduling conflicts for the two of you, and we very much appreciate that you have managed to work those out so that you could be here today. I think that this is critically important. We have got to make the case. If we don't make the case, goodness knows nobody else is going to do it. So with that, Governor, thank you for being here.

STATEMENT OF HON. JOHN HOEVEN, GOVERNOR, STATE OF NORTH DAKOTA

Governor Hoeven. Thanks, Senator. I appreciate that and, Congressman, thanks to you as well. Now, as is only fitting, as you all know—first of all, good morning. As you all know, Senator Conrad has established a reputation in the Senate for being the guy that comes with the charts, and so again it is only appropriate that I show up with a couple of charts.

Chairman CONRAD. Always good.

Governor Hoeven. If that is all right, sir. We got a unique situation in North Dakota one that I think all of you are well aware of. And, of course, this is part of the sending the message which Senator Conrad talked about, and Congressman Pomeroy as well. In the Western States, there is no question we had a terrible time with drought this year and we are all well aware of it. We see these tremendous fires that we have ongoing throughout the Western States, and, of course, we got incredible fires in North Dakota this year. We have burned about 52,000 acres in North Dakota, which is an incredible amount, and we have been out battling those fires, which, of course, goes hand in hand with the drought situation. But we truly have a unique situation in North Dakota in that we also have areas that have washouts and flooding from too much rain.

Now, that is particularly acute in Minnesota, particularly in western Minnesota. What we have got in the eastern part of our

State, particularly the northeast—and so what this first charts shows is the vast and significant drought we have had throughout the Western States, and, of course, how that impacts the southwest and south central portions of North Dakota as well. But at the same time then we have got flooding from these very significant rains, and you can see on this chart in the green here how that is impacted, particularly the northeast part of our State. So, we are kind of on the line between the two. And, of course, the counties in white are the counties that are faring better. But we have got the drought counties here and the flood counties here up in the northeast corner. So that is what that chart shows.

insert chart

The other one, this just shows the rain patterns and as you can see—it is probably hard for you to see the colored coding. But, again, it shows the same kind of thing in terms of lack of rainfall out here and significant rainfall up in this area, which translates into the unique situation for our State, and I will leave this up for just a minute. But you can kind of see why that really does put North Dakota in a unique situation because we are right on the line there. But what does that mean in numbers, in dollar amounts? We checked with NDSU and they have run the figures for us. But in terms of losses as estimated by NDSU per crop—and this is from the drought—the direct crop losses are about $168 million; $168 million is the estimate right now for direct losses due to drought on our crops. Indirect would then total about $452 million, and this goes to what Congressman Pomeroy was talking about in that, you know, farming really is the base of the pyramid in terms of our economy here in North Dakota. And, of course, that percolates up all the way up through the rest of our economy. So the total crop loss is coming in at about $620 million in terms of the estimated losses right now based on NDSU figures.

Now, for the livestock—that is just crop loss. For livestock the direct and indirect, I don't have those broken out. But the livestock losses are estimated at about $246 million. So between crop and livestock losses, the estimate right now is about $865 million in terms of direct and indirect impact to our State.

As far as the flooding, because we talked about that issue, we really don't have an estimate for that yet. Because until our farmers get out there and make an effort to harvest that crop or determine what they can harvest based on what has been washed out and what is blighted due to the excessive moisture, we really don't know.

Now, estimates for the infrastructure damage in the northeast are about a little bit over $1 million in flood damage to date. Now, that is just public infrastructure. And so we don't have the estimates on flood losses at this point. You can see it is a very significant figure at $865 million, just based on the drought figures.

At the State level we are doing all we can. On May 30, I issued a statewide fire emergency and that triggered our fire emergency task force. In early July, I issued a statewide drought emergency and that triggered a number of things, including our State's Drought Mitigation Plan, and under that plan we set up a task force to provide State measures to respond to the drought emergency, and that is chaired by Ag Commissioner Roger Johnson.

And he will go through some of the things they have done and the recommendations that they are making as well. So I won't go into that because he will describe those efforts.

And our fire task force have been hard at work. I mean, we have had Federal, State, and local resources in fighting these fires, and as I mentioned we have already had more than 52,000 acres burning in those prairie fires, primarily in south central and southwest North Dakota. And we have also set up fire response units now in Hettinger, in Dickson, in Bismarck, and so forth. And those are Federal, State, and local combined task forces to respond to these fires. But, obviously, we are in August now, and we are not out of the fire season yet.

As far as drought relief, we worked closely with USDA to get the CRP acres opened up, and that has been incredibly important to get access to hay and grazing for our ranchers, and those are open on a statewide basis. The deadline for that has been August 31. And now we have contacted USDA. Jim Kerzman, who I saw here, and others have gotten a hold of me and we have contacted USDA, and they will now allow the grazing and haying on CRP acres up until November 30. So we did get that in. And, again, we appreciate you folks talking to us about that, and we have agreed to extend that to November 30. So that is an important step.

Also we worked with game and fish to get CRP available, availability through some of the plot acres, and they are working with land owners to make those acres available as well. I ordered that the no-mow areas, about 363 miles of no-mow areas along the U.S. and State highways be available to ranchers. Our Department of Transportation, we have eased the hauling regulations, both in terms of weight restrictions and length restrictions for folks that are willing to haul hay to help our ranchers. And through the State Water Commission last week—Roger is also a member of the State Water Commission. We made $200,000 available through our Drought and Disaster Livestock Water Supply Assistance Program.

So those are some of the State's efforts, but the reality is we are going to need Federal assistance. There is just no doubt about it. I have issued, requested both the Secretarial Ag Disaster Declaration and a Presidential Disaster Declaration, which would involve all three elements—the drought, the fires, and flooding—because we are working on all three. The difficulty is that primarily frees up low-interest loans. And that may be helpful in some cases, but really what we need is direct assistance to recover these losses. There is no question about that.

USDA made a step in the right direction last week when announced that they would provide up to $150 million in livestock feeding assistance through the old milk program, the Section 32 program. But the way they came out with it initially is it will only apply to four States: South Dakota, Wyoming, Colorado, and Nebraska. And the reason they came out with it on that basis is because 75 percent of the rangeland, the grassland in those four States is rated poor or very poor. And, again, North Dakota, because of its unique situation—and in some of the other States they don't have 75 percent. We don't have 75 percent of our total grassland acreage in that condition. But we have counties where that certainly holds true and, more particularly, the 20 counties that

have been most dramatically affected by the drought. And so I have written to Secretary Veneman and talked to her chief of staff over the course of the last week and today talked with Chuck Connor, who is the Ag advisor to the President, and said look, this one has to be expanded. And, two, it has got to be done on a county-wide basis, not a statewide basis, so that counties in other affected States like North Dakota receive the benefit.

Now, they have got 1.3 billion pounds of dry milk that they are using to fund this program. And I don't know the exact figures, but that sells for around 50 cents. They should have close to half a billion dollars that they could potentially fund under this program. They need to do that and they need to make it available on a county-by-county basis so that our North Dakota counties and producers receive that benefit and that assistance. And we are hopeful that over the course of the next week they will do that and they will announce substantially that program both in the terms of the funding level and making it available on a county-wide basis. We will continue to push them to do that and to provide other assistance through the USDA.

The USDA has a livestock assistance program, and this is one of the ways they would be able to fund it. It has not been a funded program, and that is something that we are talking to Senator Conrad and other members of Senate and Congressman Pomeroy and other Members of Congress about to fund that livestock assistance program. We think that is important that that be there on an ongoing basis.

I think ultimately the real solution will be a disaster assistance bill through Congress. We absolutely need it. I would like to see it funded with new funding rather than taking funding out of the farm bill in line with the Baucus-Burns bill. That is what I have been lobbying for in both the Congress and the administration. If it is taken out of the existing farm program, it needs to be done out of savings, due to lower LPDs or lower deficiency payments of this year and not through any cost cuts in the farm program. And again we are pushing as hard as we can both in terms of lobbying the Congress and the administration to move forward on that. Our farmers and ranchers need that assistance, and we are going to do everything we can to get it.

Senator again, I want to thank you for the opportunity to present this information to Congress. Thank you, Congressman, as well.

[The prepared statement of Governor Hoeven follows:]

State of
North Dakota
Office of the Governor
John Hoeven
Governor

Testimony of the Honorable John Hoeven
Governor of North Dakota on
Disaster Assistance Hearing
U.S. Senate Budget Committee
Fargo, North Dakota
August 20, 2002

The new farm bill was designed to put our farmers on more solid footing, and enable them to plan for their futures. Today, however, we find ourselves facing another crisis in farm country. After years of depressed prices, we have drought at one extreme and flooding at the other. For the farm bill to realize its objective, we need to help farmers over this seasonal hurdle.

The summer of 2002 in North Dakota will be remembered as one of the most severe disaster seasons in memory for Western and Midwestern states. Extremely dry conditions created a shortage of feed for livestock, and also costly and dangerous wildfires throughout the southern portion of North Dakota. But here in North Dakota, the tragedy acquired a larger dimension because parts of our state are also suffering from extremely wet conditions. Producers in eastern and northeastern North Dakota have lost crops due to excessive rainfall, flooding and moisture-related diseases.

Dry conditions
Evidence is emerging that the current drought is more severe than the drought of the late 1980s, and that in some counties it is approaching the magnitude of the 1930s. We have a recognized drought emergency in 20 North Dakota counties: Adams, Barnes, Bowman, Burleigh, Dickey, Emmons, Grant, Hettinger, Kidder, LaMoure, Logan, McIntosh, Morton, Oliver, Ransom, Sargent, Sioux, Slope, Stark and Stutsman are all impacted entirely or partly by ongoing dry conditions.

According to estimates from NDSU, direct crop losses due to drought represent $168 million. Indirect losses amount to $452 million, for a total of $620 million. These losses, moreover, exclude hay and represent the 60 percent that crop insurance will not cover. Direct and indirect losses to the livestock industry total $246 million. In all, the state's farmers and ranchers will suffer an $865 million loss due to dry conditions in summer of 2002 alone.

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Too much rain

Over $1.05 million in flood damage to public infrastructure has been documented through a Preliminary Damage Assessment conducted by federal, state and local inspectors. Exact agricultural economic impact from floods and excess moisture in the affected counties are still being assessed. The final numbers will be determined as farmers attempt to harvest their crops and are better able to assess the losses from drowned and diseased fields. For flood protection of rural residents in the Red River Valley, the State Water Commission has approved funding for farmstead ring dikes.

State Response to the Disasters

On the state level, we have taken aggressive measures to provide our farmers and ranchers with relief from devastating drought conditions. Over the past several months:

- I declared a Statewide Fire Emergency for North Dakota on May 30, 2002. This activated the Rural Fire Danger Guide for all public and private lands within the state and activated the state emergency operations plan to support response to wild land fires.
- In early July, I issued a statewide drought emergency disaster declaration that was particularly vital for the 20 Southwest and South Central counties where the drought impact is the most prominent.
  - The purpose of the declaration was to call to the attention of federal officials the plight of producers in southern North Dakota regarding crop, hay and pasture losses that have negatively impacted the farm and ranch industry and North Dakota's economy.
  - This action implemented the State Drought Mitigation plan and activated task forces to analyze and mitigate the effects of the current drought.
  - On July 9th I convened a joint meeting of the task forces to focus on: Agriculture; Data collection and analysis; Municipal and Industrial Water Resources; Recreation, Fish and Wildlife Impacts; Economic Impacts; Fire Mitigation and Response; and, Public Information. This meeting included seventeen state and federal agencies.
  - I also encouraged the task forces to begin meeting to evaluate and take actions to alleviate the effects of the drought. Thus far, the Fire, Agriculture, and Recreation, Fish & Wildlife Task Forces have met and are taking actions to mitigate the effects of the drought.

Agriculture Task Force

- I appreciate Roger Johnson chairing the agriculture task force established in the State Drought Mitigation plan.
- The task force has made many recommendations regarding accessing federal livestock watering assistance funds, decreasing red tape on loan programs, and coordinating information distribution.
- The task force has also recommended that the State explore offering unemployment assistance to disaster affected farmers, provide additional rural mental health services and to provide assistance on transporting hay- all of these options are being explored.
- Most importantly the task force has recommended that Congress: pass a disaster relief bill, fund the Emergency Community Water Assistance Grant Program, authorize a dairy feed program and provide funding for the Livestock Assistance Program

Fire Task Force Efforts

- On August 1, 2002, I requested that President Bush declare an Emergency for North Dakota because of Drought and Fire conditions. I specifically requested funding assistance for a Fire Support Task Force to partner existing federal fire response resources to assist rural fire departments.
- The State has extended the authority to local fire chiefs to utilize aerial applicators for initial fire attack at state expense.
- I have established a State/Federal Fire Support Task Force with units in Hettinger, Dickinson, and Bismarck that can be activated through the State Emergency Operations Center through State Radio.

State Drought Relief Efforts

- We worked extensively with the USDA and the Administration for drought assistance, including requesting that CRP be opened for haying and grazing- the USDA agreed and eventually it was authorized in all North Dakota counties.

- Some of the CRP in the State was established through PLOTS cost-share with the Game and Fish Department in an effort to establish hunter access areas. The Game and Fish Department made these areas available for haying in exchange for allowing additional sportsman access on other land. This win/win program not only helped ranchers, but made 9,700 additional acres available for hunters this Fall.

- I ordered that the 363 miles of "No-mow" areas along US and State highways be opened for haying.

- The Department of Transportation eased regulations for hay hauling truck weights and lengths, in order that ranchers could haul hay in a more cost effective manner, but still remain safe.

- The State Water Commission is making up to $200,000 available for the Drought Disaster Livestock Water Supply Assistance Program to provide a cost share for cattle owners to install wells, pipelines, stock dams or to develop a spring that could provide immediate water development for livestock. In addition, the U.S. Fish and Wildlife may provide other funds to the program for projects that could also provide wildlife benefits.

Federal Disaster Requests

On August 1, I formally requested a Secretarial Agricultural Disaster Designation for 51 North Dakota Counties that have been impacted by drought, frost, heavy rain and wind. According to damage assessment reports compiled by the State Farm Service Agency, all but Williams and Mountrail counties qualified since they had 30 percent or greater crop losses, and even these two counties will be eligible for disaster programs because they are contiguous with other qualifying counties.

Today, I requested a Presidential Disaster Declaration due to flooding and severe summer storms in Pembina, Walsh, Grand Forks, Trail and Stutsman Counties, and the Three Affiliated Tribes Indian Reservation.

USDA Announcement of Supplemental Assistance for Livestock
Last week the USDA made a start in its effort to provide drought assistance. Secretary Ann Veneman made $150 million available in four drought-stricken Midwestern states for livestock feed assistance. While we appreciate the Secretary's recognition of hardship in South Dakota, Nebraska, Colorado and Wyoming, we are disappointed that farmers and ranchers in our southern counties did not qualify based on the agency's method of evaluation.

I have written to Secretary Veneman to request that she authorize the supplemental feed assistance program to recognize similarly distressed counties of North Dakota. I have suggested that rather than evaluate entire states with a 75 percent loss of pasture value, the agency authorize the program for counties that have a similar loss of range value. This approach is necessary to address the urgent needs of states, like North Dakota, that are affected no less severely, although only in part, because they lie on the fringes of the larger drought areas. Drought, of course, does not recognize state boundaries. I also spoke yesterday to USDA Chief of Staff Dale Moore and he reports that hopefully this week the USDA will be able to expand the program so that it includes counties in North Dakota and other states impacted by drought.

Yesterday's USDA National Agricultural Statistics Service weekly *Crop, Livestock, and Weather Report* highlighted pasture and range conditions. The range assessment indicates that all of the pasture in North Dakota's South Central District is in poor or very poor condition. This demonstrates that many of our counties will qualify if the USDA accepts the county by county data in order to establish eligibility for the program.

Federal Disaster Package is needed
Now that the season is advancing, however, it is clear that federal assistance is required to prevent hardship from turning into total ruin. The State is doing all that it can, but the real solution is a federal disaster assistance package.

I recognize the scope and severity of the disaster situation and the needs of our farmers and ranchers. I have made calls to the USDA and the White House, stressing the fact that the new Farm Bill does not alleviate the disaster situation. In fact, as I mentioned, in North Dakota, weather has created a severe situation in the extremes. Our ranchers and farmers in the south are suffering severe drought, and our producers in the northeast are suffering significant losses owing to excessive wet conditions.

In fact, emergency agriculture assistance should aid farmers who have suffered weather-related losses during the 2001 and 2002 crop years no matter what the actual weather condition caused the injury. The result, and the impact on producers, is the same.

It is my view that the extent and severity of the weather-related losses incurred in 2002, coupled with our farmers' need for full support under recent farm bill funding, warrant emergency funding for drought assistance apart from that provided by the farm bill. We

believe that $5 billion will be needed to adequately fund a disaster of this magnitude and scope.

If, as some would suggest, the money must come from the existing funds allocated to the farm program, it should come from the savings generated by lower spending on counter-cyclical and loan deficiency payments, and not by lowering the support levels offered in the direct decoupled payments or by reducing the loan rates.

Additionally, I encourage the Congress to fund the Livestock Assistance Program. In the past, the Program has provided direct payments to eligible livestock producers who suffered grazing losses due to natural disasters and dry conditions. Unfortunately, the program remains unfunded. I hope that any federal disaster legislation include appropriation for this program targeted to providing aid to livestock producers who are dramatically short of forage.

The obvious clear solution is a Federal Disaster Assistance Bill. I support the efforts to appropriate at least $5 billion in emergency spending for the effort. The funding should be new money and not be taken from the support offered by the farm bill. A supplemental disaster assistance program will strengthen the intent of the farm bill and provide our farmers with the means to establish their operations firmly for the future.

Thank you for your time and attention.

DISTRICT PASTURE CONDITION TABLE

District Pasture and Range Condition
Week Ending August 18, 2002

District	Very Poor	Poor	Fair	Good	Excellent
		(Percent)			
Northwest	2	37	39	22	0
North Central	5	47	44	4	0
Northeast	0	21	30	34	15
West Central	7	22	44	27	0
Central	19	34	30	17	0
East Central	11	30	29	30	0
Southwest	37	33	29	1	0
South Central	52	48	0	0	0
Southeast	48	22	23	7	0
State	25	32	29	13	1

Chairman CONRAD. Thank you, Governor Hoeven. We very much appreciate your being here. We very much appreciate the position that you have taken. I think it is absolutely the right position for North Dakota. I think beyond our own borders, it is the right position for the Nation. This is what we have done always in the past when there is an unanticipated disaster; we have moved to help out our neighbors. And goodness knows it is desperately needed in North Dakota both on the 2001 disaster and the 2002 disaster. And I have to believe before we are done that there will be a response. We had, as I indicated, in the Senate farm bill a Disaster Assistance Program, and I believe support is building. I believe as my colleagues go out across the country, they are finding what I have found, that it is badly needed. Your testimony makes clear that it is needed in North Dakota. And for those who say, well, just cut the farm program to pay for it, that is no help; that isn't going to solve the problem. That is robbing Peter to pay Paul. And so we must have either an emergency designation or have it covered by taking into consideration the savings out of the farm bill, savings that flow naturally.

Now, under the budget accounting rules in Washington, you can't pay for a program in that way. That is not permitted. But I think it is a strong rationale. Look, there are savings in the bill because of these disasters. Prices are higher than they would otherwise have been. That means the cost of the rest of the provisions of the farm bill are less. There is a pool of money that is available, and if we are not going to do it through an emergency designation, we ought to do it in that way, and those are the two major versions—the version we have in the Senate and the version we have in the House.

Unfortunately, the President has rejected both those versions and said no, cut farm programs. And, again, that would be a double whammy for an economy like ours.

Chairman CONRAD. Commissioner Johnson, thank you so much. Let me just acknowledge publicly what I have never been able to do before, and that is, nobody played a bigger role in advising us as we negotiated the farm bill than our own Commissioner Roger Johnson. He organized the commissioners around the country and did it in the most effective way to convince our colleagues we needed a new farm policy and a new farm bill. And I was never more proud of Roger Johnson than the leadership he provided on the farm bill and the leadership he has provided on the question of disaster assistance. Welcome.

STATEMENT OF ROGER JOHNSON, COMMISSIONER, NORTH DAKOTA DEPARTMENT OF AGRICULTURE

Mr. JOHNSON. Thank you, Senator Conrad, Mr. Chairman. And thank you for the leadership that you have provided not only in your work on the farm bill, but as the years have gone on you have been the leader in the Senate in making the case for disaster assistance for agriculture on the same premise that it has been made historical for other natural disasters, and I think we all recognize that and appreciate that very much.

Let me say it is an honor to be here with the Governor, with the Congressman, with yourself, and I do in a bipartisan way suggest

that disaster assistance again is needed. My testimony is lengthy so I am just going to hit a few of the highlights. It is lengthy because I know how important it is for you to create a record so that you can convince your colleagues of the nature and the extent of the disaster, even in fringe areas of the drought, as you can see on the national map up there. As the Governor talked about, as you talked about earlier, it is important that we document this. As everyone here knows, agriculture is the backbone of the economy in North Dakota, and I am not going to go into all the statistics other than to say that we lead the Nation in the production of 11 different commodities.

It is a big deal in North Dakota, and as agriculture goes, most of the rest of the State goes as well. Unfortunately, in recent years farmers and ranchers have not reaped the benefits of profitable or even break-even prices for many of the high-quality products that they have produced. And that, of course, has been much of the focus of the farm bill.

The new farm bill is certainly a substantial improvement over the previous Freedom to Farm law. Again, thank you for the leadership that you have provided in that, and let me reemphasize the point for the record that all of us recognize that that new farm bill was designed primarily to deal with the price and the income side, not natural disasters. For reasons that you have already discussed, natural disaster provisions are not a part of the farm bill. So, as good as it is, as big an improvement as it is over pre-existing farm law, it does not deal with natural disasters. And so that is really the focus of this here.

Well, as you have already heard, North Dakota producers have been struggling with disaster situations on both ends of the spectrum, as the Governor alluded to in the map of the State, both drought and excessive moisture. The same year, the same time in different areas of the State and certainly the drought conditions in south central and southwestern North Dakota are most extreme. Pasture land is burned up. Dugouts and other water sources are drying up and stagnant, and crops that did grow are only a few inches in height and in many places the seeds that were planted have not even germinated yet today.

The drought is extreme. The Governor mentioned briefly some of the economic analysis that NDSU has provided. Let me reemphasize that the direct impact of the drought alone, not the floods, but the drought alone in North Dakota, is about a quarter of a billion dollars, $223 million. It is the direct impact of crop and livestock loss in North Dakota. When you add the rest of the impact together, it is about $866 million total. And in my testimony following page 12, you will see a sheet here that breaks out in some detail the calculations of those losses.

The Governor already talked about many of the measures the State has undertaken. They are repeated in my testimony. I am not going to repeat them orally here because of time concerns. A number of folks have taken drought reports. I did one in the middle of the July, and I provided following page 13 a number of pictures of the impact of the drought. I provided them in color for you so that you can go back and show your colleagues just how extreme the situation is here in North Dakota, even though we are on bor-

der of the drought area in the rest of the Nation. And they are certainly some very, very telling photographs.

In terms of actions that have already been taken, we would be remiss if we didn't thank USDA for opening up CRP for haying and grazing. I think all of us worked in a bipartisan effort to make that happen. We are thankful for that. We are thankful for the extension of the CRP haying and grazing that was just recently announced. That was absolutely needed. We have taken many of the these measures. Even on the Federal level water bank lands were open for haying and grazing this year. On the State level we opened water bank acres as well.

The Governor has already mentioned what DOT has done with the no-mow areas and changing the restrictions to allow for more economical hauling of hay, and we thank him for the actions there. Operation Hayride is sort of the latest thing that we have begun in cooperation with a number of agencies, including the Governor's office has principally the lead, in this case, the Wildlife Federation, and my agency is cooperating with a lot of the data base requirements. It is basically an effort to match up volunteers both with money and resources who are willing to haul hay from long distances to help some of these ranchers in the southwest and south central part of the State, and we are looking for that to help as well.

Beginning on page 7 of my testimony——

Chairman CONRAD. Can I just interrupt you? I have been looking through these pictures, Congressman Pomeroy and I are looking through these pictures. These are really excellent. I am going to take these and blow them up and show them on the floor to show people the devastation. You know, a picture really is worth a thousand words. And these pictures just show that in large chunks of North Dakota there is nothing there.

Mr. JOHNSON. Yes.

Chairman CONRAD. These are pictures of a sunflower crop, never germinated. These are pictures from Emmons County, the sunflower field, nothing ever came up. These will be very useful. Thank you.

Mr. JOHNSON. You are welcome. In terms of recommendations, beginning on page 7 there is a long series of recommendations that have been compiled of the task force meetings that have been held pursuant to the Governor's order and declaration of a drought disaster existing. I summarize those on page 7 and also on page 8. Let me highlight the ones that I think most people here understand need to be right at the top of the list.

Before I get to the disaster relief bill that needs to be passed by Congress, I need to reemphasize an issue that I commented on last week, which I think is a step in the wrong direction for the USDA. For a number of years there has been a program called the Disaster Set-Aside Program that has been useful for FSA borrowers in disaster years, and there is a proposed rule change that has just been issued that effectively would gut that whole program and no longer make it available to producers in drought disaster years. Page 9 in particular provides some detail of what needs to happen. But, basically, the answer to USDA in their proposed regulations

is they ought to throw it away and stay with the system that has been working.

One of the delightful parts of the Disaster Set-Aside Program is that in almost every other FSA lending program there are reams and reams of paper. With this one there are not. This is the first one that is really red-tape-free. It allows local credit officers to make decisions based on disaster situations and without extensive reams of documentation, and getting rid of that ability, I think, would be a serious blow to how a lot of our more hard-pressed borrowers are going to have to deal with disaster situations, and I want to make sure that that makes the record, with respect to the need for disaster assistance by Congress this year.

On page 10 of my testimony, I provide what I think is going to be the body of a final letter that all of the ag commissioners around the country will be sending to Congress and to the White House later this week. As you know, the Rural Development Financial Security Committee of NASDA, National Association of State Departments of Agriculture, is a committee that I chair, and this is one of the issues that falls under my jurisdiction. We have drafted a letter; let me read, I think, the language that is going to be the most helpful for you. It is near the bottom of page 10. "As Congress decides on responsible levels of natural disaster assistance for farmers and ranchers, we would suggest that the Food Security and Rural Investment Act of 2002"—the farm bill—"remain intact and not be changed."

We don't want to reopen the farm bill to provide for disaster. And I think that is a resounding feeling across the country with all the ag commissioners, and as you know, having been in the middle of this, a lot of blood, sweat, and tears went into the drafting of that final document, and we think it would be a mistake to undo that.

So, with that, Mr. Chairman, I am going to close and be pleased to respond to any questions.

[The prepared statement of Mr. Johnson follows:]

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Testimony
of
Roger Johnson
North Dakota Agriculture Commissioner

U. S. Senate Budget Committee Hearing
U.S. Senator Kent Conrad, Chairman
NDSU Memorial Union, Prairie Rose Room
August 20, 2002
9:30 a.m.

Introduction

Good morning. My name is Roger Johnson and I'm the North Dakota Agriculture Commissioner. I appreciate the opportunity to testify on crop and livestock disaster assistance, and I would like to thank Senator Kent Conrad for his work not only in organizing this hearing but in his unwavering support for North Dakota agriculture.

Background

The importance of agriculture to North Dakota's economy, families, and communities cannot be overstated. Agriculture is the engine of our economy and the mainstay for the hundreds of towns that dot our 44 million acre landscape.

Nationally, North Dakota is the leader in the production of eleven different commodities – flaxseed, canola, durum wheat, navy beans, pinto beans, spring wheat, dry edible peas, sunflowers, barley, all dry edible beans, and

oats. North Dakota farmers, ranchers, agriculture distributors and processors are revered both domestically and internationally as the producers of some of the highest quality food products in the world.

Consumers here and abroad can choose from an unending supply of high quality, low cost food stuffs. Unfortunately, in recent years farmers and ranchers have not reaped the benefits of profitable or even break-even prices for the high quality products they produce.

Current Situation

2002 has been a year of uncertainty and change for agriculture producers. Many farmers had already begun planting their crops before Congress passed new farm legislation in May.

The new farm bill –the "Farm Security and Rural Investment Act of 2002" – is a substantial improvement over the previous "Freedom to Farm" law. I would like to thank Senator Conrad and the rest of our congressional delegation for their tireless work on behalf of North Dakota farmers and ranchers to pass a farm bill that contains provisions that will truly help family farmers.

While one of the goals of new farm legislation was to shore up the safety net for American agriculture, it certainly does not do enough to address the severe drought and other disasters that many parts of agriculture are facing this year. The new farm bill also does not provide disaster assistance for producers who suffered losses due to disaster during the 2001 crop year.

North Dakota producers have been struggling with disaster situations on both ends of the spectrum – drought and excessive moisture.

Drought conditions exist in much of the south central and southwestern parts of North Dakota. Pasture land has burned up, dugouts and other water sources are drying up or are stagnant, crops that did grow are only a few inches in height, and other fields contain seeds that weren't even able to germinate.

Some producers in these areas have been forced to sell off livestock. Others are struggling to find feed for their cattle, traveling hundreds of miles just to find adequate forage.

Drought Emergency Agriculture Task Force

In early July, Governor Hoeven issued an executive order declaring a drought emergency. That executive order set in motion the State Emergency Operations Plan. The Drought Emergency Agriculture Task Force (herein "task force") is a part of that operations plan.

I chair the task force, whose membership is primarily made up of state and federal agencies. The main objectives of the task force are to assess the current situation, identify services and resources, and make recommendations for action on the state and federal levels.

The task force convened on July 10th and again on August 1st. The minutes of both meetings are attached for your information. I will describe some of the actions that have been taken and recommendations that the task force has made later in my testimony.

Drought Tour

I also organized a tour of the drought stricken areas of southern North Dakota on July 12, 2002. The purpose of the tour was to provide a first-hand look at the situation and to provide area producers with a forum to describe their situations and provide their suggestions for alleviating the crisis.

Tour participants included representatives from the North Dakota Extension Service, Farm Service Agency, Natural Resources Conservation Service, State Water Commission and the North Dakota Department of Agriculture.

We began the tour in Emmons County and were taken on a vehicle tour of the area. The group stopped first at a sunflower field in which most of the plants either failed to germinate or were killed off early (Pictures 1 & 2). The few plants left were only a few inches in height. In a normal year, they would be 18-24 inches high by this time in the growing season.

The second stop was a Conservation Reserve Program (CRP) field that had been cut for hay. The bales (Picture 3) were clearly of poor quality. "It's really not much better than straw," commented one tour participant.

The third stop was a winter wheat field. The grain was fully mature, but the plants were less than 10 inches high, when they should have been 3 to 4 feet high (Picture 4). The plants were so short they could not be harvested by a combine.

The group stopped at the first of three dugouts (Picture 5). This was the only one left on a 480-acre pasture. It was foul-smelling, obviously low on water and needed to be cleaned, a typical situation at many operations, according to the producers.

At the second dugout, the producer said he had to pull animals from the mire surrounding the waterhole.

The effect of the drought on hay land was obvious at the next stop. The recently cut swaths (Picture 6) were extremely small, and it is doubtful that this hay would be worth baling.

The final stop on the Emmons County tour was another dugout. It too was almost completely dry (Picture 7), and the remaining water was obviously unfit for any use. Moreover, the ground was so soft that cattle could not reach the water. Producers said they are feeding straw to cows destined for slaughter because they could not find any hay.

The Emmons County tour ended at East River Livestock of Linton, where approximately 40 producers gathered to discuss their concerns and offer their opinions and recommendations (Picture 8). Their recommendations are included later in my testimony.

The next leg of the tour was an aerial tour over the Shields area in Sioux County. The devastation caused by the recent prairie fires (Picture 9) was evident. The town of Shields was all but wiped out by the fire. Only two buildings remain standing. Obviously the production from the land is lost for this year. More than 38,000 acres of grassland have been impacted by fire. Approximately 3,800 cattle with calves at side have been displaced from these lands. Wind erosion is beginning to occur. During this growing

season, cattle have been surviving on the residues of last year's prairie vegetation. There was little to no growth this year. Long-term consequences include continued loss or reduction of grazing and increased likelihood of noxious weed infestations.

Upon landing in Fort Yates, the tour was met by State Rep. Rodney Froelich, who ranches near Selfridge. The fear of additional grass fires has prompted Mr. Froelich's family to pack up irreplaceable possessions (photographs, family heirlooms, trophies, and documents) in the trunk of their family car.

The group first stopped in a spring wheat field north of Fort Yates. The plants which should have been at least three feel high were between 4 and 8 inches in height (Picture 10). Moreover, they were heavily infested with grasshoppers.

A 300-acre alfalfa field belonging to Rep. Froelich's brother was devoid of useable vegetation (Picture 11). During a normal year, 1,000 bales of hay are harvested from this tract. Directly across the road, a spring wheat field was thinly filled with immature plants only a few inches high (Picture 12). The potential for substantial wind and water erosion in this field and others like it in the county is considerable.

Rep. Froelich said this waterhole that holds spring runoff along Highway 6 is at less than 80 percent capacity (Picture 13). The water quality is very poor.

A no-till sunflower field was devoid of plants, aside from a few weeds (Picture 14). There was not a single sunflower plant evident in the field. When one of the tour participants scratched the surface, the blue seeds, ungerminated from lack of moisture, were revealed.

A nearby sunflower field had been abandoned and sprayed with herbicide to kill the stunted plants (Picture 15) and weeds.

The Sioux County tour ended at the Cenex store in Selfridge where approximately 15 producers met with the group to discuss their concerns and offer their opinions and recommendations. Their recommendations are included later in my testimony.

The tour provided ample evidence that disaster conditions due to drought are widespread in southwestern and south central North Dakota. In many areas, crops have been destroyed or are so stunted that they will not reach maturity or will be unharvestable. The lack of moisture, coupled with widespread prairie fires, has severely impacted pasture and hay land, forcing producers to reduce or liquidate their herds.

Actions Taken

We appreciate that the USDA has taken some actions to provide assistance to North Dakota producers and producers facing disaster conditions in other areas of the country.

As you know, Conservation Reserve Program (CRP) acres have been opened statewide for haying and grazing. While this is welcome news for many producers in North Dakota, there has been some concern about the confusion surrounding the guidelines of the program. I am pleased that Secretary Veneman has agreed to an extension of CRP grazing through the end of November.

Also, the Natural Resource Conservation Service has opened Federal Waterbank acres for haying.

The North Dakota Agricultural Statistics Service added a CRP-related question to its survey to help benchmark the quality of CRP hay.

On the state level, the ND Department of Transportation has relaxed weight and length restrictions on roadways to accommodate those hauling hay. ND DOT has also opened the "no mow" areas on state highways for haying purposes.

The North Dakota Game & Fish Department has also worked in cooperation with the North Dakota Agriculture Department to open state Waterbank acres for haying. In addition, Game & Fish has allowed haying of lands enrolled in their PLOTS program.

The North Dakota Wildlife Federation and the North Dakota Department of Agriculture, along with other state and federal agencies, are also spearheading "Operation Hayride" to help deliver feedstocks to cattle

producers in drought-stricken areas. Operation hayride will coordinate hay hauling operations to 17 North Dakota counties affected by severe drought.

The State Water Commission has reinstated the Drought Disaster Livestock Assistance Program to help provide emergency water supplies.

Recommendations

While some programs and assistance are available to producers in the drought stricken areas, more can and should be done on both the state and federal levels. The following recommendations are a result of the Drought Emergency Task Force meetings and the Drought Tour.

USDA should:

FSA

- Provide access to CRP haying/grazing on the basis of need for feed.
- Encourage county committees to request Emergency Conservation Program (ECP) assistance for the development of short-term water sources. The requests should then be approved.
- Provide clear and timely information on NAP payments.
- Make small grains eligible for ECP cost-share.
- Simplify the paperwork for emergency direct loan programs.
- Explore additional opportunities to convert Commodity Credit Corporation (CCC) stocks to fund the Livestock Assistance Program. (Secretary Veneman recently announced that stocks would be made available in Colorado, Nebraska, South Dakota and Wyoming. I have also requested that this program be made available in North Dakota.)

NRCS

- Make funding available through the Emergency Watershed Protection Program for waterhole development and fence replacement.

The US Congress should:

- Pass a disaster relief bill this year.
- Fund the Emergency Community Water Assistance Grant program.
- Authorize USDA to develop and implement an emergency dairy feed program for dairy producers.
- Provide funding for the Livestock Assistance Program.
    - As a part of the program, provide cost share funds to help pay freight charges for hauling hay.

The State Water Commission should:

- Implement a cost-share program, possibly in cooperation with NRCS, to help producers develop emergency water supplies.

ND Department of Human Services should:

- Establish a Friends & Neighbors peer counseling program to provide mental health services to those in disaster areas.

The US Department of Labor should:

- Explore the possibility of unemployment assistance for farmers who cannot work due to the drought or flood. (This requires a Presidential Disaster Declaration.)

The governor should:

- Consider using the National Guard to provide construction services to develop watering sources for livestock in emergency situations when private sector construction services are not immediately available.
- Provide hay transportation services to needy producers.

Agricultural Credit and Finance

Many will face financial hardships as a result of disaster losses. Although FSA Emergency Loans are available in disaster-declared counties, additional loans may not be feasible or offer the most efficient disaster relief for many producers. Disaster assistance programs of all types, including credit, will be needed to help producers re-establish their operations.

Since 1994, one of FSA's most popular disaster assistance programs for credit relief has been the Disaster Set-Aside Program implemented under 7 CFR part 1951-T. The Disaster Set-Aside (DSA) gives FSA borrowers a chance to recover from their losses without having to incur additional debt or liquidate essential assets. Unfortunately, FSA is currently proposing rules that would greatly reduce producer eligibility for the program. Additionally, the new rules would remove the common sense administrative discretion of the program.

FSA Interest Assistance is vital to support producers with commercial lender loans guaranteed by FSA. In many cases, the use of FSA guaranteed loans with Interest Assistance and secondary markets may yield producers a more favorable interest rate than FSA Emergency Loans. The widespread disaster conditions will likely increase the demand for FSA Interest Assistance.

FSA should:

- Immediately withdraw the proposed DSA rule published at Page 41869 in the Federal Register on June 20, 2002.

- Enhance the DSA by permanently offering producers the option of a second loan payment set-aside when other eligibility requirements are met.

Congress should:

- Provide adequate appropriations for FSA Interest Assistance and other FSA loan programs.

NASDA Committee Supports Federal Disaster Assistance

As chair of the National Association of State Departments of Agriculture Rural Development and Financial Security Committee, I recently convened a meeting to consider recommendations on federal disaster assistance. The committee unanimously adopted the following letter, which will be sent to Congress and the Administration this week:

> *I am writing on behalf of the state commissioners, secretaries and directors of agriculture to express our strong support for emergency disaster assistance for farmers and ranchers. Assistance is necessary to help farmers, ranchers and their communities recoup from financial losses due to drought, floods and other natural disasters.*
>
> *While crop insurance, disaster loans, emergency grazing and other programs are helpful; the relief needed is surpassing the levels these programs can provide. For example, South Dakota State University has determined that the state of South Dakota alone has exceeded agricultural losses of $800 million and will easily reach $1 billion soon. Meanwhile, USDA reports that 43 percent of U.S. pasture lands are in very poor shape because of the continuing drought. The current agricultural disasters include regions facing crop destruction and reduced yields and quality due to flooding and increased incidences of crop pests and diseases. In the state of Montana, wheat farmers have faced a 62 percent decline in wheat production. Southeastern states, such as North Carolina, are confronting crop losses that are reaching $200 million. Specialty crops are also suffering due to adverse weather conditions. Apples, cherries and grapes in the Great Lakes and eastern states as well as Christmas trees in North Carolina suffered frost damage this season.*
>
> *We understand several members of Congress have introduced legislation that could assist farmers and ranchers through these difficult conditions. Those efforts are to be commended, however, we ask that concrete actions to be taken when Congress returns in September so the assistance can reach those experiencing such significant losses in a timely manner. As Congress decides on responsible levels of natural disaster assistance for farmers and ranchers, we would suggest that the Food Security and Rural Investment Act of 2002 remain intact and not be changed. Current reports estimate that outlay reductions from the CCC due to unspent deficiency payments and counter cyclical payments could reach $6 billion. Consideration should be given to these outlay reductions as possible sources of funding.*
>
> *Another program that has provided direct assistance to states and their producers during difficult times is the specialty crop state grant program that was funded by the Emergency Agricultural Economic Assistance Act (P.L. 107-25).*

The block grants enabled states and their constituencies to enhance competitiveness and increase visibility with buyers and consumers. We request that Congress approve future agricultural block grants to the States and permanently authorize the program.

We look forward to working with you to attain relief for our agricultural producers from weather-related disasters.

The commissioners, secretaries, and directors of the National Association of State Departments of Agriculture are very concerned about the magnitude of the drought and other agricultural disasters and strongly support the efforts of Congress to provide disaster assistance this year.

Federal Disaster Legislation

As Congress comes back into session following the August recess, I am hopeful that an emergency disaster assistance package for agriculture is your top priority.

There are a number of pieces of disaster assistance legislation that have been introduced, and I'm sure there are more to come.

As Congress deliberates disaster assistance, I urge that assistance delivery, particularly to livestock producers, be administered as equitably and simply as possible. Generally, it is easier to determine producer-specific crop losses than livestock forage losses because of available production and insurance records. In response to the devastating drought conditions, livestock producers have made a wide range of responsible management decisions, none of which should be considered wrong or be subject to penalty through disaster program administration. Eligibility should be based on forage losses by county and assistance determined by animal units in the operation at the onset of the disaster.

I strongly believe that under no circumstances should the "Farm Security and Rural Investment Act of 2002" be at all modified as a way to provide an offset for disaster assistance spending.

While the 2002 farm bill was meant to restore a safety net in agriculture, it does not cover the 2001 crop year nor is it able to help farmers who are facing devastating natural disasters.

I urge Congress to pass a disaster package that is funded through emergency spending. In my mind, a drought is no different than a hurricane, flood, or any other natural disaster. Does Congress expect to use offsets to provide disaster assistance in those situations? I do not believe so.

Conclusion

We are doing all we can at the state level to provide services and resources to the producers in the drought-stricken areas of the state. And we'll do more.

I strongly urge Congress to pass disaster assistance legislation to help producers here and throughout the country, who have suffered from natural disasters in 2001 and 2002.

Thank you again, Senator Conrad, for allowing me to deliver testimony before you today. I stand ready to work with you and other members of Congress to pass disaster legislation for American agriculture.

NORTH DAKOTA DROUGHT LOSSES AS OF AUGUST 5, 2002

Crop Loss	$240,589,824
Insurance	74,836,070
Net Loss	167,934,805

	Direct Loss	Multiplier	Indirect Loss	Total Drought Loss
Crop	$167,934,805	3.69	$451,744,624	$619,679,429
Livestock	54,765,060	4.49	191,130,059	245,895,119
Total	**$222,699,865**		**$642,874,684**	**$865,574,548**

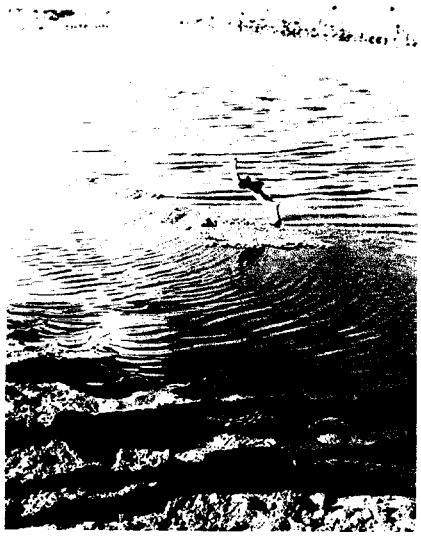
Source: Dwight Aakre, Farm Management Specialist, NDSU Extension Service

Picture 1: Emmons County producer Jim VanderVorst and Agriculture Commissioner Roger Johnson look over a drought-ravaged sunflower field, south of Linton.

Picture 2: Johnson holds up a sunflower plant from the field pictured above. The plant should be between 18 and 24 inches at this time of year, and showing some flower development.

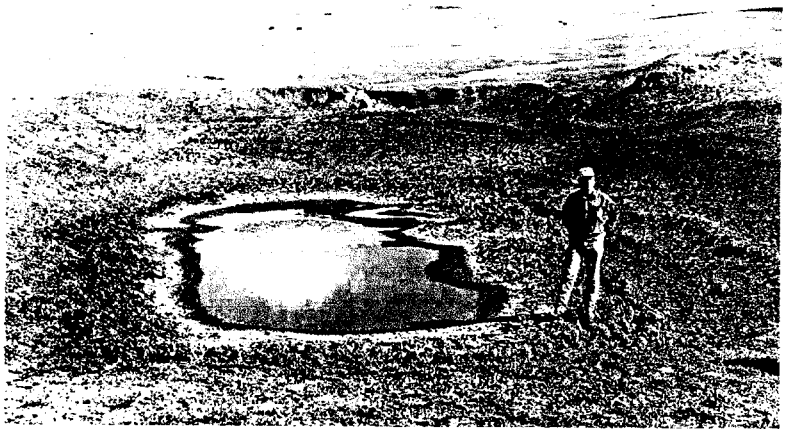
Picture 3:
Sioux County Extension Agent Wayne Markegard takes a sample of CRP hay for analysis. The hay appeared to be of poor quality with relatively little nutritional value.

Picture 4:
The plants in this winter wheat field were only a few inches tall, despite that fact that the grain was fully mature (see inset) The shortness of the stalks will probably prevent this crop from ever being harvested



Picture 5:
What water was left in this dugout was polluted and could not be reached by thirsty livestock

Picture 6: USDA-NRCS Assistant State Conservationist Jennifer Heglund examines a thin swath of recently cut hay that can barely been seen against the stubble.



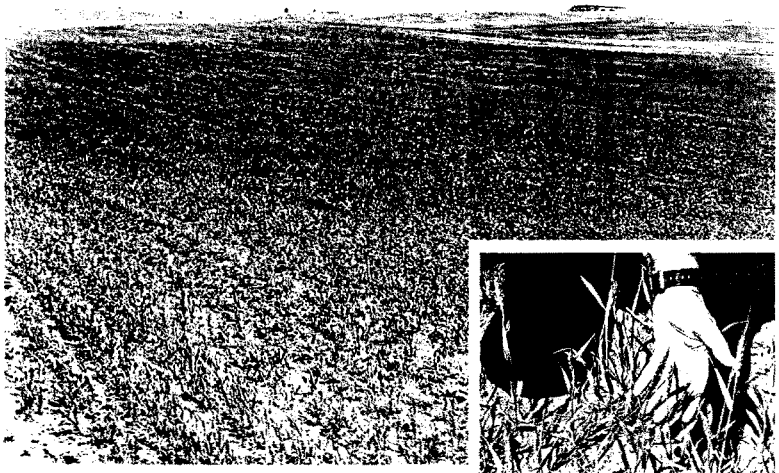
Picture 7: This Emmons County dugout was almost completely dry, and the remaining water was obviously unfit for any use.

Picture 8: USDA-FSA Farm Loan Director Arnie Meyer describes some of the options available to producers during a meetiing at East River Livestock in Linton.

Picture 9: The darkened area shows the devastation caused by the widespread prairie fires that destroyed almost 30,000 acres of grassland in Sioux County. The two white specks in the foreground are all that remain of the town of Shields.

Picture 10: Sioux County Extension Agent Wayne Markegard and State Rep. Rodney Froelich walk through a spring wheat field north of Fort Yates. Markegard indicates how high the plants should be.

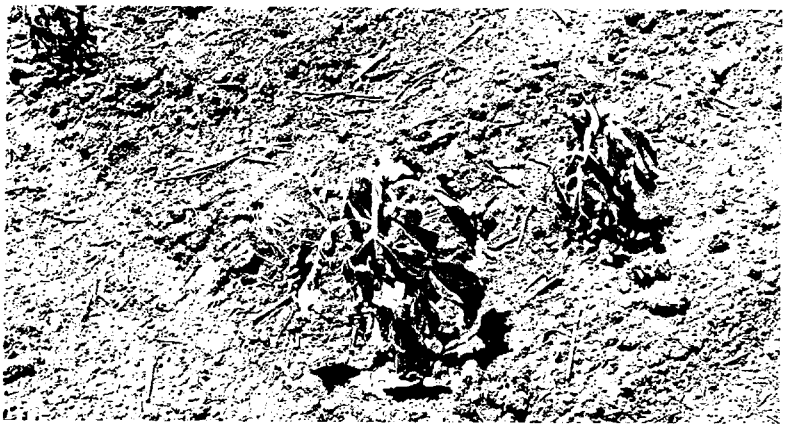
Picture 11: This 300-acre alfalfa field usually produces 1,000 bales of high quality hay per season.



Picture 12: This spring wheat field, adjacent to the alfalfa field above, is thinly populated with stunted plants. This field itself is open to wind and water erosion.

Picture 13: This Sioux County waterhole is less than 20 percent full, and the remaining water is brackish.

Picture 14: No sunflowers could be found on this field planted with no-till sunflowers. Scratching the soil revealed the problem: (inset) the seeds had failed to germinate due to lack of moisture .



Picture 15: Development of these no-till sunflowers was so poor that the producer killed them with herbicide to prevent weed infestations.

Picture 16: Agriculture Commissioner Roger Johnson met with Sioux County producers in Selfridge to learn about their situation and hear their suggestions for dealing with the drought crisis.

Drought Emergency Agriculture Task Force Meeting
July 10, 2002
Peace Garden Room, State Capitol
1:00 p.m.

Commissioner Johnson called the meeting to order at 1:17 p.m. A list of meeting attendees is attached. (Attachment 1)

Johnson welcomed everyone and provided an overview of the task force objectives. The objectives are set forth as part of the State Emergency Operations Plan, which was set in motion following Governor Hoeven's executive order declaring a drought emergency.

Johnson explained that the task force is made up of government agencies, both state and federal. He said that the task force membership does not include general farm organizations or commodity groups. He suggested that the task force members might meet with those groups separately.

Johnson reviewed the duties of the task force, which can be found starting on the bottom of page 7 in the *Procedure for Implementation of Drought Mitigation Measures* handbook.

Johnson said that the objectives of the meeting were to:

- Hear reports on the current situation
- Identify services and resources
- Make recommendations for action

Current Situation

Gary Nelson, FSA State Director, provided a map containing county-by-county information on the current estimates of losses, etc... (Attachment 2) Nelson pointed out that the map was compiled on 7/1/02, and changes may have occurred.

Sixteen counties had been approved for haying and grazing of CRP acres. Two counties (Slope and Sargent) had submitted applications and had been denied. Slope had reapplied.

Nelson said that beyond drought conditions, other events such as the late May freeze had caused problems in a number of areas, as the freeze was bad for hay growth. Also, he said that there was concern because "droughts don't stop at county lines" and there were

cases where counties as a whole didn't meet loss qualifications for CRP haying/grazing approval, but parts of the counties would.

Nelson made a request to USDA to open statewide haying and grazing of CRP acres on June 26th. He received a response on July 1, which opened 16 counties. He has sent a subsequent letter, hoping the Secretary would open additional counties.

Rod Froelich, Shields, ND, offered some recommendations to the task force:

- Open CRP statewide and allowing haying of 75% of the tract
- Wants federal government to take savings from LDP's and countercyclical payments and use it on payment reductions for transportation costs in drought areas
- "Cap" transportation costs from $2.75/mile
- Jail people that are profiteering CRP haying/grazing
- Wants US Fish & Wildlife and ND Game & Fish to support haying of 75% of tracts

Dean Meyer, Selfridge, ND, also offered some comments and recommendations:

- He signed up for NAP and is wondering what the payout levels are going to be
- ECP money doesn't go very far. The restrictions are pretty tight.
- Small grains aren't available for cost-share.
- FSA should simplify the emergency direct loan application forms

Bob Valeu, Sen. Dorgan's office, pointed out that the Game & Fish Department isn't opening any of their land for haying/grazing in the sixteen counties open for CRP grazing haying.

Roger Rostvet, Game & Fish, said that they are using standard rotational management for haying and grazing in those counties.

Valeu asked how many of the acres in drought counties are a part of the CRP cost share program.

Rostvet responded that less than 3% of the acres (30,000) are a part of that program. He explained that the landowners who signed up for the cost-share program were paid for haying rights up front.

Tammy Henderson, drought-area rancher, said that you can't find anyone to dig a well. Also, her family has been trying to locate CRP acres to hay and they're all taken up. She said that Kidder, Burleigh, and Morton are all booked up.

Wayne Markegard, Sioux County Extension, said that the economic loss in the area is going to be devastating. He estimates that ranchers will suffer an average loss of $165/cow. Consider the average profit of $90-100/cow.

He didn't expect much in LDP's this year, as crop prices are higher. He said that an emergency feed program is needed.

Gary Nelson pointed out that the Livestock Feed Program is included in the new farm bill, but is not funded. He said that ECP is underfunded, and that the deadline for signing up for NAP insurance coverage was in April. Only 257 NAP policies were sold in southern North Dakota counties this year. NAP doesn't kick in until there is a 50% or greater loss and the payout is $1-$1.50 per acre at a 75% loss and $2-4 per acre at a 100% loss.

Nelson doesn't believe that Secretary Veneman has the authority to shift money from unused LDP/countercyclical payments into other programs.

Nelson was asked about the timeline for completing FSA county damage assessment reports (DARs). Counties have been asked to complete DAR's by July 19th, and FSA will compile and summarize the week of July 22nd. Nelson hoped to schedule a meeting of the State Emergency Board on July 29 to review the information.

Lance Gaebe, Governor's office, provided some preliminary drought estimates in some southern counties. (Attachment 3)

Johnson pointed out that the congressional delegation staff had been invited to the meeting because of the potential need for eventual disaster legislation on the federal level.

Services/Resources

Johnson asked the Task Force to identify any resources or services that their agencies can provide to those affected by drought.

Johnson said that Ag Department (NDDA) services and resources include:

- Agricultural Mediation Services, which provides mediation and negotiation services, counseling and other assistance to farmers and ranchers. The AMS toll-free number is 1-800-642-4752.
- Access to the NDSU Feedlist via NDDA website at www.agdepartment.com
- NDDA has opened state waterbank contract acres to haying and grazing
- Staff is available where needed to help with drought
- Will provide logistical services, if need be, to run programs, etc…

ND Extension Service resources and services include:

- Maintaining Feedlist at http://www.ag.ndsu.nodak.edu/feedlist/

- Specialists are conducting meetings to talk to people about handling drought. Topics include: livestock nutritional needs, economic choices, weaning calves, social issues. Contact Extension for a schedule.
- Starting a nitrate testing database
- Offer a section on their website regarding strategies for dealing with drought. http://www.ag.ndsu.nodak.edu

Dale VanEckout with USDA-RD said that their resources and services include:

- In the event of a presidential disaster declaration, they offer a program for people whose homes are directly affected by the disaster.
- Would like to see the Emergency Community Water Assistance Grant program funded on the federal level (currently unfunded)

Lance Gaebe reported that the Governor's office is:

- Trying to marshal resources
- Working with USDA to further open CRP
- Working with DOT to open no-mow areas
- Working with Game & Fish to be "flexible" on cost-share CRP acres

Bill Meyer, NDASS, reported that their services and resources include:

- Publishing the weekly crop weather reports. He offered to include questions on the weekly survey that might be helpful in quantifying conditions, damages, etc…
- Statisticians can also disseminate data, if requested.

The Water Commission reported that their services and resources include:

- Possibly bringing back the Drought Disaster Livestock Assistance Program

NRCS says that their services and resources include:

- Working with federal offices to open federal waterbank acres to haying and grazing.
- Providing technical assistance on ECP program. They are also working to relax some of the concerns with ECP, including cultural resources.
- Developing deferred grazing incentives through EQIP, which will help producers defer grazing for a year and then graze following two years.
- Offering EWP, to help revegetate lands following drought/fire/floods.

Kevin Willis with the FWS said they have:

- Following a request from NRCS, FWS recommended that Federal Waterbank be open to haying and grazing, consistent with criteria and guidelines for emergency CRP haying and grazing.
- FWS personnel have been on the firelines in southern ND since the initial attack.
- FWS has released approximately 58,000 acres for haying and grazing on refuge lands, according to management plans. They are canvassing field offices to determine if additional acreage can be made available. However, field offices already have large lists of local landowners interested in hay, so we don't expect that any additional acres could be offered to those not already on the lists.

Darin Langerud with the Atmospheric Resource Board indicated that their services and resources include:

- Being a data resource. They have an 800-member observer network that collects daily rainfall and hail reports. Monthly precipitation maps are created based on the information. Season total maps are also prepared. The maps and data are searchable and downloadable and are available on the ARB website at http://www.swc.state.nd.us/AtmosResource.html.

The Department of Human Services can provide:

- Toll-free crisis counseling lines to the human service centers.
- Friends and Neighbors peer counseling program

Game & Fish Department offers services and resources, including:

- Cooperated with NDDA to open state waterbank acres
- Working with governor's office to open no mow areas
- Expanding haying and grazing in wildlife management areas

Recommendations

The following recommendations were derived from the discussion during the meeting and summarized for the group:

- USDA should open CRP acres statewide for haying and grazing by eligible producers.
- USDA should apply federal dollars saved on LDP's/countercyclical payments to transportation assistance
- Congress should fund the Emergency Community Water Assistance Grant program.
- Transportation payments should be capped from $2.75/mile.
- People that are profiteering CRP haying/grazing should be punished accordingly.
- USDA needs to provide clear and timely information on NAP payments.
- Small grains should be available for ECP cost-share.

- USDA should simplify the paperwork for emergency direct loan programs.
- Game & Fish should open PLOTS land to haying and grazing.
- USDA should establish an emergency feed program.
- Congress should consider disaster legislation.
- The State Water Commission should reinstate the Drought Disaster Livestock Assistance Program.
- NRCS should open federal waterbank acres for haying and grazing.
- Human Services should establish a Friends & Neighbors peer counseling program to provide mental health services to those in disaster areas.
- NDDOT should allow mowing of the "no mow" areas on highways.
- NDASS should add questions, as requested, on the weekly crop weather reports to assist in measuring disaster impacts.

Johnson told the group that NDDA would be sending out minutes and recommendations from the meeting. He will work to schedule the next meeting of the task force following or in conjunction with the State Emergency Board meeting at the end of the month.

The meeting adjourned at 4:00 p.m.

Drought Emergency Agriculture Task Force Meeting
August 1, 2002
Pioneer Room, State Capitol
1:30 p.m.

Commissioner Johnson called the meeting to order at 1:38 p.m. A list of meeting attendees is attached. (Attachment 1)

Johnson welcomed everyone and noted that Gary Nelson, FSA; Doug Hartwig, NDASS, and Mike Hergert, Red River Farm Network were joining the meeting via teleconference.

The Drought Emergency Task Force meeting was scheduled in conjunction with the Farm Service Agency State Emergency Board meeting, which was held at 9:00 a.m. that day.

After introductions, Johnson moved on to the approval of the July 10th meeting minutes. A correction was noted on the bottom of the 1st page, paragraph 7, to change "Sioux" to "Slope." (The correction has been made and a final copy of the minutes is attached.)

Johnson also noted that based on a number of requests, agriculture groups and organizations had been invited to attend this meeting of the task force. He again explained the make-up of the task force and its purpose.

Johnson then asked for a status report from the task force members.

Gary Nelson reported that the State Emergency Board (SEB) had met on August 1st to review the Damage Assessment Reports that had been submitted by all of the North Dakota counties.

In order to receive a Secretarial Disaster Designation, a county must show a loss of at least 30% in one or more crops. All but two counties – Williams and Mountrail – met this requirement. However, those counties will also be considered for a designation as they are contiguous to counties that meet the requirement.

The SEB voted to approve the reports as submitted and FSA and the Governor's office will be sending a request to the Secretary of Agriculture for a disaster designation.

Nelson noted that the Damage Assessment Reports reflect only one damaged crop in each of the counties.

Nelson also said that a secretarial disaster declaration will provide access to low-interest emergency loans for farmers and ranchers. The declaration will also provide access to low-interest loans for small businesses through the Small Business Administration.

Johnson told the task force that he had been working with NDSU, who will try to develop a more comprehensive assessment of the economic losses due to the drought.

Nelson also reported that Conservation Reserve Program (CRP) acres are open statewide for haying and grazing. There have been numerous requests for haying, with some counties processing between 400-600 applications. Nelson stated that he hopes the hay is going to the people that need it. South Dakota producers are also looking for hay in North Dakota.

Johnson said that he and others from state and federal agencies had been on a drought tour in Emmons and Sioux counties on July 12. (A report from that tour is attached.) Johnson also briefed the Congressional delegation and USDA officials on the disaster situation on a trip to Washington DC in mid-July. NDDA compiled a disaster briefing book (which was passed around during the meeting) that was given to those he met with.

Johnson also reported that he will be chairing a meeting of the National Association of State Departments of Agriculture (NASDA) Rural Development and Financial Security Committee meeting on August 7th to gather information from other states on the impact of the drought and to discuss NASDA's position on federal disaster legislation.

Lynn Clancy, Senator Conrad's office, reported that the Congressional delegation will be working to pass disaster legislation in Congress. He said that the current debate surrounds the Administration's request for offsets to pay for a disaster package rather than considering a disaster package emergency spending.

Rod Beck, USDA-Rural Development, reported that they have a program available (Emergency Community Water Assistance Program) but it has not been funded in the last two farm bills.

Tom Coleman, NRCS, reported on the EQIP program. He also said that an NRCS resource team is down in the Ft. Yates area to provide assistance. He'll also work to follow-up on any possible cooperative efforts between the State Water Commission and NRCS.

Dave Levi, NDDOT, reported that the no-mow areas on state highways are open. DOT has also relaxed the regulations on weight and length on area roadways.

Gerald Sturn, ND Extension Service, said that Extension is working to gather CRP samples to conduct nutrient sampling for producers. They are focusing their efforts on the drought stricken counties.

Lance Gaebe, Governor's office, said that the Governor would be sending a letter to the Secretary of Agriculture asking for a disaster declaration. They are also working with other state agencies to provide services to the drought stricken areas.

Harold Narum, NDDEM, reported that they are seeking flooding disaster assessments in some eastern North Dakota counties.

Roger Rostvet, ND Game & Fish, said that PLOTS lands are open for haying and grazing under NRCS rules. Those that hay, in turn, will make land available for hunting. Game & Fish is also working on a cooperative effort to organize sportsmen to haul hay for farmers in the drought areas. Cooperating agencies include: Game & Fish, ND Department of Agriculture, Wildlife Federation. More details will be finalized soon.

Lloyd Jones, US Fish & Wildlife Service, said that water supplies will continue to be a big issue for ranchers in the drought areas. FWS offers a program that will construct a dam to provide water for livestock. The program is available mainly south and west of the Missouri River.

Dave Ripley & Jeffrey Mattern, State Water Commission, reported that the Commission will consider funding the Drought Disaster Livestock Assistance Program at their next meeting on August 15th in Devils Lake.

Clancy also mentioned that Senator Conrad will be holding a hearing on disaster assistance in Fargo on August 20. Contact Sen.Conrad's office for details.

Tim Galvin of Senator Conrad's staff joined the meeting via teleconference to provide an update on potential federal agricultural disaster aid.

Galvin said he thinks it is quite likely that a bill will pass Congress this fall, following the summer recess. The Congressional Budget Office (CBO) will be doing a midterm assessment of spending baselines in August, which will provide new budget information.

There are a number of pieces of legislation on the table. The Baucus-Burns bill would provide a disaster aid package to the tune of $5 billion. The bill carries an emergency clause and would require 60 votes to pass in the Senate.

Senator Roberts has also introduced a bill with a price tag of $2.9 billion. This legislation gives producers the choice of applying for disaster assistance for either the 2001 or 2002 crop year, not both.

Senator Lugar is expected to introduce legislation that contains spending offsets, which may include cuts to the commodity portions of the farm bill.

Representative Thune has also introduced legislation in the House of Representatives. That legislation does not include an emergency spending designation and does not provide offsets for spending.

Following Galvin's update, Johnson asked the Task Force members to review and update the Summary of Recommendations that had resulted from the July 10th Task Force meeting and the July 12th Drought Tour.

The updated Summary of Recommendations is attached.

It was suggested that ND DEM provide information to local emergency managers regarding the differences between a Secretarial and Presidential disaster declaration. Harold Narum, ND DEM, has provided a breakdown of the major actions on the state and federal levels. (See attachment).

Johnson noted that one of the objectives of the task force was to share information on the services and resources of each agency. He encouraged agencies with information that may be beneficial to provide an e-mail or a webpage link to Patrice Eblen at peblen@state.nd.us so that the information can be distributed to the entire task force.

The meeting adjourned at 4:00 p.m.

Chairman CONRAD. All right. Thank you very much. Thank you, Governor, for staying with us, and we will to go to brief questioning. I know that the two of you have other obligations, and we are going to just be very brief.

Governor, let me ask you, in light of what you outlined as the losses that are occurring, what would be the effect on the State economy if there were not disaster assistance provided?

Governor Hoeven. Well, as the numbers show, it is a tremendously large impact on our economy, very negative impact. The direct loss figures from NDSU between crop and livestock are about a quarter of a billion dollars. And that is primary sector money. And so that percolates all the way through the economy.

Now, different economists use different multiplier effects. If you start with a direct loss of a quarter of a billion dollars, the multiplier at NDSU is about 2 times for indirect loss. That takes you up to three-quarters of a billion dollars in impact. Sometimes that multiplier, sometimes that number is as high as 6 or possibly 7. So, in any event, you are somewhere between potentially $1 billion and $2 billion in terms of the impact, which is a very significant negative impact.

The other thing is it goes right to the heart of our rural economy, our rural areas, and our small towns. And so we are fighting a national recession anyway, and we have worked hard to do that through job creation and other efforts, but this impact on particularly the small towns and rural areas would be very, very difficult.

Chairman CONRAD. Commissioner Johnson, if the President came to South Dakota and said no disaster assistance, what would you say to him to try to persuade him to change his mind?

Mr. JOHNSON. I think I would say, I would make the argument, Mr. Chairman, that you made at the opening: that this is a disaster like other disasters. It is really no different than a hurricane or a volcano erupting, a mudslide. It is an unpredictable natural disaster, and in all of those circumstances, this country has always risen to the occasion and provided some assistance for those folks that were harmed by unpredictable natural disasters. This ought to be handled in the same fashion.

I think also I would argue that the numbers that you put up in the beginning of this hearing when you talked about price guesses that were the official numbers that were used when the farm bill was debated and ultimately adopted, in virtually every case market prices for those commodities are greater today than what they were predicted to be the case. The absolute net result of that is there will be substantially lower Government outlay to farmers as a result of the higher prices. However, those higher prices mean nothing to someone who is in the grips of a disaster and has nothing to sell. And so you have got clear economic savings from the farm bill, what was projected. Those economic savings ought to at least be recognized in some fashion and used to make the case for emergency disaster assistance for this kind of a disaster.

Chairman CONRAD. Let me just make clear—and I know this is confusing to people, but it is critically important to understand. As Commissioner Johnson has indicated, there is going to be saving in the farm bill. Because these disasters prices are higher, there is

less production, so prices are higher. That means the farm bill provisions are going to cost less.

But when the Secretary of Agriculture says there has to be offsets to pay for disaster assistance, those aren't the things she is referring to. She is not talking about the savings from the farm bill. They don't count for the purposes of the what is considered an offset in Washington. The only thing that counts as an offset is to cut spending on the rest of the farm bill. And if you cut spending on the rest of the farm bill, that means you are robbing Peter to pay Paul. You are not giving any additional assistance, and always, always, we have given emergency assistance to those hit by natural disaster. Whether it was a flood, a hurricane, a drought, a fire, an earthquake, we have helped out. There is no reason, it seems to me that we shouldn't help out in this circumstance.

Congressman Pomeroy?

Mr. POMEROY. A couple of quick questions, Mr. Chairman.

Governor Hoeven, I thought your testimony was absolutely right on the point. How are the discussions coming among the Governors of this region? Are you in accordance with your colleagues and are they mobilizing as you have indicated, as you have in North Dakota's position in response to disaster assistance?

Governor Hoeven. Congressman, yes, that is definitely the case, and I think you see it in Congress as well both in terms of the bills that you had listed up here earlier, and in the Senate and the House you are seeing a push for support.

Really, it seems to me the debate now is focused on is it new funding or is it funding that comes under the ag bill? If it is funding that comes under the ag bill, as Senator Conrad described, it is funding generated by higher prices, more LDPs this year versus cuts in programs. I think that is really the way the debate is breaking out. But clearly the support is there for assistance. And, again, that is why I hope that you are able to move forward in Congress with a bill.

Mr. POMEROY. It looks to me like we have a situation where the Secretary opposed the farm bill and now is trying to reduce the farm bill by coercing Congress to fund disaster assistance out of reductions that we would pass to the farm bill. The farm bill debate is over. We passed it. She didn't like it, though. We got price protection for our farmers. Now, that price protection, which is the core of the farm bill, doesn't relate to disaster loss. That gets to the question that I have for the Commissioner.

As a student of North Dakota agriculture, way back from your days here at NDSU as a student, what is our production volatility and how critical is the question of disaster assistance to the future of North Dakota agriculture?

Mr. JOHNSON. Well, I think it is very critical. One of the things that I think has already been talked about in this hearing is the fact that because of the area of the country where we are located, we don't have the predictability of weather events, of growing seasons, of crop yields that you have as you move south and east of here. And in sort of the corn and soybean belt, a lot of my colleagues out there say we have never had a disaster assistance, except for the last 5 years under the old farm bill. They stood shoulder to shoulder with all of us and said we need economic disaster

assistance, and that is something that Congress has delivered for the last 4 years in a row.

Now, there is a nuance in the debate this year that I think is important for us to recognize, and that is that the old debates were all about the policy has failed. We need to provide some economic assistance as well as natural disaster assistance in each of those years, and for that work I would thank both of you and all the Members of Congress for providing that assistance. The nuance is this——

Mr. POMEROY. Don't thank them all——

Mr. JOHNSON. Well, I——

Mr. POMEROY. Some of them have fought us every step of the way. I am sorry, Mr. Chairman.

Mr. JOHNSON. The nuance is this: the economic disaster needs of the last 4 or 5 years have largely been dealt with through the adoption of the farm bill. We should no longer have to annually make the case for that assistance.

Now, what remains is just the second part of that, and that is the natural disaster component. Now, that makes your job a bit tougher because you are not going to have as many of my friends in the corn and soybean country, who right now are looking at some pretty strong yields and huge incomes because the farm bill is there, but market prices have moved up substantially, and they don't have a disastrous loss. It is going to be more difficult for them to go home and vote for these things, but it is so critical for States like ours that are sort of on the margin between the big crop country and the big cattle country. We have these vagaries of weather that frequently we are dealing with.

Mr. POMEROY. The final point. The picture from your testimony that I am going to have blown up and show to my House colleagues is one field—this looks like a field, an easily cut field, a fellow who cut his hay. The only thing is you can't see the swath. It was so incredibly thin that there is nothing there.

Now, this speaks, I think, to the heart of North Dakota farmers and their plight. It isn't that they are not trying. They are trying as hard as they possibly can. This individual put the blood, sweat, and tears, and gas money into cutting this crop that has nothing to show for it, not even a visible swath. Certainly nothing he could pick up. This isn't this producer's fault that there is nothing that shows up by way of a swath. It is a natural disaster, and the Federal Government ought to help out.

I will circulate this around the room. It is an extraordinary photo that tells a story.

Chairman CONRAD. Thank you. Again, thank you very much, Governor, for being here, Commissioner of Agriculture as well. We appreciate the presentations and we appreciate very much the position that you have taken.

Governor Hoeven. Do you want my charts so you can show them on the Senate floor, too?

Chairman CONRAD. We would love to have them.

Chairman CONRAD. OK. We have Rodney Froelich, State Representative, District 35; Eric Aasmundstad, president of the North Dakota Farm Bureau; Richard Schlosser, vice president of the North Dakota Farmers Union; Jay Olson, adult farm management

instructor of Lake Region Junior College; Wade Moser, the executive director of the North Dakota Stockmen's Association; and a representative—I believe we have a change—Duane Claymore, representing the Standing Rock Sioux Tribe. If those witnesses would come up, we would certainly appreciate having their participation.

Someone asked me why are you having a Budget Committee hearing rather than an Agriculture Committee hearing with the question of the disaster assistance. Well, first of all, I am the chairman of the Budget Committee. I am also the chairman of several of the subcommittees of the Agriculture Committee. But, honestly, this has become as much a budget question as it has become an question of agriculture policy. And so we thought that it was very important to establish for the record in the Budget Committee the need. If we can't establish the need, we are not going to have any luck. That is what this hearing is all about—to establish the need.

I know of no one better to speak to that issue than Rodney Froelich, the State Representative from District 35, who has experienced some of the toughest conditions I have seen anywhere in the State at any time. I have been in his district. I was there after the disastrous fire in Shields and following wild fires in other parts of that district. I have also seen the pictures and heard the testimony of those who have been so adversely affected. It is good to have a firsthand witness here today.

Please proceed, Rodney.

STATEMENT OF RODNEY FROELICH, STATE REPRESENTATIVE, DISTRICT 35, STATE OF NORTH DAKOTA

Mr. FROELICH. Good to have you here. Thank you, Senator.

First off, Senator, I need to thank you, thank you very much, Representative Pomeroy, Senator Conrad, Governor Hoeven, Roger Johnson, Gary Nelson, and all you guys who have all just come through for us. And my problem is we are going to need you again. You guys have taken your time and made the effort and gotten the CRP in. We know we have had some problems. We don't need to dwell on that. We appreciate the fact that we go forward and put up some more feed, because many of us are 50 miles from home, many of us are 300 miles from home trying to put feed together. Transportation costs are killing us. It is easy to see the disaster to come and visit it. But it is one thing when you have to live with it and experience it.

First we started off with drought, and then we went to fires. Just recently we went through a horrendous windstorm where a lot of farmers and ranchers lost their buildings. And now we have had the West Nile disease that has infected our country.

Senator as one of my constituents commented, frankly, I am leaving the county for higher grounds. Senator, I will speak specifically to the needs of Sioux County, because I live there, I know them. I know that there is not going to be 5,000 bales of hay put up in Sioux County for 35,000 head of livestock. That is a fact. There will be no crops harvested in Sioux County this year. None whatsoever, not for hay or for grain.

Senator we are all going elsewhere for feed, those of us that can. There are those that cannot, that cannot afford to. There are dairy

farmers that can't leave and travel 200 miles and back to milk their cows in the evening. These people are critical to our needs.

Senator the transportation to feed the livestock in Sioux County this winter will be over $2.1 million in our county alone. If you take that times the 16 counties with the various degrees of drought in there, the estimates will be well over $25 million for transportation alone. That is transportation only.

Senator my idea of Government is simple. Don't make laws that make life more difficult or confusing. But be there when the times for people get tough and can't help themselves. My constituents are willing to help people with disaster relief in Africa and South America, hurricanes on the East Coast. Senator, we are asking for help now. We need it here. We are tax-paying citizens. We are willing and able to help out other people in their times of needs.

Senator I ask you one thing. In the past when we have had a disaster—it has been numerous years ago. There has never been much in the farm bills livestock producers. We like to be independent. We don't want Government involvement. Senator, in the past we have had a livestock feeding assistance back in the 1980's that did not work. The people that went out and worked the hardest got the least. With the help of some of the county agents, producers spent weeks talking to these people. If you can help us get a disaster bill, we will be more than happy to give you some food on how to implement the situation. We want it to go to the people that need it the most.

Now, Senator, I guess I would just as soon answer questions as go on.

Chairman CONRAD. Thank you very much, and what we will do is we will reserve questions for the whole panel until we have completed the testimony of each member of the panel.

Next is Eric Aasmundstad, the head of the North Dakota Farmers Bureau. Eric, thank you very much for being here and please proceed.

STATEMENT OF ERIC AASMUNDSTAD, PRESIDENT, NORTH DAKOTA FARM BUREAU

Mr. AASMUNDSTAD. Thank you, Mr. Chairman. Actually, I want to see the people that are here to testify at the microphone to do that, and I am not going to take a lot of time. Rod has said everything that I want to say, probably better than I can say it, and I know that Jay Olson who is sitting down here has some very good numbers put together through Adult Farm Management that have been very, very helpful to you.

I guess one of the things I would really like to touch on, though, and I feel for people like Rod that are living in the drought areas and have lost their crops completely, have lost their feed supply, more importantly, and hopefully don't lose their cow herds. But as has been said so well earlier, we have got another wreck going on in the State. And that is the flood. And we have got a vast number of producers and a large number of producers in the eastern part and northeastern part of the State that have crop remaining, that is probably going to be good enough. Or at least in the case of my farm, we probably lost 30 percent of our acreage of my farm alone to floods. But the crop that remains, thank God, is good. But is it

going to be good enough so that Federal crop insurance does not kick in and provide any payment for the acres that we have lost? Well, if you take a third-year farm or fourth-year farm that you have already put the expense into and have that taken away from you with no chance of recovery, the end result for many producers in the eastern and northeast part of State is going to be no different than the end result of the people down in Rod's county that have lost it to drought. They are going to not be in business next year. And we certainly ask that you, Senator Conrad, Congressman Pomeroy, work with us to try to overhaul the Federal crop insurance system. I know many attempts have been made, no disrespect, but those attempts have fallen quite short. We have talked about this many times. We need something and I think there is a mechanism out there that we have been working on with other ag groups where we can ensure a producer's true actual cost of production.

Now, that is not to say that he is going to make a profit, but, by God, he is going to be able to pay the bank off and go again next year, and that is what is needed in this case. And I am going to defer to the other folks and finish it up and take any questions you have.

Thank you, Senator.

[The prepared statement of Mr. Aasmundstad follows:]

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North Dakota Farm Bureau

www.ndfb.org

Testimony of North Dakota Farm Bureau Before the United States Senate Budget Committee Hearing on Natural Disaster Assistance

August 20, 2002
Fargo, North Dakota

My name is Eric Aasmundstad, president of North Dakota Farm Bureau. North Dakota Farm Bureau is a general agricultural organization, representing more than 26,000 member families across North Dakota.

North Dakota farmers and ranchers are caught in a terrible conundrum. While the worst drought in many years caused devastation in a large part of the state, frost and floods caused damage in other parts of the state. Very little of North Dakota has gone untouched this year by the ravages of Mother Nature.

Most drought counties are facing 50-100% damages, including loss of crops, pasture, hay, and water for livestock. Pastures and hay land did not develop as a result of the cold, dry spring, and subsequently burned up due to non-existent rainfall and temperatures of 100 degrees plus for several weeks. As the drought continued crops did not develop, and where possible, were baled for winter feed supplies, rather than being harvested for cash flow or feed grain purposes. Furthermore, as cow herds are close-culled or liquidated due to lack of feed, we can expect a significant drop in cattle prices going into winter and continuing into next spring.

Although opening CRP for haying and grazing has helped, producers in the hardest hit areas have to travel over 200 miles in some instances for access to CRP. This alone is a costly venture with severe logistical problems. The nutrient value of the CRP hay is questionable – in many cases supplemental feeding will be required to bring the remaining cow herd through the winter in shape to rebreed. Most, if not all, producers will be required to purchase this supplemental feed since the feed grain crop was also devastated by drought. High nitrate levels in feedstuffs are also a concern as feedstuffs may contain nitrate levels injurious to livestock. Since drought conditions are

synonymous with higher-than-normal levels of nitrates, producers in drought-stricken areas of the state will incur the added expense of testing for nitrates.

Frost caused farmers to re-seed crops in vast areas of North Dakota this spring. A dry spring allowed farmers to plant many areas that have not been planted for several years due to abnormally high amounts of precipitation. Then, the other shoe dropped. Heavy rains fell and inundated the areas seeded. In some parts of the state, producers lost 25 percent to 50 percent of their seeded acres to flooding. The dilemma faced by these producers is that yields on the remaining crop will be just high enough so that federal crop insurance does not provide any financial remuneration on the flooded acres, yet the producer lost significant acreage. The producer in most cases already made the financial investment required for the year on those flooded acres, yet has no chance to recover any of the expenses. In other words, federal crop insurance as it is today falls woefully short of what farmers and ranchers require for a viable risk management tool.

North Dakota Farm Bureau, along with many others, suggests an insurance program that will cover a 100 percent of a producers true and actual cost of production. With a program that provides such coverage, many of the financial disasters that seem immanent this year could be avoided. Also, true cost of production insurance would act as a far superior safety net compared to emergency assistance measures. Current and previous farm bill legislation providing a safety net has ignored those who truly need it the most - farmers and ranchers who suffer a disaster and have nothing to sell, or loan on, or – in the case of cattle producers – nothing to feed.

The situation in North Dakota is very grave. A disaster assistance package is necessary to help producers cope with these weather-related disasters. We know realistically, substantive change in federal risk management programs is some distance down the road. As a result, North Dakota producers are left with only the second best option – more ad-hoc disaster relief.

North Dakota Farm Bureau supports S. 2800, which provides disaster aid designated as emergency money for crop losses and livestock assistance for 2001 and 2002. Any disaster assistance package should be funded as off-budget emergency money, with the Secretary given the authority to use as much funding as necessary to address the situation for 2001 and 2002. If this solution is unworkable, we would support funds being utilized from the out years appropriations to the farm bill.

At the same time, the emergency feed program that is available for livestock producers needs to be adequately funded. We also request that USDA allow grazing of CRP at least through the end of September, rather than the end of August. USDA should also extend the period to remove hay bales from CRP land to allow ranchers more time to make transportation arrangements.

Agriculture represents the largest segment of the North Dakota economy. Therefore, when agriculture suffers, the entire economy of the state is at risk. We respectfully request that Congress take expedient action to pass S. 2800, to provide immediate

assistance to farmers and ranchers during this time of adversity caused by weather-related disasters.

Thank you for providing this forum to explain the situation of many producers in this great state, who may be faced with a long winter filled with uncertainty unless something is done very soon.

Chairman CONRAD. Very good. Thank you.

Richard, you are next up.

STATEMENT OF RICHARD SCHLOSSER, VICE PRESIDENT, NORTH DAKOTA FARMERS UNION

Mr. SCHLOSSER. OK. I guess I, too, would like to defer to some of the other folks here, producers that are in the room to talk about their personal experiences, Senator. But we at North Dakota Farmers Union support emergency disaster legislation for crop and livestock producers who have suffered losses due to natural disasters in both the years 2001 and 2002.

We are here today to ask for your continued support of the farmers and ranchers in North Dakota, and thank you, Senator, for providing us the opportunity to visit with you here today regarding the various weather disasters our producers have recently experienced. As we see the USDA map here—and a lot of us look at the Palmer Drought Index just about every morning. We pull that up and you know this is a national issue. A recent Washington Post article said that about 40 percent of the country is suffering the effects of the drought. The USDA suggests that 49 percent of the contiguous United States is in moderate to extreme drought and 37 percent is considered severe to extreme.

By way of comparison, in 1988, which most of us recall as the last great drought, that drought covered about 36 percent of the country. In a typical year, about 15 percent of the country might experience some dry weather and some drought. So I think the severity of this dry weather and drought is really indicative to what is happening.

In North Dakota this year, it was a year of weather contrast, as we all know. While some places in northeastern part of the State, in Eric's—I have been up in Eric's area there trying to fish, and every time I go up there it rains. Poor fishing weather. But up in that area northeast of there they have experienced single-event rainfall totals of 10 and 11 inches, leaving devastation.

In the south central and southwestern part of the State, which is where I live, we usually measure our rainfalls in hundredths of an inch. So whether producers suffer losses due to floods or drought or disease or insect infestations—which some areas are experiencing right now with the increase of grasshoppers infestations. And if you talk to some of the ranchers out in the western part of the State, the result is the same, loss of income and opportunity. That is why we need and are asking for some disaster assistance, Senator.

It was disappointing to hear President Bush's statement last Friday in South Dakota that he opposes additional disaster relief, despite the repeated requests from farmers and ranchers to the contrary. This is a matter of most urgent priority for rural America. Calling on us to endure these disasters conditions of the pioneer spirit really does not adequately address the situations that we face.

USDA, on the other hand, we believe, has taken some positive actions to address the weather-related disasters experienced by crop and livestock producers. Given the scope of the disaster, the present resources available, the USDA-included disaster assistance

is inadequate, while crop insurance, disaster loans, emergency haying and grazing CRP and other programs are helpful. They fall short in covering the financial losses of the farmers and ranchers.

Additionally, the new farm bill, even with its higher loan rates and components, is incapable of adequately dealing with natural disasters. On July 30—and I do believe you have a copy of this Senator—20 farm organizations signed a letter urging the Senate to support Senate Resolution 2800, legislation introduced by Montana Senator Max Baucus and Conrad Burns. We support this effort because it is a bipartisan proposal of about approximately $5 billion designated of emergency spending with no farm bill offsets. This bill would cover 2001 and 2002 losses and would provide for both crop and livestock assistance. I think we simply need to look back to 2000 and the crop disaster program, and that could serve as a model on how we expedite this and for qualifications for assistance, and we hope that it would be similar and fall in that program to expedite this as we saw in the 2000 crop and livestock assistance programs.

Additionally, as I mentioned before, we do not support budget offsets for disaster funding. We would support an income deferral livestock repurchase program that isn't already in place, maybe lengthening that out to maybe 4 years or whatever, for producers that are forced to sell livestock because of disaster conditions.

Senator your leadership was key in the passage of the new farm bill despite the administration's roadblock for the passage of disaster assistance. We urge you to take the lead in this effort and continue to push for this much needed assistance for North Dakota's farmers and ranchers.

Thank you.

[The prepared statement of Mr. Schlosser follows:]

North Dakota Farmers Union Presentation
Senator Conrad Hearing on August 20, 2002

My name is Richard Schlosser and I farm near Edgeley. I grow small grains and row crops including wheat, barley, sunflowers, and corn. I am the Vice President of North Dakota Farmers Union and I am testifying today on behalf of the 34,000 North Dakota Farmers Union members.

North Dakota Farmers Union supports emergency disaster assistance legislation for crop and livestock producers suffering losses due to natural disasters during the 2001 and 2002 production years.

We are here today to ask for your continued support of the farmers and ranchers of North Dakota and to thank you, Senator Conrad, for providing us the opportunity to visit with you today regarding the various weather disasters our producers have recently faced.

North Dakota is not the only state experiencing weather problems. According to a recent Washington Post article 40% of the country is suffering the effects of drought. USDA suggests that 49% of the contiguous United States is in moderate to extreme drought and 37% is in severe to extreme drought. By way of comparison the drought of 1988 covered 36% of the country. In a typical year about 15% of the country might experience drought.

Drought damaged crops are not the only problem facing American producers. Hail and heavy rains have wreaked havoc on producers and heat stress could cost livestock producers billions of dollars this year. In addition, wildfires and insect infestations have added to the backdrop of disaster being brought to bear on American farmers and ranchers.

In North Dakota, this was a year of weather contrasts. While some places in the northeastern part of the state received single event rain fall totals of 10 or 11 inches, in the south central and southwest part of the state the precipitation was measured in hundredths of an inch. Whether producers suffer losses due to floods, drought, disease or insect problems, the result is the same-loss of income and opportunity. That is why we need and are asking for disaster assistance.

It was disappointing to hear President Bush's statement last Friday in South Dakota that he opposes additional disaster relief despite the repeated requests by farmers and ranchers to the contrary. This matter is of the most urgent priority for rural America and calling on us to endure these disastrous conditions with "pioneer spirit" does not adequately address the situation we face.

However, USDA has taken positive actions to address the weather related disasters experienced by crop and livestock producers. But given the scope of this disaster, the present resources available to USDA for further disaster assistance are woefully inadequate. While

crop insurance, disaster loans, emergency haying and grazing of CRP and other programs are helpful, they fall short in covering the financial losses of farmers and ranchers. Additionally, the new farm bill, even with its higher loan rates and countercyclical component, is incapable of adequately dealing with natural disasters.

On July 30, twenty farm organizations signed on to a letter urging the Senate to support S.2800, legislation introduced by Senators Max Baucus and Conrad Burns (See attachment). We support this effort because it is a bipartisan proposal of $5 billion designated as emergency spending with no farm bill offsets.

The bill would cover 2001 and 2002 losses and would provide for both crop and livestock assistance. The 2000 Crop Disaster Program could serve as a model and qualifications for assistance would be similar to the 2000 crop and livestock assistance programs. Payments would be available to the producer upon determination of eligibility.

Additionally, we do not support budget offsets for disaster funding. And we would support an income deferral / livestock re-purchase program for producers who are forced to sell livestock because of disaster conditions.

Senator, your leadership was key in the passage of the new farm bill. Despite the Administration's roadblock to passing disaster assistance, we urge you to take the lead in this effort and continue to push for this much needed assistance for North Dakota's farmers and ranchers.

Thank you.

Richard Schlosser
Vice President
North Dakota Farmers Union

Chairman CONRAD. Thank you very much. We appreciate your testimony.

Jay?

STATEMENT OF JAY OLSON, ADULT FARM MANAGEMENT INSTRUCTOR, LAKE REGION STATE COLLEGE

Mr. OLSON. Thank you, Senator. I think we are pretty much all in the same voice here, and from my point of view what I would like to do is point out some actual numbers of farmers around the State. Obviously, we don't have 2002 numbers done yet, so there are no actual numbers to look at there. But I think most of that has been pretty well documented about the severity of the 2002 disaster program. So what I really want to look at is a 2001 situation and the consequences of a disaster assistance bill for our area of the State and really for the whole State of North Dakota.

What I have done here is pulled out some graphs looking at the whole State of North Dakota as well as the north central region of North Dakota for the last 10 years. And just look at some quick numbers that got pulled out, I have got six or eight graphs here. This first one is looking at the whole State of North Dakota, average of farmers enrolled in the farm business management programs around the State. We have 15 programs located around the State, and there are some areas of the State that are not represented here. But we feel it is a pretty representative group.

Right now there are only about 14,000 farmers in North Dakota that gross over $50,000. And so we represent somewhere around 4 or 5 percent of all of the farmers in North Dakota that are what we think of as full-time farmers. So if we take a look at this, this is net farm income then; that would be net after all expenses and before any family living or any return on assets.

Chairman CONRAD. So this shows without farm program payments, there is no——

Mr. OLSON. Without Government payments, right. Without Government payments this is the net farm income for the whole State, before any family living or any return on their investment is taken out.

This one then is basically the same graph only without insurance payments. So this would be net farm income without farm payments or insurance payments for the State as a whole as well. And, obviously, we see a trend there. And this is the whole State.

Now, in some areas of the State, we are seeing larger situations, greater situations than that as individual areas, individual farmers, of course, are variable. This again is an average. This is return on equity per farm for that same period. The early 1990's we had some better crops and some better prices. During the mid-1990's we had livestock price problems and, of course, we had our big disaster problems in 1997 and 1998, and we had disaster payment programs that we did receive in 1999 and 2000 to offset some of those losses that we did have in 1997 and 1998. I think a lot of the people aren't fully aware of the severity of the problems in 2001.

Again, this is statewide and there are areas like in our area of the State that it would be worse than this. Go ahead, next slide.

This again is a change of the net worth for 80 percent of the farms in North Dakota. What we have done here is pulled out the 20 percent of the farms that had the highest net farm income and then look at the remaining 80 percent. There is one mistake I noticed in the display that I gave out earlier. In there I said that in 2001 more than 80 percent of all the farmers had a reduction net worth. It should say in 2001, an average of 80 percent of the farms had a reduction in net worth. So in 2001, an average of 80 percent of the farms had a reduction of net worth. It is about $1,600 reduction net worth and that is before—well, that would be including everything so that it was a pretty severe year. And in 1999 and 2000, of course, we had disaster payments and we are hoping that the same thing in 2001. It is obviously a severe problem.

When I was driving down here this morning, I was visiting with a banker and he related to me an example just exactly as you stated earlier about there was a lender that he was working with, and a customer, and they were starting foreclosure proceedings on them and he was going to continue to farm in 2002 because he is getting some supplier credit. But he doesn't have an operating loan. In his case, if we can get a disaster program through before it is too late, then he still has a chance. And there are an awful lot of those people around. I visited with a lot of lenders, and the same story is true for everyone, that a 2001 disaster bill is, I think, critical for the area.

Chairman CONRAD. I spoke to the Independent Bankers Association last week right here in Fargo, and it was one of the highest items on their agenda, disaster assistance. I wanted one of the bankers on the panel here today to demonstrate, I think, the seriousness that they view this issue. And they are saying you have got to have a disaster program for this year or we are going to lose a lot of the people. And that is really what your message is here today.

Mr. OLSON. Exactly. I think that is exactly right. It is a serious problem, and obviously 2002 is a well-documented situation, but what I am trying to point out is that 2001 is also a very severe year, due to various reasons, land that wasn't planted, but also as Eric said, a lot of this had operating overhead inputs into it and then it is gone and then they try to put more inputs into it to try to save it with fungicides or insecticides.

Chairman CONRAD. Kind of chasing the——

Mr. OLSON. Exactly. And inputs get to be huge, and even though your yields maybe not all that bad on an average, if you lose 10 or 20 percent of a field the average on a seeded acre basis may not be actually very good.

Chairman CONRAD. Would it be a correct statement to say, based on this slide, Jay, that the correct statement would be on average 80 percent of the farms in North Dakota had a loss of net worth in 2001?

Mr. OLSON. Yes.

Chairman CONRAD. On average?

Mr. OLSON. Pretty much. And remember, this is an average of the farms enrolled in our program.

Chairman CONRAD. Right. Although there—we know that that is a very good reflection of it.

Mr. OLSON. Right. Right. And this also excludes the Red River Valley. These numbers, we usually pull out the Red River Valley separate during that time. We only have a couple of programs in the valley, and there are a number of farm management programs on the Minnesota side of the valley, so we do average together the valley, so we pulled those numbers out.

Chairman CONRAD. And we know that in 2001, the valley had a very significant portion of the losses. The Devils Lake Basin and the valley in terms of overly wet conditions had a disproportionate share of the losses. All right.

Mr. OLSON. Then those numbers that we looked at so far were for the State, and then these numbers then would be for what we call Region 2 where the north central part of the State is about a 12- or 13-county area from the center of North Dakota.

Chairman CONRAD. Does that go over to the border with Minnesota?

Mr. OLSON. No, not quite; it stays out of the valley.

Chairman CONRAD. Out of the valley, all right.

Mr. OLSON. Again, net farm income for that is the total including Government payments in each of those 10 years, and it looks like we are making $25,000 or $26,000. But, again, we have to take our family living out of that. So if the average farmer has about a $45,000 family living expense, plus, including health insurance and taxes, et cetera, plus, he is trying to get some type of return on his investment, he probably had to invest about $300,000 of his own money to do this. So that is a pretty serious situation.

Go ahead. This, again, is a similar graph to what we looked at before. Again, this is just for our north central region of the State, net farm income without Government payments. Next one, and this, again, is net farm income without Government payments or insurance. And obviously we see a pretty obvious trend there. And, again, that is before family living or any return on his investment. And this, again, return on assets for that north central part of the State 1997, 1998 and 2001 stick out pretty clearly there, I think. And normally anything about 6 percent is a pretty serious situation. And now, of course, we are looking at 0.5 percent, half of 1 percent. And so it is a pretty serious thing. And as that takes effect, we just borrow more and more money. And in 2002 operating loans are the largest I have ever seen. Operating loans are mammoth in 2002. As farmers become highly leveraged—and it is a really stressful situation for a lot of guys.

I think that is pretty much what I wanted to say. I would be happy to answer any questions later.

[The prepared statement of Mr. Olson follows:]

Prepared Statement of Jay M. Olson

My name is Jay M. Olson, I have been an agriculture teacher in North Dakota for 29 years, the last 18 years as a Farm Management Instructor at Lake Region State College. I was also a loan officer for Farm Credity Services and farmed in the area for 15 years.

Farm Management programs in the North Central area of North Dakota consist of five Instructors in a 13 County area that serve

avout 200 farm families. State wide there are 15 instructors that serve approximately 600 farm families. These numbers represent about 4 percent of all the farmers in North Dakota with a gross farm income over $50,000. The average farmer enrolled in this programis about 44 years old and farms about 2300 acres. A detailed set of farm records is completled by these farmers and leads to the completion of an extensive farm business analysis that is then used for a myriad of business decisions. Farms located in the Red River Valley are not included in the State averages.

It is my hope that in providing some of this information to this hearing that I can stress the extreme need for 2001 Disaster Assistance.

I have seen some first hand examples of the financial and emotional stree that has been placed on farmers in North Dakota due to a variety of extreme weather conditions the last few years. These weather extremes have resulted in a loss of income due to drought in some areas of the State as well as flooding in other areas. Flooding not only cause land from being planted even though many inputs may already have been invested, but also a number of related insect and disease conditions that create further expensive inputs in an attemt to salvage some of the yield. The result is lower efficiencey and productivity with increased devt loads.

At this time I do not have completed numbers for the 2002 year, however I have been able to put together some information that begins to describe the seriousnes of the 2001 Disaster in North Dakota.

The Average Net Farm Income for farms enrolled in the Farm Business Management Progran in North Central North Dakota in 2001 declined 54 percent from the year before. The percent return on equity for farms in this area decelined from 10.7 percent in 2000 to only .5 percent (one half of one percent) in 2001. Normally a return on equity below 6 percent is considered extremely serious.

While losses in 2001 were more concentrated in the eastern areas of the State, the entire State saw some losses. All farms enrolled in the program statewid saw their percent return on equity decline form 10 percent in 200 to only 2.2 percent in 2001.

In 2001 more than 80 percent of all the farms enrolled in the Farm Business Management Program in North Dakota had a reduction in net worth from the previous year.

Without government payments all farmers in North Dakota enrolled in the Farm Business Management Program had a negative net farm income of -$20,078 without government payments and before any family living or return on invest was taken out.

Loan officers in the area have stressed to me the need for 2001 Disaster Assistance. They have related cases where working capital and equity has been reduced beyond their ability to provide financing any longer. While crop insurance helps to protect perhaps 75 oercent of their investment, when the average farmer is investing over $250,000 into the farm each year, a 25 percent short fall may be enough to put that farmer out business.

Thank you for your continued support of farmers and agriculture in North Dakota.

Mr. POMEROY [presiding]. We are holding questions, Jay, and we will deal with them panelwide at the end. The chairman has had

to step out. He has asked me to run the meeting in the meantime, and he will be back for the question period.

Now we get to the executive director of the North Dakota Stockmen's Association, Wade Moser.

STATEMENT OF WADE MOSER, EXECUTIVE DIRECTOR, NORTH DAKOTA STOCKMEN'S ASSOCIATION

Mr. MOSER. Thank you. We appreciate Senator Conrad having this hearing here in North Dakota today. We represent the cattle industry in North Dakota, and the North Dakota Stockmen's Association feels that there is a need to put in place a disaster program that will assist cattle producers in offsetting the additional costs caused by the current drought.

We want to make sure that we are very clear today that we oppose activating the past feed assistance program that penalized the good producers who made arrangements and management decisions in the past to help themselves. If this program was implemented today. many of those producers who went and hayed CRP across the State would disqualify themselves from assistance. So we want to make that very clear that as the program is designed that we do not activate the old one that was in place years ago. We have calculated that in just the 16 counties that were impacted the most by the drought, it would cost more than $15 million just to transport that hay back. That was just assuming a 100-mile round trip, as we know is the case of Rod Froelich, that he is a lot further from 50 miles from home when he is putting up the hay. And that would only impact 428,000 cows in the State. It does not take into account any background of calves or any other livestock, just the basic cow herd.

We do have some suggestions to deliver a program that we think will benefit the producers in the disaster areas. One item, it should be handled on a State-by-State basis as much as possible. We feel that a national program will not work simply because of the variations from the north to south and the variations in the producer needs. A program in North Dakota will not work for a producer in Arizona. An example of that is the current program that is in place now, the Livestock Assistance Program. It addresses only grazing.

I think as a tribute to North Dakota producers, we have probably dodged the bullet on the grazing issue this year, simply because when we realized that we didn't have a grain crop or didn't have a hay crop, we turned the cattle out and used those resources. Plus some of the good management that has been implemented, I think stretches beyond the grazing period. Now we are looking at a feed program that we have to address for the winter feed, and, again, the Livestock Assistance Program that is in the farm bill or addressed in the farm bill talks about grazing only. It will not get us through the winter. We also feel that probably the way to address this is to identify how many cattle are impacted across the Western United States. And as you see the map up there, I think that would be very easy to do. The ag statistics could identify the number of animal units for the number of head impacted in the Western United States caused by drought. You can take those numbers, divide by the amount of money that is available to the livestock, and then turn that money over to the State FSA to have a pro-

gram. Have a sign-up program for the ranchers to come in and identify their needs and then pro-rate it out.

We have had several people involved—Rod Froelich has been one, and some county agents, Rodney Johnson of the Ag Department—trying to identify a system that would allow people to manage their program, their operations, instead of identifying it as a transportation issue or a feed issue or a hay issue, to allow them to get money into their hands. And that may be identifying the number of cattle impacted and assigning a dollar value to those cattle. Once you do that, then rate the impact that the county has. If Sioux County had a 100 percent disaster, they would get 100 percent of the dollars assigned to that county. If you had a 60 percent disaster in your county, you get 60 percent of that base price paid back to the producer, and we think that would probably be equitable for most people involved.

The disaster assistance then could be used for various purposes. It could be used to help pay the transportation, you could buy hay, buy grain or be used in any manner to assure the operation remains viable. This needs to be a management decision by the producer and not dictated by the FSA.

We would offer our assistance in formulating a plan for North Dakota that would be fair and not penalize ranchers who make the extra effort to keep their operation together, which the past feed assistance program did. If we set the dollars aside, I think another thing that we haven't talked about today, is the psychological impact that it has had on the producers in North Dakota or across the whole West. There is a frustration level by producers on most people who are not in agriculture and their lack of understanding about the impact that this has. And what about the next generation? What signal are we sending to the youth of this State, that if you have a disaster, a hurricane disaster, the Government is there to help you. If you have another natural disaster, we are bickering and fighting over whether or not we ought to even have a program. And I think that sends a strong signal to our youth that maybe this isn't an industry you want to be in, and we certainly don't want to send that signal. And if we don't produce the food, then we are going to rely on another foreign country to do it for us, and I think we realize how detrimental that could be for us.

Thank you.

[The prepared statement of Mr. Moser follows:]

July 30, 2002

United States Senate
Washington, D.C. 20510

Dear Senator:

The undersigned organizations write to urge your support for S. 2800, legislation introduced by Senators Max Baucus and Conrad Burns to provide emergency disaster assistance for crop and livestock producers who have suffered losses during the 2001 and 2002 agriculture production years due to natural disasters. Such disaster assistance would be consistent with previous emergency legislation approved by Congress and signed into law by Presidents over the past decade.

The Food Security and Rural Investment Act of 2002 provides increased economic resources, certainty, and stability across a wide range of agricultural, rural, and nutrition programs administered by USDA. For commodities, we believe it was the intent of Congress that the new farm bill reduce or eliminate the need for future ad hoc market loss-related assistance and, instead, provide a similar level of assistance in a more efficient and cost effective manner than the legislation it replaced. In fact, the projected outlays for commodity programs under the new law are projected to be significantly less than the annual average federal expenditures incurred since 1998. However, the new farm bill with its more stable level of funding is incapable of predicting and adequately dealing with natural disasters.

According to a recent article in the Washington Post, "In a typical year, about 15% of the country might experience drought. Now, more than 40% of the country is suffering. The worst recent drought, in July 1988, covered 36% of the nation; the worst drought of the Dust Bowl years was 1934, when in July 65% of the country baked." For U.S. farmers and ranchers, the current production disaster is multi-faceted. In many areas, drought has decimated row crops and forage and has reduced water supplies available for livestock. In other regions, farmers are experiencing crop destruction and reduced yields and quality due to flooding and an increased incidence of crop pests and diseases. Especially hard hit are the specialty crops such as apples, cherries and grapes in the Great Lakes and eastern states that suffered frost damage this season and adverse weather in 2001 that caused a failure of the blossom set required to produce fruit. Financial assistance is needed now if the economic ruin of farms, ranches and rural businesses caused by these natural disasters is to be averted.

Within the range of its existing options, we believe USDA has taken positive actions to address the weather and disease-related disasters experienced by crop and livestock producers during the 2001 and 2002 production years. Unfortunately, the Department's authority and resources available to mitigate the losses sustained by farmers, ranchers and rural businesses are sorely inadequate given the full scope of the weather and disease problems confronting American agriculture. For example, the most recent estimate for harvested winter wheat acres has been pegged at 29.8 million acres -- the lowest level since 1917. The chief reason for this reduction is acreage abandonment due to drought.

While crop insurance, disaster loans, emergency haying and grazing of Conservation Reserve Program acreage and other programs are helpful, the relief they provide pales in comparison to the devastation being experienced across a large part of rural America. We urge your active engagement and support in approving the emergency disaster assistance program introduced by Senators Baucus and Burns. This legislation provides a responsible level of assistance to those who have suffered or continue to suffer substantial losses as a result of natural disasters.

From 1998 through the 2000 production seasons, Congress and the administration worked together to provide emergency production and quality loss assistance in addition to much-needed supplemental market loss programs. However, since 2001, weather and disease-related production and quality losses have continued to mount for producers without any corresponding emergency response from our government.

We urge the Senate to approve the Baucus/Burns legislation, seek concurrence of the House of Representatives and work with the administration to ensure an adequately funded emergency program is in place. This action is needed immediately to reduce the tragic economic impacts being experienced by farmers, ranchers and their communities throughout much of rural America because of natural disasters beyond their control.

Thank you for your attention to this issue. We look forward to working with you to address this serious situation in a timely and effective manner.

Sincerely,

National Farmers Union
American Farm Bureau Federation
National Farmers Organization
National Grange
American Beekeeping Federation
American Corn Growers Association
American Sheep Industry Association
American Soybean Association
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Cotton Council
National Grain Sorghum Producers
National Grape Cooperative, Inc.
National Sunflower Association
R-CALF United Stockgrowers of America
Southern Peanut Farmers Federation
U.S. Canola Association
Vidalia Onion Business Council
Welch's

Mr. POMEROY. Thank you, Wade.

The final witness this morning is Duane Claymore, representing the Standing Rock Sioux Tribe Land Management Administrator.

Mr. CLAYMORE. No, I am not the Land Management Administrator.

Mr. POMEROY. Oh, OK. Well, speaking on behalf of Gary Marshall, and you are here on his behalf, is that correct?

STATEMENT OF DUANE CLAYMORE, ON BEHALF OF STANDING ROCK SIOUX TRIBE

Mr. CLAYMORE. I am representing the Native American Ranchers from Standing Rock. I am not trying to isolate them, but I have the facts for that group. I brought Rod Froelich's area also. And we have 60 cattle operators there that are enrolled members. Approximately 20,000 producing cows over a half a million acres of land. We have lost all of our hay crop this year. If we estimate for our part of the country, the severe winters, we have to have about 2 ton per cow. If we have to buy $100 hay, that is $4 million right there. Most of our producers are not able to get financing and credit, so they are not able to participate in this hay program to the CRP and moving equipment. So then they are sitting there without anything. And it has happened to us in the past where people try to go into these winters in our part of the country without feed, and we happen to get a bad winter and a lot of cattle are lost, and Government, these loans haven't worked for us in the past. They are still chasing around some of our people from 1980 and 1989 on these loans, and threatening prison and everything else, so we need this assistance and direct payments. This milk thing has become a joke down here because we will give it to North Dakota if they want it. You know, we had to drink that when we grew up on the reservation, and we wouldn't be that cruel to our animals. You walk in the elevator with a bag of milk, you know, and you tell me, that is ridiculous. And, you know, telling everybody in the world that we are helping the ranchers, it is a joke.

And so we need assistance like the other people have said here. We would like to see that and spelled out in simple terms so we get it. You know, you turn it over to the bureaucracy and lawyers in Washington, and it comes out a lot different than it went in. And we can't—we have to qualify and meet all these rules and regulations. And we feel the same way as everybody else that spoke here that we are entitled to this natural disaster help. We don't come to the table very often. We are independent people. We went and visited with our tribal council there, and they are doing all they can, but with unemployment the way it is down there and everything, it is pretty hard for them to do anything for us. And we are just—I guess we are sitting there waiting to see what happens, and what is going to happen to us is that the hay is going to be done shortly. Everybody is out hustling right now, and most of these people don't have the financing to do that. So I guess it is about as dry there as anywhere in the country. We had fires, 15,000 acres or so burnt in the prairie. And that is the same as your house burning up, I guess, when you don't have any feed, I guess.

That is about all I have. We are in the same boat as everybody else and hoping for some Government assistance.

Mr. POMEROY. I called the chairman during the fire—and his home was almost consumed by that fire. So very serious and he knew how well, just how well, how serious this fire was that almost took his home. He said really the broader problem is it is so dry down here, whether it burned or whether it did not, there is no hay. And when I came down and literally would felt the crunch of dry, brittle ground under my feet, it was sickening. And I understand the problem is very, very dire, particularly in the south, southwestern quadrant and, most of all, maybe in Sioux County. It is really an extraordinary situation.

I have several questions. I expect that the Senator will when he gets back, but let's begin. And I would like to start with Mr. Olson. I missed some of your—most of your testimony. I regret that. Do you have a view in terms of production management from a perspective of farm management assistance in North Dakota what the future of North Dakota agriculture will be if disaster programs are a thing of the past?

Mr. OLSON. Well, the new farm bill, of course, gives us a lot of protection that we didn't have before. So from that standpoint it has been really good. I mean, I think we have done all we could hope there, I think.

And as far as the farm bill is concerned, as far as price protection—but as was stated earlier there is no production protection there. And, in fact, as the national average price goes up, countercyclical payments go down. If you don't have any production to sell at that higher price, you don't get any—you get less from the Government and also you have no crop to sell. So you get kind of a double whammy there. And so each year—and I would agree with what Roger Johnson said earlier, and some of the other people here, that long term we need some type of production assistance there as well, and even if you have a crop insurance program that might cover 75 percent of your inputs, if you are spending $300,000 or $400,000 on inputs and you are 25 percent short, it doesn't take too long and you are going to be gone. And you have got a tremendous amount of risk, and it is very, very stressful. And so we are still in a situation where we have to come back on almost an annual basis. At some point, some place in the United States is almost for sure going to have some type of problem, and even though it might not be us next year, it might be someone else. So long term, yes, I think that we need something like that. What that is and how it is administered is a difficult situation.

Mr. POMEROY. And you are most familiar with the Devils Lake area and the Devils Lake region?

Mr. OLSON. Right. Right.

Mr. POMEROY. What do we see likely in terms of disease and infestation out of this year's crops? Is it going to be a little better than it has been?

Mr. OLSON. In 2002 I think it is a little better than it was or has been. Early in the season we didn't really have any rain. It was really dry, and then in June we had a couple of very large rains, and some of the areas that had been seeded were flooded out and some—what would have been the better areas of the field a lot of

the times. And, in general, I think we have less disease problems than we have seen in the last several years. There certainly are some areas that have some serious disease problems, but, in general, I think that is probably true.

Mr. POMEROY. Last year the disease problem was epidemic.

Mr. OLSON. Well, ever since 1993, you know, we have had weather- or water-related problems primarily causing insect disease problems that have caused additional inputs. And, of course, we have inputs that might have been there for a 40- or 50-bushel yield and wind up with a 25- or 30-bushel yield, and we have seen the results of that. And the livestock situation has been a similar problem in the mid-1990's where prices were down for about 5 years in a row there and now they have rebounded a little bit, but still the input in the area for livestock people have gone up as well.

Mr. POMEROY. I think the disaster programs have worked better for crops than livestock, and possibly that's because the farm programs typically address crop issues. And so when it comes to livestock we really don't know how to do it as well.

Wade, I was very intrigued by your suggestions in terms of a new delivery mechanism, and I would like you to outline it briefly for me once again. You identify the number of affected cattle. Is that a number that would be hard to reach? Then you devise the program accordingly and would you, the county committees, devise a program what would work for them?

Mr. MOSER. I think the program could be delivered State by State, is probably the easiest way, so you didn't have thousands of different programs. And if USDA and Washington want the oversight, allow them to sign off on a program approved by the State FSA Committee. But, yes, back to—we know which counties are disaster across the whole Western United States. We know based on the January 1, 2002, ag statistics how many cattle are the estimates in each county. So we know how many cattle are impacted. And then you have also got the declaration in each of these counties how much losses they got. And I think all the figures are there.

We could put it together and identify how much money is available and pro-rate it out so that it is spread around and nobody gets shorted. We may not get as much as we need, but it will be spread around so that—again, going back to Senator Conrad, you know, I don't need all the money if we can get some to my neighbor, that is fine. We all need to stay in business together here. I think the program should be implemented that way where you identify dollars per head, have the cattlemen go in and certify their numbers, and just work out the details that way based on how severe the disaster was in your county.

Mr. POMEROY. I was taken by your point that the past feeding assistance program would be totally non-responsive to the transportation costs people are incurring as they scramble right now to get their hay in place. It seems to me people are taking whatever steps necessary to get their hay in place, and worry about figuring out how those costs are paid for is the next challenge.

Mr. OLSON. I think we probably learned from the last disaster if we are going to wait for Uncle Sam, it is probably not going to help us. So they probably went into this thing thinking we probably aren't going to get any disaster assistance, so we have got to

go protect our operations. But the last program it raised transportation cost because people knew that money was there. It raised hay cost because they knew the money was there, thinking, well, it wasn't going to cost the producer more, but it did in the long run. So if we don't tie it to a specific item, get a per head for the rancher and let him make those management decisions, if he could find a cheap way to transport it, if he could find a cheaper feed to buy, let him make those management decision; or if he was able to through whatever means scrounge up enough feed he could pay down a bank. But if you tie it to something that you have to have a receipt to get it reimbursed, it is not going to work. It is going to fail, like the old one failed.

And I know some producers the last time around that put up a lot of junk feed because they were going to try to make it work, road ditch hay, thistles, kochia, and when you went in to certify, they said how many bales do you need, how many did you put up, they subtracted those. You were penalized for going out and making that effort.

Now, this year when people went from Sioux County up to north of Devils Lake to get feed, you are going to disqualify yourself, you are automatically going to be out of the program with that old program. And the only one that will identify any feed assistance now is the feed assistance program that addresses grazing. We are beyond the grazing issue. We are in the wintering mode right now. We have got to consider how to maintain those basic cow herds.

Mr. POMEROY. Thank you.

Chairman CONRAD [presiding]. Thank you. I want to thank Congressman Pomeroy for filling in for me while I went out and did a couple of interviews trying to make sure that the message is abundantly clear here that we are trying to deliver collectively.

Let me, if I could, ask each of you two questions, and those two questions would be: Should there be a disaster assistance program, yes or no? No. 2, should it be paid for by cutting other parts of the farm program?

Rodney, I will start with you. Should we have a disaster program?

Mr. FROELICH. Senator, without a disaster program, livestock feed assistance program—I will address myself to that because I am familiar with that. I don't speak on crops. We don't have a lot of crops in my area. Without a livestock feed assistance program this year, we will lose, in my estimation, 20 to 25 percent of our producers. They will be forced to liquidate.

Now, if we don't have these people out there paying the taxes on this land, who is going to pick up the dollars that we need to run Government with? As far as taking it out of—did you say the current farm bill? I don't believe that's right. If we take it out of the current farm bill, by God, Senator, when there is a disaster in Florida or North Carolina—we had a disaster this summer fighting fires. I am sure there is a budget there. And when they exceed that budget, do they just say no, we are not going to fight fires anymore? No. They go ahead and appropriate more money. That is all we are asking for as livestock people.

We are willing to help out everybody else out in the Nation, when it comes time of a disaster, whether it is Missouri because

of a flood. We are in crunch time right now. By God, if they can't help us, why should we help the people in Florida? But that is not the way this country should work. We need to help each other.

Chairman CONRAD. Eric?

Mr. AASMUNDSTAD. Absolutely we need a disaster program, and we need it now. We can't wait. We have waited for 2001, and as Jay talked earlier, there are a lot of producers that are right up against it. And I think if you talked to some of your local elevators around the State of North Dakota and they are going to—especially in the northeast and the northern valley, they are going to tell you they have never seen so much inputs of a crop going under supplier liens or on credit cards. People are looking at 16, 18, 21 percent interest. There is no way on God's green Earth they are going to pay that back. So we certainly need one.

You know, Rod best described it, I think, and Wade, what is happening with the livestock industry far better than I could. But certainly in the areas of the crops, we need it, we need it now. We need it in 2001; we need it in 2002. We certainly have been on record and today are still supportive of S. 2800 and we feel it needs to be done.

I guess the view we have taken here in the North Dakota Farm Bureau is that if that can't be done, then we have got to get it somewhere. Do we want it to come out of the farm bill appropriations? No, we don't. But we need it bad; we need it now. The producers of North Dakota need disaster assistance now more than a farm bill.

Chairman CONRAD. Let me ask you this: Wouldn't it be reasonable—it seems reasonable to me—to understand that there are going to be savings in the farm bill? We don't need to cut something. We don't need to cut direct payments. We don't need to cut loan deficiency payments. We don't need to cut—we should understand—it seems apparent to me there are going to be savings in the farm program because LDPs are going to be less. Does it strike you as reasonable, as an economic matter, that we consider those savings in funding a disaster bill?

Mr. AASMUNDSTAD. I guess for me that is a tough one, Senator. If the money wasn't going to be spent, is it a savings or—yes, I understand the argument clearly that——

Chairman CONRAD. Yes.

Mr. AASMUNDSTAD. That that money is not going to be put out, it was money that was appropriated, or expected to be spent, it is not going to be spent out now. So certainly it is a savings and it is probably something that could be done to put toward a disaster program. Is that going to be enough? Who knows?

Chairman CONRAD. We will know shortly because next week we will get CBO's new numbers. Those numbers will come out on Tuesday. And we will know what the level of savings is, at least the anticipation of the level of savings.

Mr. AASMUNDSTAD. And I think, Senator, that we have got to—we have to look at the—of course, we need an ad hoc disaster program. It is vital to this State. But I don't think I am wrong, and I don't think there are many people that will disagree with me when I say that is probably the second best option. The best option would be to have a standing mechanism to deal with agriculture

disaster. Maybe we shouldn't call Federal crop insurance Federal crop insurance anymore. Maybe we should call it Federal agriculture disaster insurance. I don't know. But the fact is that the farm bill, even with the safety net in it that is in the current bill, falls woefully short in supporting the people that really need it and, that is, the people that don't have anything to feed their livestock or anything to sell our loan on.

Chairman CONRAD. Yes.

Mr. AASMUNDSTAD. And that is——

Chairman CONRAD. And I think we have got to be very direct with people. I think there is a lot of misunderstanding. There is no disaster program in the farm bill. It is just not there.

Mr. AASMUNDSTAD. No, no.

Chairman CONRAD. Richard, what would be your answer? Do we need a disaster assistance package and should it come out of the farm bill?

Mr. SCHLOSSER. Yes and no.

Chairman CONRAD. OK.

Mr. SCHLOSSER. I think Jay's testimony really was a testimony to a trend that we don't want to see continue. I mean decline in net worth beginning in 2001, decline in return on investment, operating loans up. This is not a good trend for us out there as producers, whether you are a livestock producer or a crop producer.

The second thing as far as offsets are concerned, the farm bill historically—in the old farm bill, when I first began farming there were disaster assistance provisions written in those old farm bills. Not today. I guess as Rod said at the outset here, when there is a disaster or a flood or a hurricane or anything else anywhere else, there is no offset anywhere else in the budget. We just—we show up.

Chairman CONRAD. That is, I hope that is not lost on people. I really do. When there is a disaster, a natural disaster in any part of the country, we don't cut other programs to pay for it. There is an understanding that there is going to be a certain level of natural disasters every year. Nobody can predict where it is going to be. I proposed actually budgeting for it, because you know what, we know that on average we are going to do $5 to $10 billion of disaster assistance a year. I proposed to my colleagues we actually budget for it, not knowing where it is going to be, but knowing that the greater likelihood is that it is going to occur, and have that money set aside, not in specifics, but in a pot that says we don't know where it is going to happen. We wish it wasn't going to happen, but we ought to fund it up front.

Actually, I think going forward that would be the more fiscally responsible way to do this. I have not been able to persuade my colleagues to have such an approach. But I think at some point we will. To me it makes common sense.

Jay, your answer to those questions. Disaster assistance should be paid for by cuts in other parts of the farm program?

Mr. OLSON. Well, obviously, you know my answer, that obviously we need a disaster program in 2001 and 2002. And obviously I don't think it should come from our current farm bill. The current farm bill I think was fine and provided some price protection, and

I think we did a pretty good job there. But, again, there is no production protection there.

I guess one of the consequences that I see in North Dakota is that we are losing about roughly 1 percent of our farms every year in North Dakota. Now, we have about 30,000 farms; that is around 300 farms that we are losing a year. But that is deceiving. That is all farms. And to be a farmer in North Dakota, I think you only have to gross a $1,000. And if you look at the full-time farmers, the ones that are grossing over $50,000, over $100,000, we have only got about 9,000 farmers, I think, that gross over $100,000 in North Dakota. And around 14,000 gross over $50,000, and we are losing a district portion of all of those farmers because we are losing 1 percent total. But we are gaining a bunch of small farms, hobby farms, and we are gaining a few mega, larger farmers. So really, in effect, we are losing 3 or 3 percent perhaps—I am not sure of those numbers—up to 5 percent perhaps of those full-time farmers. And this whole trend kind of continues. It has continued. It has been there for 75 years.

But one of the duties, I think, of Federal farm programs is to help moderate that situation. And if we lose all those people, instead of losing 1 percent, it is possible we could lose 5 or 10 or 15 percent in 1 year, which could have a dramatic effect on all of the economies of North Dakota. Agriculture is obviously the largest industry in North Dakota. We have other industries. We have got some tourism, manufacturing, energy, et cetera. But in many communities, agriculture is the only industry we have.

Chairman CONRAD. And it is still the No. 1 industry in this State by a long margin.

Wade?

Mr. MOSER. The answer to the program is, yes, we do need it, and I agree with what Eric said. We need it now, and as Congressman Pomeroy said, we are not used to the programs. So we feel that the program must be addressed in the bill. We can't wait for the rules. That will drag things out way too long, and as we talked about with the rules that you have the intent and when the rules come back they don't seem to mirror each other. Maybe we don't have very much trust in the rulemaking process.

I will give you an example of the rulemaking process in the livestock assistance program. Again, it just addresses grazing. To be eligible, a producer must have sufficient grazing available or eligible livestock in order to receive the maximum payment. You don't have any grazing. So you have to have grazing. This is the confusion that we have with the program. And so, yes, we do need a program now and the language must be there.

As far as how it should be funded, we think it only makes sense if you have some savings to take it from the farm bill in areas that you can save and then make up the difference. I mean, that is—again, I think agriculture has contributed enough to the U.S. economy that we deserve to receive some assistance.

Chairman CONRAD. Very good.

Yes, sir?

Mr. CLAYMORE. I am Duane Claymore.

Chairman CONRAD. Yes, good to have you, Duane. We got a substitution so——

Mr. CLAYMORE. I am a rancher from Standing Rock.

Chairman CONRAD. We are glad to have you here.

Mr. CLAYMORE. I definitely think we need a program down there on the reservation. We are required to leave a lot of grass, 50 percent in normal years. So that is why we have a lot of old grass and burr, and also weren't able to qualify for the grass situation in the past because we weren't grazed out. And it is still dead and useless.

So one of the things that wasn't mentioned, we talked about the crops going up, well, the cattle went down. I mean, a thousand dollar cow last spring is going to be around $700, maybe $600. Calves are going to be $50 less due to the drought because of the numbers flooding the market. I am on the border of North and South Dakota, and the western half of South Dakota has already sold off 40 percent of their cows, and talking about $6 billion loss, and, of course, Sioux County is probably right in that.

Chairman CONRAD. We see it very directly in the prices we are talking about. You are exactly right in a crop circumstance, dry conditions, less production, higher prices; in the cattle circumstance, wild fires, dry conditions, less feed and a need to liquidate herds, force prices down.

Mr. CLAYMORE. Right.

Chairman CONRAD. And it is just the opposite of the cycle, and it has been devastating and there has got to be—and again, I am preaching to the choir. We are trying to establish a record here. There has got to be assistance or there will be massive failure. There will be thousands of families forced off the farms and ranches.

Isn't it the case in your area that you will lose a significant percentage of your people?

Mr. CLAYMORE. At least 50 percent, we are estimating, maybe more, because some of these people still have debts from the last drought and have to pay these loans back, and it is just not feasible at this point to, when you got—you know, we were able to ride these out over the years because the cost of operating was lower. You know, a baler in the 1970's was $2,500; now it is $28,000. So it is difficult, almost impossible to come back if you have to sell your cow herd. You may just as well go get a janitor's job or something, because you are not going to get back in. The younger generation is all talking about getting out of here and going and getting a job where you get paid.

I told this friend of mine, if you have got a little minute here, I was up to Fort Berthold, with Dennis Huber, who has a little hay there, and we were both in our sixties and we were getting up at about 5 in the morning and had about a half a crop in, and coming in ten, and I told him how many people in this country would work knowing they were losing money every day, as hard as we are? But we are thinking about the winter coming, and we have to have feed for our cattle. They depend on us, and that is one of the reasons we work like we do.

Chairman CONRAD. Thank you very much.

Let me ask those who are here in the audience, we are moving to the conclusion here. We scheduled this for 2 hours because we have other commitments that we have to keep today. I would just

like to see a show of hands in the audience. How many believe that it is important that we have a disaster assistance program this year? Let me just see a show of the hands.

All right. That is pretty overwhelming. Let me say, let the record show that virtually everyone in this audience had their hand raised.

I would now call on anybody in the audience who would like to come to the microphone if you would identify yourself, and make a statement, if you would make it as succinctly as possible because we have run over and we do have other commitments. But if anybody has got a statement they would like to make, you would be welcome.

Mr. HUBER. Senator Conrad, thank you for your efforts in the past. Congressman Pomeroy and my good friend Duane has been up there, like he said helping us up in Fort Berthold, to put up a little hay. We are about a 50 percent deal. We are on the south side of the lake. So we are going to get about 50 percent of our crops. So what does that mean? Do I sell 50 percent of our cattle?

Well, I am no dummy. I am going to sell them all if I sell 50 percent and then I am going to sell that hay to him for $100 a ton.

And so about the only other comment I would like to make, and I think he forgot, in the past we were always shuffled back to the Bureau of Indian Affairs for any aid. I know most recently, though, you tried to keep them out of it. So in the future if you come with some sort of livestock assistance program, please keep the Bureau of Indian Affairs out of our hair, because we need the assistance now, not 2 or 3 years from now. The trickle-down effect, we don't ever get it then. But Fort Berthold is just at the edge of that drought. So what do you do? You hang on.

Like Duane said, we are just a couple of old guys. I got a young son. He plays golf and his young son team ropes, but they are probably not going to be back out on the ranch, you know, so they can see how tough it is out there in these kinds of situations. You know, we are out there getting up early and coming in late, so—but I kind of retired from United Tribes and thought I had it pretty easy, but this hasn't been an easy year for us, not Fort Berthold, especially. Our brothers down in South Dakota, Pine Ridge, Rosebud, we are all in the same boat. But please keep—you know, there are a lot of things that we need to fix, you know, the paddock, the checkoffs, the country boards and you guys came through. But there are a lot of things, and we appreciate all of your efforts in the past. Packer ownership, that is another big animal there that needs to be taken care of. But right now, take a run at this one and I think you will prevail.

Chairman CONRAD. Thank you very much.

Any others that would like to testify?

Mr. BREKER. Thank you, Chairman Conrad. My name is Joe Breker. I brought along a couple of farmer friends of mine today, Randy Pearson and Mark Wyum. They are presenting you with some information we have gathered in the southeastern part of North Dakota. Today I know we have talked about drought, and we have talked about floods. But we have been blessed with timely rainfall in the southeastern part of North Dakota, but we have another subject that we want to bring to your attention, that if you

are plagued with it on your farm, it can be just a major disaster as flood or drought, and that is the increasing population of Canada geese in the State of North Dakota.

Just a short history. In the early 1990's they reestablished the Canada geese population in southeast North Dakota as well as a few other sites around North Dakota. And in the early 1990's we also had abundant rainfall, which was a blessing for water fowl. Those populations have increased exponentially, and now from 1997 to 1998 and on, we are sustaining substantial crop loss from those populations.

Chairman CONRAD. These pictures are very dramatic, by the way.

Mr. BREKER. And you can get them all over eastern North Dakota. We just happened to gather some from our little corner of the State.

Chairman CONRAD. Can I just ask you to cut to the chase on this? What needs to be done?

Mr. BREKER. We have some suggestions in there. What we primarily need is we need to control numbers, that is what we need——

Chairman CONRAD. What is the best way to do that?

Mr. BREKER. Through legal hunting seasons, and legal other control methods. Allowing——

Chairman CONRAD. Could you expand the hunting season?

Mr. BREKER. That is one of the suggestions we have. Possibly a spring hunt, you know, like they have the snow goose conservation season in the State to reduce numbers, we need a conservation Canada geese season.

Chairman CONRAD. Can you tell me what has happened to the numbers? When we say there is an explosion, do you know how much the population has increased?

Mr. BREKER. We had an meeting last evening with Dean Hildebrandt and Lloyd Jones——

Chairman CONRAD. Yes.

Mr. BREKER. And those numbers were thrown out, Randy Crowd threw out some numbers, and I hate to repeat them now. Do you guys remember some of them?

Chairman CONRAD. How big a numbers did they——

Mr. BREKER. We could get them for you.

Chairman CONRAD. That would be helpful, if we could get some estimates as to the increase in population that would be a useful thing to have.

Mr. BREKER. We can sure get those for you.

Chairman CONRAD. All right, thank you very much. With that we are going to conclude this hearing. I want to thank all of the witnesses, starting with the Governor and our Agriculture Commissioner, the six of you on this panel. You have been excellent. You have been very helpful to the work of the committee. We appreciate it very much.

Finally, I want to thank my colleague Congressman Pomeroy who has worked very hard on these issues and has produced results time after time. We are going to do our level best to produce results again this year. It has been made more difficult by the position of the President. I am hopeful that as members come back and

hear from their constituents as we have heard from ours that there will be a softening in this position and a recognition that there simply has to be disaster assistance this year.

Congressman Pomeroy?

Mr. POMEROY. Mr. Chairman, thank you for this hearing. There is no better advocate for agriculture than you. This hearing is another important part in making a push for disaster aid.

Chairman CONRAD. Thank you. That would conclude the hearing.

[Whereupon, at 12 p.m., the committee was adjourned.]

Disaster Assistance Hearing

Prairie Rose Room
NDSU Memorial Union
August 20, 2002

My name is Jay M. Olson. I have been an agriculture teacher in North Dakota for 29 years, the last 18 years as a Farm Management Instructor at Lake Region State College. I was also a loan officer for Farm Credit Services and farmed in the area for 15 years.

Farm Management programs in the North Central area of North Dakota consist of five Instructors in a 13 County area that serve about 200 farm families. State wide there are 15 instructors that serve approximately 600 farm families. These numbers represent about 4 % of all the farmers in North Dakota with a gross farm income over $50,000. The average farmer enrolled in this program is about 44 years old and farms about 2300 acres. A detailed set of farm records is completed by these farmers and leads to the completion of an extensive farm business analysis that is then used for a myriad of business decisions. Farms located in the Red River Valley are not included in the state averages.

It is my hope that in providing some of this information to this hearing that I can stress the extreme need for 2001 Disaster Assistance.

I have seen some first hand examples of the financial and emotional stress that has been placed on farmers in North Dakota due to a variety of extreme weather conditions the last few years. These weather extremes have resulted in a loss of income due to drought in some areas of the state as well as flooding in other areas. Flooding not only causes land from being planted even though many inputs may already have been invested, but also a number of related insect and disease conditions that create further expensive inputs in an attempt to salvage some of the yield. The result is lower efficiency and productivity with increased debt loads.

At this time I do not have completed numbers for the 2002 year, however I have been able to put together some information that begins to describe the seriousness of the 2001 Disaster in North Dakota.

The Average Net Farm Income for farms enrolled in the Farm Business Management Program in North Central North Dakota in 2001 declined 54 % from the year before. The percent return on equity for farms in this area declined from 10.7 % in 2000 to only .5 % (one half of one percent) in 2001. Normally a return on equity below 6 % is considered extremely serious.

While losses in 2001 were more concentrated in the eastern areas of the state, the entire state saw some losses. All farms enrolled in the program statewide saw their percent return on equity decline from 10 % in 2000 to only 2.2 % in 2001.

an average of In 2001 more than 80 % of all the farms enrolled in the Farm Business Management Program in North Dakota had a reduction in net worth from the previous year.

Without government payments all farmers in North Dakota enrolled in the Farm Business Management Program had a negative net farm income of -$20,078 without government payments and before any family living or return on invest was taken out.

Loan officers in the area have stressed to me the need for 2001 Disaster Assistance. They have related cases where working capital and equity has been reduced beyond their ability to provide financing any longer. While crop insurance helps to protect perhaps 75 % of their investment, when the average farmer is investing over $250,000 into the farm each year, a 25% short fall may be enough to put that farmer out of business.

Thank you for your continued support of farmers and agriculture in North Dakota.

North Dakota

STOCKMEN'S ASSOCIATION
417 SOUTH SECOND STREET
BISMARCK, NORTH DAKOTA 58504
Ph. (701) 223-2522
Fax (701) 223-2587
e-mail: n.sa@ndstockmen.org
www.ndstockmen.org

DISASTER ASSISTANCE PROGRAM
August 20th, 2002
Senator Conrad

The North Dakota Stockmen's Association feels there is a need to put in place a disaster program that will assist the cattle producers in offsetting the additional costs caused by the current drought.

We oppose activating the past feed assistance program that penalized the good producers who made management decisions to help themselves as much as possible. If this program was used to give assistance today, any producer who left home to put up CRP hay would probably be disqualified from any assistance. We have calculated that it is very possible that North Dakota producers will spend over $15 million dollars in just transportation costs to move the hay to their ranches. This is just for those producers in the original 16 counties. This figure assumes a 100 mile round-trip to cover enough hay to maintain the basic cowherd in these 16 counties which is around 428,000 cows.

We have some suggestions to deliver a program that will benefit producers in disaster areas.

A program should have the following:

1. It should be handled state by state as much as possible. (A national program will not work simply because of the wide variation from north to south and the various needs of the producer nationwide. For example, take the total dollars appropriated for cattle producers and divide that by the number of cattle effected. (USDA statistics can identify the number of AUM's effected in the disaster counties nationwide) Give these dollars to the state FSA office to design a program. USDA in Washington, D.C. could give final approval on a program if they felt a need to control it.
2. For North Dakota, the 16 original disaster counties would be eligible.
3. Ranchers would apply to the FSA office for assistance. When the application deadline is closed, the total AUM would be calculated. The dollars allocated to North Dakota would then be dispersed (by formula) to those who applied.
4. The dollars committed would then be pro-rated to ranchers based on their AUM as of Jan. 1, 2002.
5. The formula would take into account the severity of loss calculated in each county. For example, if it was calculated that a rancher should receive $90/cow for a 100% loss, then a county that had a 70% loss would get $63/cow.
6. The formula could also put a limit on the dollars per AUM allowed. (However, resources available may be the limiting factor.)

The disaster assistance could be used by producers for various purposes. It could be used to pay transportation, buy hay or grain or used in a manner to assure their operation remains viable. This needs to be a management decision made by the producer.

We would offer our assistance in formulating a plan for North Dakota that would be fair and not penalize ranchers who make the extra effort to keep their operations together, which the past feed assistance program did.

OFFICE OF THE CHAIRMAN

Chairman Charles W. Murphy For Immediate Release

DROUGHT DISASTER, 2002
By the Chairman of the Standing Rock Sioux Tribe
A Declaration

Due to the severe drought affecting this region, I am hereby declaring the Standing Rock Sioux Indian Reservation located in North and South Dakota a Drought Disaster area.

The farmers and ranchers on the reservation are all being affected by the drought, as well as the plants and wildlife.

The funding from the Emergency Conservation Programs to cost share livestock water developments, is currently authorized at a 50% funding level for Sioux and Corson Counties; this is inadequate and must be increased. This program may be used for basic wells, tanks, pipelines or dugout cleanouts, the farmers and ranchers need the help.

The Conservation Reserve Program on Standing Rock has only 36,000 acres, within the program. This will not serve the needs of all ranchers and it is almost too late for haying. This program needs to be opened for both Grazing and Haying to assist some ranchers.

The new Livestock Assistance Program in the new Farm Bill does not have any funding allocated to this provision in the Bill. This program cannot be implemented without funding. It gives false hope to the farmers and ranchers.

As the farmers and ranchers on the reservation are all being detrimentally affected due to the extreme drought conditions, late frosts and high winds.

NOW, THEREFORE, I, CHARLES W. MURPHY, Chairman of the Standing Rock Sioux Tribe, by the authority vested in me by the Constitution and laws of the Standing Rock Sioux Tribe do hereby declare the Standing Rock Sioux Indian Reservation a Drought Disaster Area. I direct the appropriate Tribal Programs to work with our membership and the local county and federal officials to provide assistance to the farmers and ranchers on the reservation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of June, two thousand and two.

CHARLES W. MURPHY

Drought Relief Plan

This is a drought relief plan, submitted on behalf of 55 Indian operators that are enrolled members of the Standing Rock Sioux Tribe. This relief plan is a request for assistance due to the continued lack of adequate moisture on Standing Rock.

Approximately 55,000 acres of grazing land on the reservation has burned due to continued extremely dry conditions. The district and community of Porcupine has been threatened on two occasion's, with all the residents having to be evacuated each time. The neighboring community of Shields has burned practically to the ground, with only two buildings remaining. Fortunately there has been no loss of lives to the fires and continued dry conditions, however; when whole communities are threatened, conditions are very serious, and serious they are for Standing Rocks Indian Cattle Operators and Farmers.

Needless to say, the continued drought conditions have decimated the upper great plains, and it appears that the Standing Rock reservation has been hit the hardest, with rainfall some 10 inches below normal since September of 2001. The lack of moisture and a late extremely cold spring in 2002, *(which inhibited normal growth patterns of both native range land and tame grasses and legumes)* spells disaster for cattle operators and farmers. The lack of rainfall, cold freezing weather in the spring growing season and continued lack of rainfall has been devastating to Standing Rock agricultural producers. There is no hay to cut in the immediate area, and hay prices have soared to an all time high, with estimates ranging from $90.00 to $120.00 per ton delivered now, it is inconceivable what the hay will cost this winter.

Some operator's that can afford to go out of area, have moved equipment and have leased hay ground in other counties. However; not all of Standing Rocks agricultural producers have this ability and cannot bear this additional expense. Even those operators who are cutting hay out of area are faced with leases of CRP ground, cost of moving equipment, hiring of additional labor, cost of staying in motels, meals etc., and most importantly; *moving of hay back to their respective wintering pastures at $3.50 per loaded mile.*

All of these costs are beyond normal expenses and most producers have not budgeted for these unforeseen expenses and cannot borrow additional working capital at this time of the year. This is a bad time of year for most operators, if they have not planned properly most of their working capital is practically

exhausted, and even if they have planned properly, these unforeseen expenses have not been planned for.

What options do operator's have? This is a good question, and can only be answered by each individual as to what their specific needs are. We do know this, whether it involves moving of cattle to feedlots and feeding them, purchasing hay, or going to other areas and leasing CRP and putting up the hay, it all involves expenses.

It is estimated that the following has already been lost by Indian operator's:

Losses:	Estimated Value:
150 head of cows	$150,000
2,500 calves	$1,000,000
2,500 open cows	$250,000
60,000 acres of reduced grazing	$240,000
35,000 ton of hay did not grow	$2,800,000
250 stock dams have dried up	contributes to reduced grazing
5,000 acres small grains and other forage reduced by dry conditions	$250,000
Total estimated losses:	$4,690,000

The 55 operators, have households and other family members (300) who are enrolled members of the Standing Rock Sioux Tribe, they lease approximately 300,000 acres of land

These operators have approximately 26,352 head of livestock and are the basis of the agricultural industry on Standing Rock. Mature cows and bulls are estimated at 18,000 head

This industry's very existence is being threatened, and without some type of assistance the consequences will be devastating to the overall economy of the reservation.

These are the basic reasons for this request, indeed; we could go on forever about the devastation of this industry and the related economic impact it will have on the individual operator's and their families, the Tribe and the landowner's. The impact will not only be for today, but will be for future generations.

Post-it® Fax Note 7671	Date	# of pages ▶
To Gary Marshall	From Del LaCompte	
Co./Dept.	Co.	
Phone #	Phone # 701-854-7478	
Fax # 701-281-2149	Fax # 701-854-7532	

Standing Rock Reservation Fact Sheet

Producers within Standing Rock

Sioux	Corson
265	867

Total---1132

Head of Cattle within Standing Rock

Sioux	Corson
34,000	68,794

Total---102,794

Estimated Hay Loss within Standing Rock
90%

Dams and Dugouts within Standing Rock
Approximately 1,200

THE GIANT CANADA GOOSE AND ITS IMPACT ON AGRICULTURE

OR

BE CAREFUL WHAT YOU WISH FOR, YOU JUST MIGHT GET IT -

AND THEN SOME!!!

Less than a decade ago, the majestic giant Canada goose was rarely seen in the prairie pothole region of Southeastern North Dakota. Once nearly extinct, the great birds were saved by a vigorous propagation and habitat restoration program pursued by state & federal government agencies; conservation & sportsmen's groups; and, agricultural land owners & operators. By the early 1990's, a few nesting pairs of the geese were established in and around the Tewaukon National Wildlife Refuge in Sargent County. Many local farmers were enthusiastic about the re-establishment of the species back in its native range. Local sportsmen and farmers co-operated with Federal & State efforts by building nesting platforms and providing sites for them. Then came the wet years, beginning in the mid-90's, when the size and number of prairie wetlands exploded as did the population of giant Canada geese. The geese prefer to graze on young, growing plants, and their nesting sites in and around wetlands adjacent to, or surrounded by, cultivated fields gave them easy access to their preferred diet.

At first, when goose numbers were small, the damage to crops was minimal and farmers were willing to tolerate it in order to help with the restoration of the species in its native range. By 1997 and 1998, however, the amount of crop damage done by the grazing broods of geese had become substantial and the farmers realized that they were becoming the victims of their own success. Damages to individual farming operations have exceeded $10,000.00 per year, in some cases. In Sargent County, which has so far borne the brunt of the depredation, an estimate of crop damage in excess of One Million Dollars is not unreasonable. The crop loss has resulted in reduced income and, as an inevitable result, decreased revenues from sales and income taxes to fund local, State & Federal government activities.

Those farmers who expressed concern about the situation were advised to try hazing and scaring the geese out of their fields. Federal & State statutes and regulations prohibited intentionally destroying birds or nests during the critical growing season for local crops. Hazing and scare techniques have proven to be ineffective. The geese learn quickly and often completely ignore the farmers' hazing efforts. About all that hazing accomplishes, if it works at all, is to move the problem from one field to another, from one farmer to his neighbor.

The population of Canada geese is now re-established in its native range and no one wants to return to the days when the geese were not plentiful on the prairies. They are magnificent birds, a great prize for the skillful and diligent sportsman and a potential economic boon for rural North Dakota, if the population is properly managed. The population is out of control at this time, however. The restoration phase for giant Canada geese in Southeastern North Dakota is now complete. It is now time for farmers, landowners, conservationists and agencies of the State and Federal government to implement a management plan that stabilizes the population at a tolerable level, compensates farmers for economic losses due to crop depredation by giant Canada geese and promotes recreational hunting opportunities for sportsmen as well as economic growth opportunities for the communities of rural North Dakota.

The farmers of Southeastern North Dakota propose a two-stage program to address the problem. The first stage of the program is compensation for those farmers who have been adversely impacted by crop depredation from the resident Canada goose population. The second stage of the program involves control of the resident giant Canada goose population by: (1) recreational hunting by resident and non-resident hunters; and, (2) a permit system allowing farmers to dispatch geese in areas where crop damage has, or is likely to, occur. Of course, the more successful the control program is, the less expensive the compensation program would be.

COMPENSATION

Giant Canada geese totally destroy the crop growing in their grazing area. As the adult geese and their goslings continue to graze, the size of the area affected increases. In some instances, geese grazing around the edges of large sloughs have consumed 40 to 50 acres of growing soybeans, corn or wheat in a single field. At a minimum, a fair and effective compensation program should: (1) reimburse the farmer for the input costs of the crop destroyed; and, (2) compensate the farmer for the revenue loss due to crop acres unintentionally diverted to Canada goose, rather than crop, production. The compensation program could be administered by the U.S.D.A.'s Farm Services Agency or by the U. S. Fish & Wildlife Service. The compensation program could be funded with revenues from: the sale of Duck Stamps; excise taxes on sporting firearms and ammunition; and, such other revenues, including general tax revenue, as may be deemed sufficient and appropriate.

CONTROL

To prevent ever-increasing amounts of crop depredation by a mushrooming population of giant Canada geese, it will be necessary to implement reasonable and common sense programs to manage the population at a tolerable level. Natural control does not appear to be a viable option as there are very few predators that will take on an adult giant Canada goose and the adults are very protective of their nests and goslings, as well. Those predators large enough to prey on the geese would be incompatible with normal life in a settled, agricultural community. Two methods are proposed for managing the giant Canada goose population: recreational hunting; and, conservation control permits that allow farmers or their designees to harvest geese that are engaged in crop depredation.

RECREATIONAL HUNTING: A Spring conservation season open to all waterfowl hunters, both resident and non-resident, of at least two weeks in duration would allow sportsmen to take the lead in the conservation effort by

harvesting surplus birds before crop depredation begins. The spring conservation season should commence no later than April 15, as many of the giant Canada geese are already nesting by that time. The current early fall season should be continued and expanded. Non-resident hunters should be allowed to participate in the early fall season without the time counting against the 14 days which the State of North Dakota allots to them during the regular fall waterfowl hunting season. The bag limit for giant Canada geese should be increased to 10 birds per day during the early fall season. Allowing non-resident hunters to participate in the spring conservation season and early fall hunting season, without penalty, would allow more sportsmen to participate in the population management program and would have the added benefit of bringing an infusion of out-of-state cash into rural communities. This is one way to turn the present economic problem into an economic development opportunity for rural North Dakota.

CONSERVATION CONTROL PERMITS: Permits should be available from May 1 through July 31 to allow farmers to legally dispatch giant Canada geese in areas where crop depredation is occurring. The States of Minnesota and South Dakota have had a permit program in place for several years. North Dakota received approval for the implementation of a permit program on June 10, 2002, but the permit applications were not made available to farmers until mid-July, too late to be useful during the current year. The permit program should allow more flexibility in its administration than is provided for in the current regulations adopted by the North Dakota Game & Fish Department. The regulations should allow farmers to utilize the assistance of sport hunters in the control process and should allow the geese dispatched to be taken from the field and utilized as the hunter sees fit, rather than requiring the destruction of the geese killed. The current regulations require the complete waste of a valuable natural resource and that needs to be changed. A tag system, similar to that now used by non-resident upland game hunters and by all big-game hunters, is proposed to make sure that no more than the allowable number of geese is taken. Permits, as well as additional tags for those farmers with a more serious

goose problem, should be readily obtainable from the County Auditor's Office in each county. The use of rifles, as well as shotguns, during the permit period is essential for effective population control and hazing purposes.

The farmers of Southeastern North Dakota co-operated with government agencies and conservation groups in re-establishing the giant Canada goose in this area. It is now time for that co-operation to continue in the form of a workable, effective program to limit crop depredation to a minimum by managing the population of these great birds.

Accompanying this introduction is a package of information containing: letters from local farmers attesting to the crop depredation suffered by their farm operations; aerial photomaps and other photos showing the damage around the nesting sites of the giant Canada geese; a copy of proposed changes to the North Dakota conservation permit regulations; and, other documents relevant to the situation. This is a serious problem that is becoming more serious with each passing year. A reasonable, rational program for dealing with the crop depredation problem is essential. We look forward to developing one prior to the 2003 crop year.

I, Doug Glarum farm in southeast Sargent County. I started seeing problems with canada geese in about 1995, and the problem has steadily gotten worse with the increase in population of the geese. I have had between 10 and 20 acres damaged every year. The problem isn't limited to soybeans as they destroy any and all crops. I have spent countless hours scaring or hazing geese out of my crops. It doesn't work!! When you scare them out of one field they go into another of your fields, or into the neighbors fields and they chase them back. I have tried propane boom guns to keep them out of my fields and this method works for about a week and then they get used to them. There has to be a solution to this problem.

Doug Glarum

DOUG GLARUM FARM

8-7-02

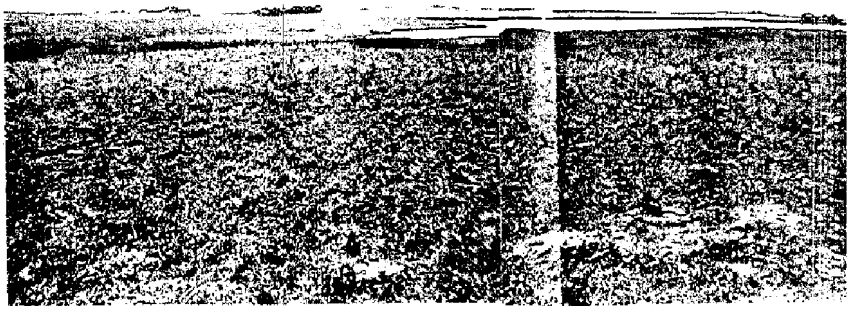
I'm sure we have lost at least 125 acres over the years to the goose damage.

125 acres times a yield of 40 BPA is 5000 bushels.

Virgil and Ivadell Woytaseak
[illegible]15 1st St. NW
Lidgerwood, ND 58053-4043

VIRGIL WOYTASSEK – WEST DUERR TWP. 7-129-52 LTL

VIRGIL WOYTASSEK – KINGSTON TWP. 24-130-53



Dear Senator Conrad, 8-4-2002

In the past 3 years the damage geese have done to the crops has gotten worse every year. We have lost at least 25 acres of beans, wheat and even some corn each year from around the sloughs and low areas.

This is all profit lost, when it is hard to make a profit at all.

Now, when we prove our yields for the new farm program, those bushels lost will affect our payments every year.

Last year we chased geese from our fields and they went to the neighbors field and destroyed a big area of his crop.

Mike Fock
Duane Fock

My name is Randy Pearson. I have farmed in Sargent County since 1971. I raise corn, wheat, and soybeans.

The last few years we have had a problem with Canada geese eating our soybeans.

When the geese were introduced into the area I thought it was great to have these magnificent birds strolling through our wheat and bean fields. I would often stop the tractor to get off and move the goslings out of harms way.

My opinion of the geese and my reactions to them have changed dramatically. I no longer worry if an implement happens to come in contact with a gosling. We spend one to two hours per day chasing geese out of our fields.

Pictures I have taken this year show damage from geese eating the beans as they come up. We hazed the geese out of the area but the damage was already done. With most of the beans gone, weeds take over those areas of the fields.

Due to our hazing efforts we don't have much damage this year (probably half an acre). Two years ago in this same area we lost two acres. Four years ago we lost ten to twelve acres.

Hazing does work, but I would rather it didn't have to become a regular farming practice.

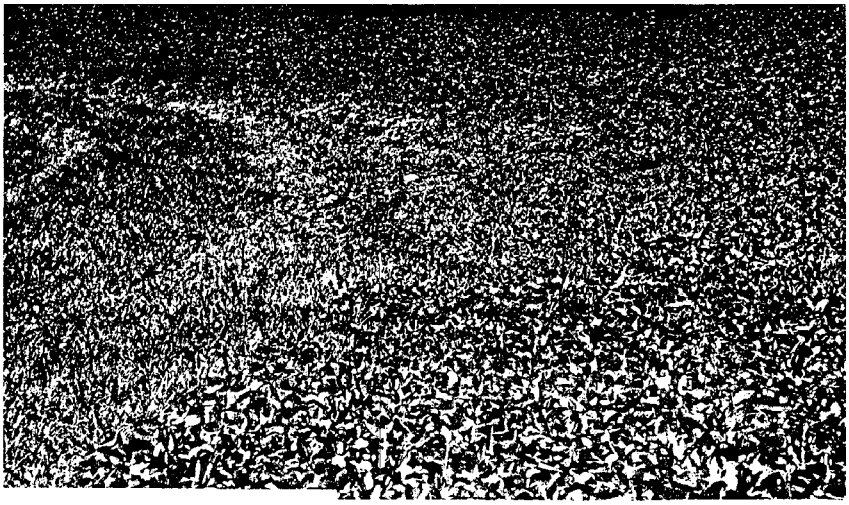
There has to be a better way. Two suggestions would be an early spring season or permit farmers to shoot the geese with shotguns or rifles.

Respectfully,

Randy Pearson

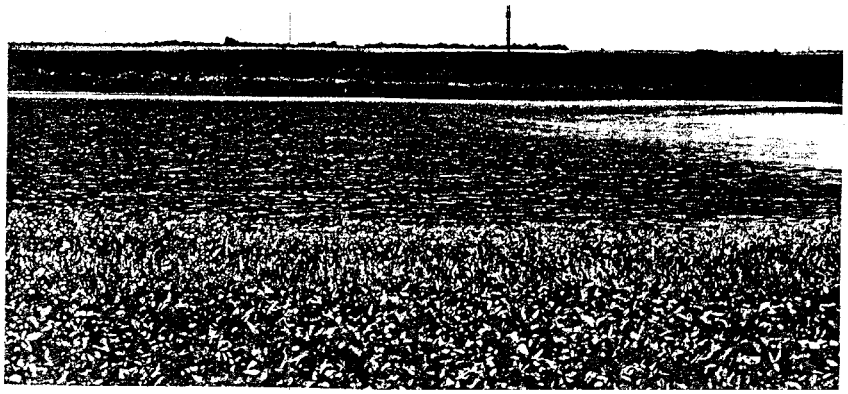
Randy Pearson

Randy Pearson W½ 29-130-55 LTL Due to goose depredation the end result is a poor stand of soybeans.



Randy Pearson W½ 29-130-55 LTL

Randy Pearson W½ 29-130-55 LTL



The native Canada goose population inhabiting the cropland that we farm has geometrically increased from the rare novelty of sighting a pair of geese nesting in 1993 to that of geese numbers exploding out of control by 2002.

Crop depredation has increased steadily since 1996. We began using scaring and hazing methods in 1997.

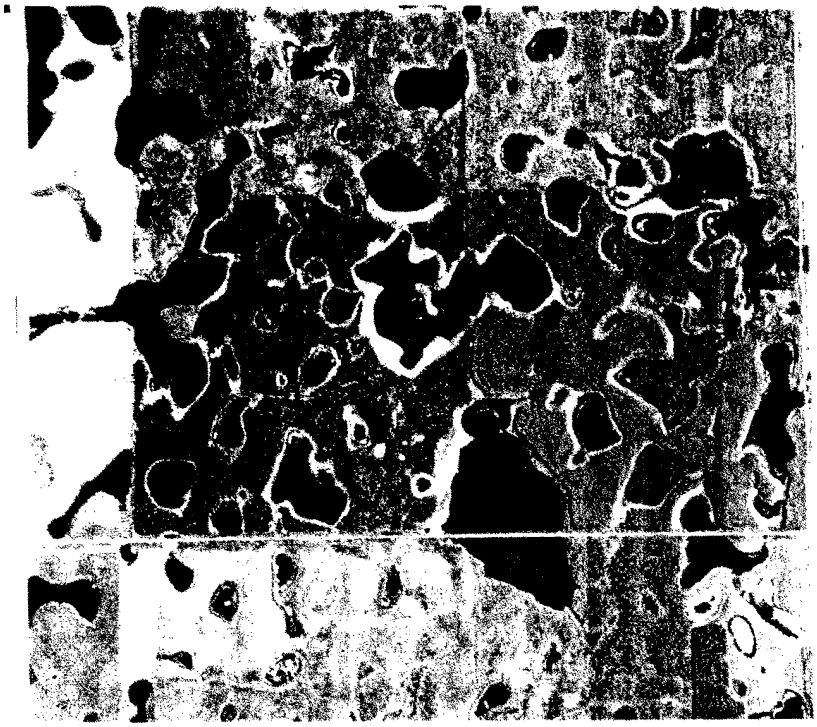
A conservative estimate of crop acres destroyed by Canada geese since 1999 is as follows:

YEAR	ACRES	ECONOMIC LOSS*
1999	50	$14,500
2000	100	24,500
2001	25	9,500
2002	28	10,000
		$58,500

More aggressive goose control methods were employed after a $24,500 economic loss in 2000. Undoubtedly we would have incurred losses in excess of $35,000 annually in 2001 and 2002 had we not done so.

STEVE, MIKE & MARK WYUM
Rutland, ND

* Crop revenue depredation plus hazing and scaring geese expense.



Farmer: Mike Wyum

Land Description: 3-130-54

Year/Crop: 1999/Soybeans

Area Effected: 16 acres

Estimated Financial Loss: $3,200

Farmer: Mark Wyum/Grant Gulleson

Land Description: 20/21-130-54

Year/Crop: 2000/Soybeans

Area Effected: 34 acres

Estimated Financial Loss: $6,800

RURAL COMMUNITY INSURANCE SERVICES

MPCI SUMMARY OF LOSS

Policy #: 2002 33-951-021258 Claim #: 707795
County: SARGENT 081

QUENTIN HOISTAD
13646 94TH ST SE
RUTLAND ND 58067-9412
PHONE: (701) 724-6308

Page: 1
Date: 7/22/02

TOTAL NET LOSS	$2,402.00
PREVIOUS PAID AMOUNTS	$.00
PREMIUM CREDIT	$1,329.00
FCIC ADMIN FEE CREDIT	$90.00
AMOUNT OF CHECK	$983.00

33-3000 FIRST NATIONAL INS AGENCY INC
419 MAIN ST
PO BOX 9
MILNOR ND 58060-0009

PHONE (701)427-5215

*PREMIUM BALANCE DUE $.00

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ ACRE	LPO	LAF	ADJ GUAR	PROD TO COUNT	PRICE	SHARE	PAYABLE
CORN	01 34	2903	44.00	003	016	UH	56.30	N	N	2477.00	1276.00	2.00	1.000	2402

Production should have been 6820 bu. at 44 A. @ 155 bu. per A. @ $2.00 per bu. is $13,640.00.

Due to geese depredation I received $2402.00 from MPCI.

This is a loss of $11,238.00

Also lost 21 A. of soybeans to geese.

Claim is pending.

*BALANCE

Mpsolchk.frm

CROP Y
POLICY
LEGAL N
TAXID N

CORREC

SOCIAL S

I CERTIF

IMPORTANT TAX INFORMATION

THE IRS REQUIRES YOU TO PROVIDE US WITH THE CORRECT TAXPAYER IDENTIFICATION NUMBER WHEN AN INDEMNITY HAS BEEN ISSUED.

IF THE INFORMATION SHOWN IS CORRECT YOU MAY DISREGARD THIS REQUEST. PRINT ANY CORRECTION TO THE LEGAL NAME OR NUMBER IN THE SPACE PROVIDED AND RETURN TO RCIS ACCOUNTING DEPARTMENT 3501 THURSTON AVENUE, ANOKA MN 55303-1060

___ ___ - ___ ___ ___ ___ ___ ___ ___
FEDERAL EMPLOYER TAX ID NUMBER

SIGNATURE DATE

8-5-02

A statement by Bill and Jerry Woytassek. We farm in southeastern Sargent County. Addressing the Canada goose problem in our area. In 1998 was the first year we had some goose damage, 1999 was worse. They destroyed about 50 acres of wheat and beans. Every year since then has been worse. We are told by the USFW and or NDGF we can haze geese. I have spent 50 to 100 hours hazing geese in the past year. Hazing geese does not work. We need to find to find a better way to control this problem.

Wm Woytassek aug. 7, 2002

Jerry Woytassek 8-7-02

7-31-02
Cayuga, N.D.

U.S. Senator Kent Conrad

Dear Sir,

My name is Harvey Bergstrom. My wife and I own and operate my third generation family farm in Ransom twp of Sargent County. We raise wheat, soybeans, corn, & beef cattle.

We live and farm near Lake Tewaukon National Wildlife Refuge near Cayuga. Over the last several years, our crops have been severely damaged on part of our land namely the N.E. 1/4 Sec. 35 in Ransom twp. We have lost up to 50 acres of crop due to Canada goose depredation. While we have tried several methods of control such as scare guns, firecrackers, scare crows, hazing, etc, nothing is really effective. I don't feel it should be up to us to patrol our fields every day as we have to spend time elsewhere on the farm. I would like to see more things being done to control the depredation problem such as early season to hunt Canada geese. Another thing that would be good would be to allow farmers some sort of compensation for our losses. We cannot go on year after year and get nothing for our efforts and expenses.

The state game and fish department have sent out applications for special kill permits but after reviewing their material and seeing

what they are requesting, I find their regulations totally unacceptable. For one thing only shotguns can be used, but they are only a short range firearm and when you get out to the fields you cannot get close enough to be in shotgun range and the geese are gone. After you leave the field they are back.

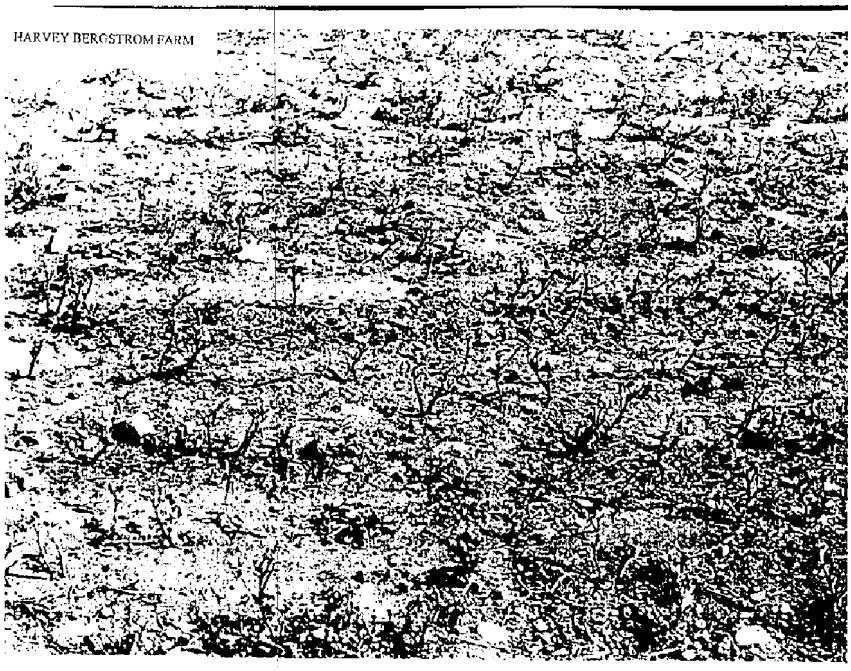
In the photo presentation you will see photos of our losses as well as many other losses.

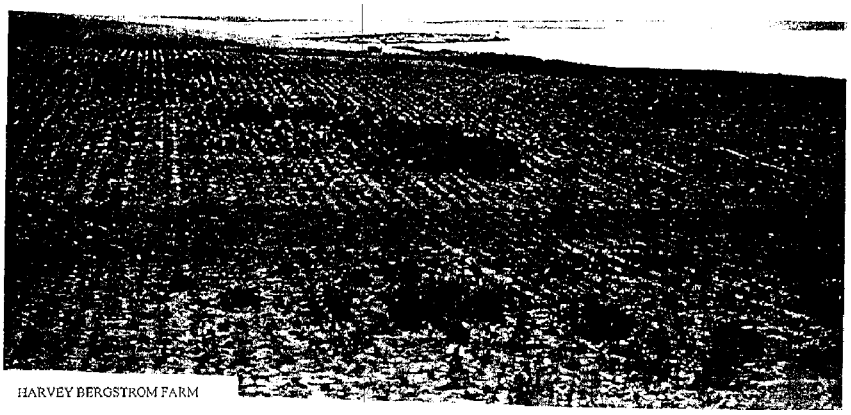
Senator Conrad, I appreciate everything you've done for us over the years you've been in office and I'm very confident that you will work for us again in the matter of Canada goose depredation in North Dakota fields.

Respectfully yours,
Harvey M. Bugstad

HARVEY BERGSTROM FARM

HARVEY BERGSTROM FARM


HARVEY BERGSTROM FARM



HARVEY BERGSTROM FARM

HARVEY BERGSTROM FARM

Farmer: Dennis Pherson Farmer: Harvey Bergstrom

Land Description: 35-130-54

Year/Crop: 2000/Soybeans

Area Effected: 15 acres Area Effected: 50 acres

Estimated Financial Loss: $3,000 E.F.L.: $10,000

To Whom It May Concern:

My name is Andy Hoflen, I am a farmer-landowner in Ransom Township, Sargent County, North Dakota. I farm nine (9) quarters – corn, soybeans, wheat and cattle. The Canada goose eating of soybeans and corn in the spring has gotten to very unacceptable levels and we farmers need help to legally control the situation.

Six years ago the local Canada geese destroyed 16 acres of sunflowers for me. Methods I have used since then to protect my crops include hazing and scarecrows with some luck. Chasing the geese only puts them in the neighbor's fields until they chase them back and one year the scarecrows worked and the next the geese grazed right around them. I leave several quarters of cropland unposted every year and allow limited hunting on most of the rest.

Suggestions that could be done are: 1. On the federal level – work to open hunting in spring. I know E.I.S. takes a long time so get started. ALSO allow states to get more liberal limits during fall hunts; 2. State Game and Fish can set limits on Canada geese as high as federal allows and give greater flexibility on shooting permits, i.e. allow rifles and utilization of birds by designated shooters. 3. The North Dakota state legislature can remove early Canada goose hunt from non-residents two week of waterfowl and let them help us out more. 4. Resident hunters could use early season to make landowner contacts and get themselves a place to hunt later in the year.

Sincerely,

Andy Hoflen

Andy Hoflen

Cayuga, ND
August 6, 2002

To whom it may concern:

My farm is located in Sargent county Paddock township section 2 bordering the national wildlife refuge. Being a landowner that has seen this problem of local geese over-populating over the years, a plan need be implemented!

The policy or lack of in the management of the geese is nothing but a farce! I have "put up" for years with the destruction of crops in various amounts.

To keep the geese from being harassed or killed, the new ideas from the people concerned not just be "heard" but action must be taken.

A concerned landowner,
Rollie Kiefer
9820 143 AVE SE
Cayuga ND 58013

8-7-02

I Shane Breker have lost 5 to 10 acres of cropland since 1995 because of the Candraian Goose population

Shane Breker

I, Delores Breker have lost 5 to 10 acres of crop because of the Candaian Geese population.

Delores Breker

8-7-02

Hassebroek Farm
David and Julie Hassebroek
12377 97th St SE
Cogswell, ND 58017
701-724-3386

We have had damage to crops from geese feeding in early spring for the past three years. The damage begins early and continues through the summer. Portions of our soybean fields have been totally striped of soybean vegetation.

Estimated acres and cost per year are:

2000	6 acres	Economic loss of: $1,200
2001	5 acres	Economic loss of: $1,000
2002	4 acres	Economic loss of: $800

When this type of damage occurs, it creates long term damage to the land in heightened weed problems and water erosion because the ground is laid bare.

Our hope is that we can work together to find solutions to this problem.

Sincerely,

David & Julie Hassebroek

David and Julie Hassebroek

Farmer: David Hassebroek
Land Description: sec 5 - 129 - 56
Year/Crop: 2000 Soybeans
Affected Area: 6 Acres
Estimated Financial Loss: $1,200

Tom 724-3776
Brad 724-3204

Tom + Brad Wyum
13835 89th St SE
Rutland ND 58067

Sargent County 2000 Ac farmed 5 miles North of Rutlan
Dickey, Brown County 2000 Ac farmed 20 miles South West of Oak

In Sargent County we have had crop loss the last 7 years from Canada Geese. It is hard to put a figure on the # of acres lost each ye The first few years we just looked past the problem and enjoyed participating in the hunting of the geese during the fall season The problem worsened each year and in 1999 we lost aprox 30 acres, 2000 Nearly the same. In 7 years we guess we have had all of 80 acres lost.

We now spend Many hrs a week hazing geese. This, besides the time spent, cost much for gas, Shells + agravation.

60 days x 2.5 hrs/day x $10.00/hr = $1500.00/y
3 yrs we have been doing this 3 x 1500 = 4500
Milage 1200 mi/yr x 3 yrs = 3600 mi x .30 = $1000
Shot gun + rifle Shells 500.00

80 acres lost x 200 16000.00
The problem is beginning on our land in Dickey + Brown Co. and will be the same in a few years. $23500.00

Sargent Cou...
Of Commissioners

PO Box 177
Forman ND 58032-0177
Phone: (701) 724-6241 EXT 110
FAX: (701) 724-6244

Steven Wyum, Rutland – 1st District
Donald Wehlander, DeLamere– 2nd District
William E. Smith, Forman – 3rd District
Karen Anderson, Havana – 4th District
Ray Brockman, Stirum – 5th District

August 8, 2002

Senator Kent Conrad
530 Hart Senate Office Building
Washington DC 20510

Dear Senator Conrad:

The Sargent County Board of Commissioners discussed the damage done to growing crops by the large Canada goose population in this area, as well as possible actions to alleviate the problem.

A delegation of local producers is scheduled to meet with you later this month to discuss a more flexible and reasonable plan to control this problem.

Steve Wyum introduced the following resolution and moved its adoption:

WHEREAS, residence Canada goose depredation of cropland has been a recurring severe economic loss for Sargent County producers,
BE IT RESOLVED, that the Sargent County Board of Commissioners endorses the initiatives by local producers to engage our US Congressional delegates, US Fish and Wildlife Service and ND Game and Fish Dept. in expediting solutions to this devastation.

Bill Smith seconded the motion. Roll call vote. Voting yes: Wyum, Smith, Anderson, Wehlander and Brockman. Voting no: none. The resolution was duly declared carried and adopted and copies will be sent to each of the parties shown above.

We hope you are available to attend this meeting with the producers and give this problem much needed consideration.

Sincerely,

Ray Brockman

RAY BROCKMAN, CHAIRMAN
SARGENT COUNTY COMMISSION

Sargent County Board Of Commissioners

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Forman ND 58032-0177
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Donald Wehlander, DeLamere– 2nd District
William E. Smith, Forman – 3rd District
Karen Anderson, Havana – 4th District
Ray Brockman, Stirum – 5th District

August 8, 2002

Senator Byron Dorgan
713 Hart Senate Office Building
Washington DC 20510

Dear Senator Dorgan:

The Sargent County Board of Commissioners discussed the damage done to growing crops by the large Canada goose population in this area, as well as possible actions to alleviate the problem.

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Bill Smith seconded the motion. Roll call vote. Voting yes: Wyum, Smith, Anderson, Wehlander and Brockman. Voting no: none. The resolution was duly declared carried and adopted and copies will be sent to each of the parties shown above.

We ask your support in this endeavor.

Sincerely,

Ray Brockman

RAY BROCKMAN, CHAIRMAN
SARGENT COUNTY COMMISSION

Sargent County Board Of Commissioners

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Karen Anderson, Havana – 4th District
Ray Brockman, Stirum – 5th District

August 8, 2002

Representative Earl Pomeroy
1533 Longworth House Office Building
Washington DC 20515

Dear Representative Pomeroy:

The Sargent County Board of Commissioners discussed the damage done to growing crops by the large Canada goose population in this area, as well as possible actions to alleviate the problem.

A delegation of local producers is scheduled to meet with Senator Conrad later this month to discuss a more flexible and reasonable plan to control this problem.

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Ray Brockman, Stirum – 5th District

August 8, 2002

Dean Hildebrand, Director
North Dakota Game and Fish Dept.
100 North Bismarck Expressway
Bismarck ND 58501-5095

Dear Director Hildebrand:

The Sargent County Board of Commissioners discussed the damage done to growing crops by the large Canada goose population in this area, as well as possible actions to alleviate the problem.

A delegation of local producers is scheduled to meet with you later this month to discuss a more flexible and reasonable plan to control this problem.

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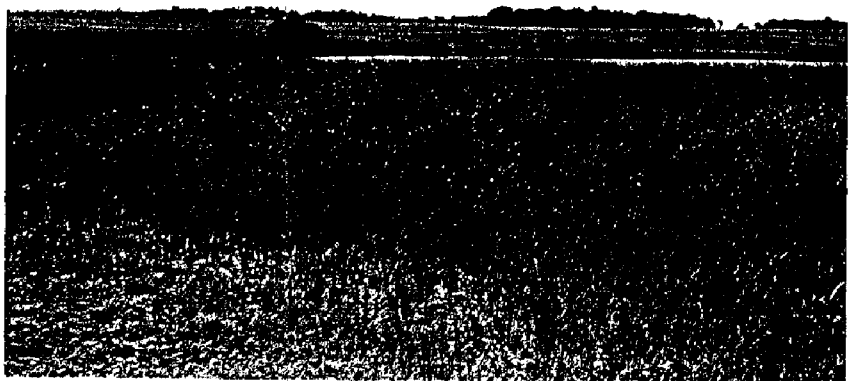
We hope you are available to attend this meeting with the producers and give this problem much needed consideration.

Sincerely,

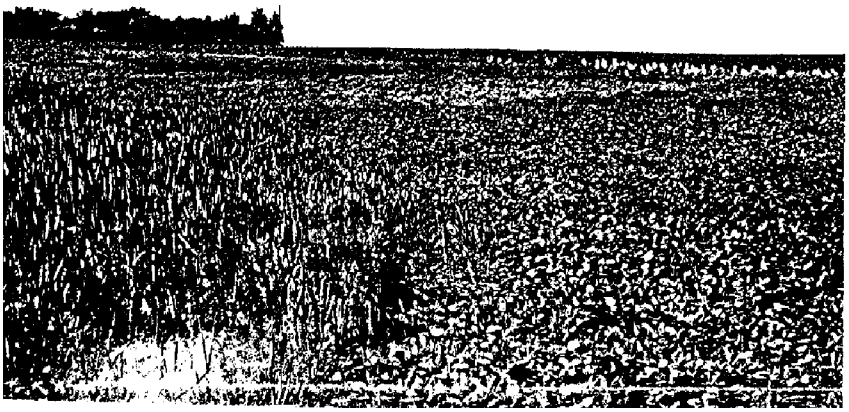
Ray Brockman

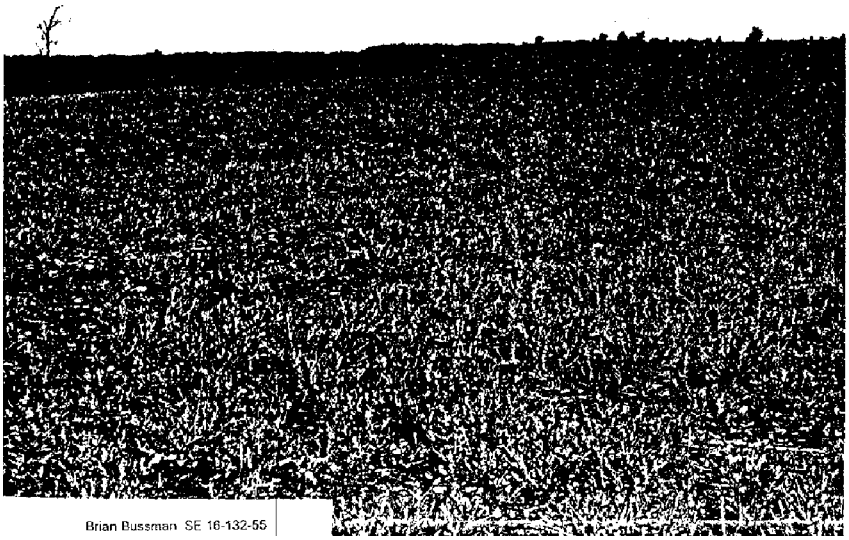
RAY BROCKMAN, CHAIRMAN
SARGENT COUNTY COMMISSION

Brad & Jay Johnson NW 31-132-54 Dirt area in background is 10 acres of soybeans totally destroyed.

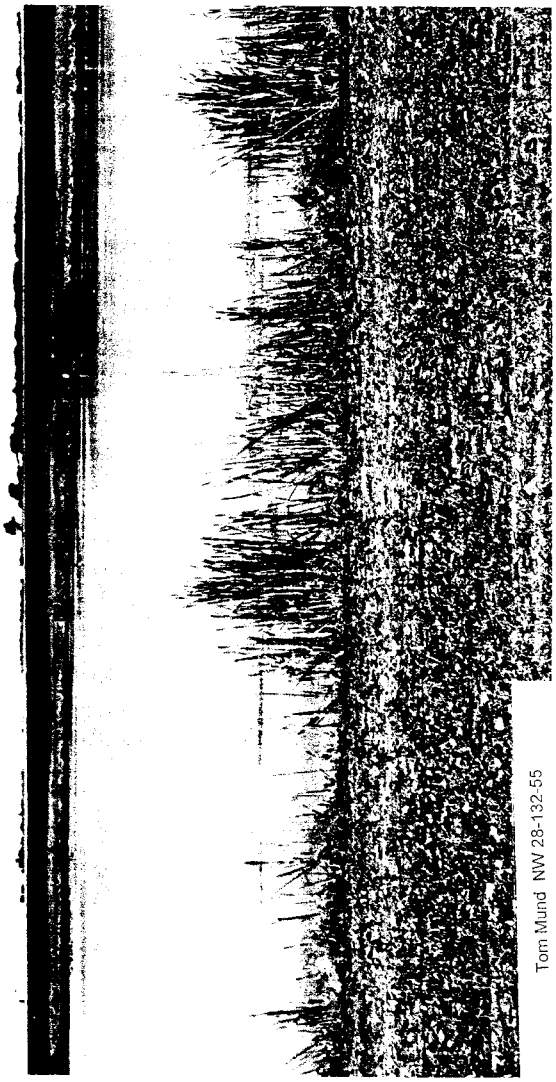


Brian Bussman SE 16-132-55




Brian Bussman SE 16-132-55

Tom Mund NW 28-132-55 This field was seeded right to the water.



Tom Mund NW 28-132-55

Tom Mund NW 28-132-55

Farmer: Joe Breker
Land Description: 32-130-54
Year/Crop: 2001/Soybeans
Area Effected: 15 acres
Estimated Financial Loss: $3,000

Farmer: Joe Breker

Land Description: 32-130-54

Year/Crop: 2001/Soybeans

Area Effected: 15 acres

Estimated Financial Loss: $3,000

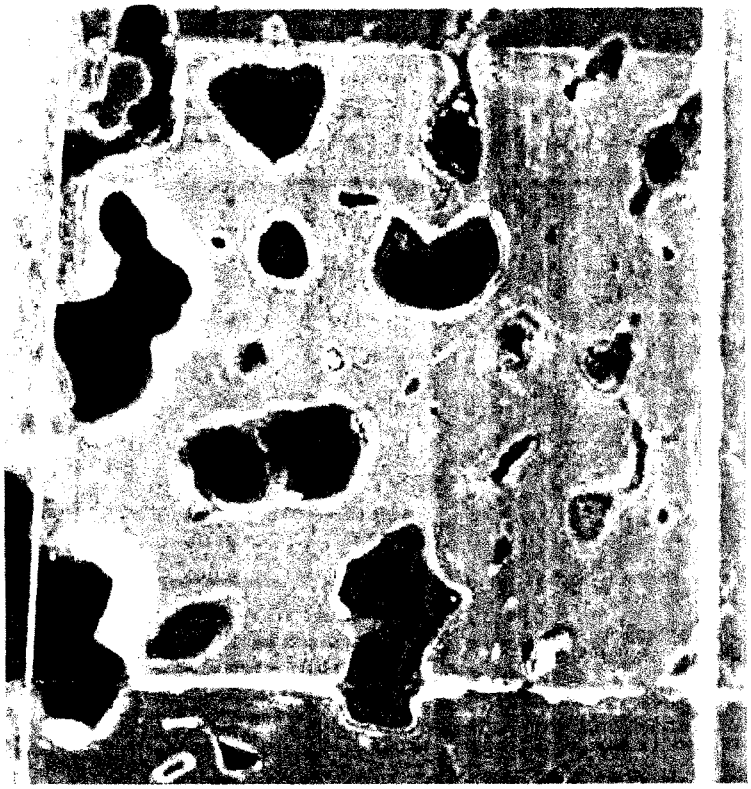
Farmer: Mike Walstead

Land Description: 20-130-55

Year/Crop: 2001/Soybeans

Area Effected: 15 acres

Estimated Financial Loss: $3,000



Farmer: Dennis Pherson

Land Description: 25-130-55

Year/Crop: 2001/Soybeans

Area Effected: 14 acres

Estimated Financial Loss: $2,800

Farmer: Dennis Pherson

Land Description: 3-129-55

Year/Crop: 2000/Soybeans

Area Effected: 25 acres

Estimated Financial Loss: $5,000

Farmer: Kurt Breker

Land Description: 23-130-54

Year/Crop: 2000/Soybeans

Area Effected: 10 acres

Estimated Financial Loss: $2,000

EXPERIMENTAL 2003 SPECIAL CANADA GOOSE PERMIT

Personal Information of Producer Requesting Permit (must sign and date on the bottom of this form)

(Last Name)	(First Name)	(Middle Initial)
(Address)		
(City)	(State)	(Zip)
(Home Phone)	(Work Phone)	

Location of Producer's Owned or Leased Land Where Canada Goose Control Activities Will Be Conducted.
I intend to use the special Canada goose permits on the following land I own or lease:

(Land Descript. – Sect., Rnge, Twp, and Co.)	(Type of Crop)	(Acres)

Conditions
The following conditions and stipulations will apply to all of the Special Canada goose permits the ND Game and Fish Department (NDGFD) approves and issues to producers in 2003:

1. Permits will be valid Statewide from May 1 through July 31 of each year;
2. Permitted control activity limited to resident Canada geese;
3. All individuals authorized (control agents) by permit to remove geese must have permit tags in their possession when carrying out any control activities;
4. Permits will not be granted to, nor can a producer list, a control agent that is less than 18 years of age unless they have obtained a Hunter Safety Certificate;
5. The property owner or occupant of the land in which control activities have been permitted must allow, at all reasonable time, including during actual operations, free and unrestricted access to any US Fish and Wildlife Service (FWS) special agent, FWS refuge officer, or NDGFD warden on the premises where they are, or were, conducting activities;

6. A signed request for a permit from the producer must be submitted to NDGFD. Applications may be submitted after January 1 of each year. Applications will be available at the County Auditor's Office and on the NDGFD Internet website. The County Auditor is authorized to issue additional permit tags to approved permit holders upon request;
7. The permit holder will keep a record of the names, addresses and personal identification of all persons acting as control agents, subject to inspection by NDGFD and FWS enforcement personnel upon request;
8. Permitted control activity will be limited to producer's owned and rented/leased property (land description of property must be specified on permit request);
9. Permits will allow the removal of up to 20 Canada geese (any age) per producer. Additional permit tags will be issued upon request;
10. Permits will allow the use of shotguns and rifles. All permit tag holders will wear blaze orange vests when conducting control activities;
11. Calls and decoys will not be allowed for control activities;
12. Permit holders shall keep a record of the number of geese dispatched;
13. Geese dispatch may not be available for sale, barter, or shipped for sale or barter including their plumage or eggs;
14. It is recommended that all geese dispatched be tagged and removed from the field.

If a violation of these conditions or stipulations should occur, the act will be considered an illegal take of a migratory bird and the individual(s) involved will be charged as per Chapter 20.1-04 of the North Dakota Century Code or the Federal Migratory Bird Treaty Act and will be ineligible for a future special Canada goose permit. A permit will not be granted to any producer, nor can a producer name a control agent, that is involved in any state or federal wildlife investigation (associated with Canada goose depredation control). No permits will be granted retroactive. Any taking of Canada geese, nests or eggs prior to permit issuance will be considered a violation of appropriate State and Federal regulations.

By signing this Special Canada Goose Permit Request, I knowingly accept the responsibilities of a Canada goose control agent designated by the North Dakota Game and Fish Department and certify that I have read, understand, and agree to comply with all the conditions and stipulations associated with lethal Canada goose control activities.

Signature of Producer _____ Date Signed _____

Approved By: (ND Game and Fish Director) _____ Date Signed _____

COMMENTARY ON CURRENT RESIDENT CANADA GOOSE PERMITS

Resident Canada Goose crop depredation in much of southeastern North Dakota is causing intolerable economic loss to producers – leads to reduced disposable income to support ND businesses and results in decreased sales and income tax revenue.

The present Experimental Resident Canada Goose permit for 2002 is a small step in the right direction. However, it is far too little and much too late.

We propose the following changes to these permits for the 2003 calendar year:

1. Eliminate provision for "prior crop depredation documentation with USDA Wildlife and exhausted other prevention methods as described by USDA Wildlife Services."

This problem is too widespread – many landowners and renters have already assumed (and correctly so) that the prescribed prevention methods just pass the problem on to the neighbors' fields and US Fish and Wildlife Service already acknowledges the problem exists, so the producer should not have to bear additional financial hardship to document his own problem. The provision for consultation and written recommendation from USDA personnel is reasonable. This will encourage cooperation in kill permit education.

2. Permit allowance of 20 Canada geese (any age) per permit is reasonable. Each permit should have 20 tags accompanying it for goose identification.

However, the vast majority of producers will need to eliminate multiples of this permit allowance to alleviate their depredation problem. A simple and swift process is crucial to receive multiple permits as needed May – July.

3. The permit holder will keep a list of names and personal information of control agents – subject to inspection by NDGFD.

4. Permit <u>must</u> include option to use rifles. Hazing or scaring with shotguns alone simply passes the goose problem to the neighbors' fields.

5. Eliminate provision language for saving goose heads, burying and burning. Replace with the provision, "it is recommended that all resident Canada geese taken be tagged and removed from the field."

Additionally, we suggest that permit applications be allowed beginning January 1 of each year and utilize the County Auditor's office as a location to obtain additional goose permits as needed.

Crop producer representation is critical when determining the maximum allowable permits available.

Permit # _____

EXPERIMENTAL 2002 SPECIAL CANADA GOOSE PERMIT

This Special Canada Goose Permit must be accompanied by a written recommendation from USDA Wildlife Services

Personal Information of Producer Requesting Permit (must sign and date on the bottom this form)

(Last Name)	(First Name)	(Middle Initial)
(Address)		
(City)	(State)	(Zip)
(Home Phone)	(Work Phone)	

Location of Producer's Owned or Leased Cropland Where Canada Goose Control Activities Will Be Conducted

I intend to use the special Canada goose permits on the following cropland I **own**:		
(Land Descript. – Sect., Rnge, Twp, and Co.)	(Type of Crop)	(Acres)
I intend to use the special Canada goose permits on the following cropland I **lease**:		
(Land Descript. – Sect., Rnge, Twp, and Co.)	(Type of Crop)	(Acres)

Personal Information of Control Agents Designated by the Producer on His Own/Leased Cropland (Maximum of Five – Each must sign and date on the bottom this form)

1. (Last Name)		(First Name)		(Middle Initial)
(Address)				
(City)		(State)		(Zip)
(Home Phone)	(Work Phone)	(Age)	(Sex)	(Hunter Safety #)
2. (Last Name)		(First Name)		(Middle Initial)
(Address)				
(City)		(State)		(Zip)
(Home Phone)	(Work Phone)	(Age)	(Sex)	(Hunter Safety #)

3. (Last Name)		(First Name)		(Middle Initial)
(Address)				
(City)		(State)	(Zip)	
(Home Phone)	(Work Phone)	(Age)	(Sex)	(Hunter Safety #)
4. (Last Name)		(First Name)		(Middle Initial)
(Address)				
(City)		(State)	(Zip)	
(Home Phone)	(Work Phone)	(Age)	(Sex)	(Hunter Safety #)
5. (Last Name)		(First Name)		(Middle Initial)
(Address)				
(City)		(State)	(Zip)	
(Home Phone)	(Work Phone)	(Age)	(Sex)	(Hunter Safety #)

Conditions

The following conditions and stipulations will apply to all of the Special Canada goose permits the ND Game and Fish Department (NDGFD) approves and issues to producers in 2002:

- permits will be valid statewide from June – July (Would be available from May-July in future years)
- permitted control activity is limited to resident Canada geese
- all individuals authorized (control agents) by permit to remove geese must have a copy of the permit in their possession when carrying out any control activities
- permits will not be granted to, nor can a producer list, a control agent that is less than 18 years of age unless they have obtained a Hunter Safety Certificate.
- the property owner or occupant of the land in which control activities have been permitted must allow, at all reasonable time, including during actual operations, free and unrestricted access to any US Fish and Wildlife Service (FWS) special agent, FWS refuge officer, or NDGFD warden on the premises where they are, or were, conducting activities
- permit approval will require consultation and written recommendation from USDA Wildlife Services personnel
- a signed request for a permit from the producer must be submitted to NDGFD
- producer must have prior documented Canada goose crop depredation with USDA Wildlife Services and exhausted other prevention methods as prescribed by USDA Wildlife Services
- producers must designate and list the name and personal information of all individuals (up to five) who will serve as control agents on his/her property
- permitted control activity will be limited to producer's property and crop fields (land description of property must be specified on permit request)
- permits will allow the removal of up to 20 Canada geese (any age) per producer
- permits will allow only the use of shotguns (less than or equal to 10 gauge in size) with non-toxic shot (the intent of the permitted control activity is not the elimination of geese but to improve the effectiveness of non-lethal scaring and hazing tools by using them in concert with a lethal tool. Rifles used at long distances may be an effective means to remove birds but do not scare or teach other geese to avoid the field or area.)
- shooting and removal of geese must be used in combination with other non-lethal scaring devices
- calls, blinds, and decoys will not be allowed for control activities
- all geese dispatched and disposed of must be documented and reported to NDGFD on report form

- geese dispatch may not be available for sale, barter, or shipped for sale or barter including their plumage or eggs
- producer must retrieve and remove a head of each goose taken to be kept in a frozen condition and have available for inspection by the NDGFD as documentation
- permits will require the burning or burying of the remaining goose carcass (Buried geese must be in the ground, covered by a least 6 inches of soil with no protruding parts. Burned geese must be completely destroyed by fire so no useable parts remain.)

If a violation of these conditions or stipulations should occur, the act will be considered an illegal take of a migratory bird and the individual(s) involved will be charged as per Chapter 20.1-04 of the North Dakota Century Code or the Federal Migratory Bird Treaty Act and will be ineligible for a future special Canada goose permit. A permit will not be granted to any producer, nor can a producer name a control agent, that is involved in any state or federal wildlife investigation (associated with Canada goose depredation control). No permits will be granted retroactive. Any taking of Canada geese, nests or eggs prior to permit issuance will be considered a violation of appropriate State and Federal regulations.

By signing this Special Canada Goose Permit Request, I knowingly accept the responsibilities of a Canada goose control agent designated by the North Dakota Game and Fish Department and certify that I have read, understand, and agree to comply with all the conditions and stipulations associated with lethal Canada goose control activities.

Signature of Producer — Date Signed

Signature of Agent #1 — Date Signed

Signature of Agent #2 — Date Signed

Signature of Agent #3 — Date Signed

Signature of Agent #4 — Date Signed

Recommended By: (ND Game and Fish Department) — Date Signed

Approved By: (ND Game and Fish Director) — Date Signed

Send to: **ND Game and Fish Department**
100 N. Bismarck Expressway
Bismarck, ND 58503

Fact Sheet

Experimental 2002 Special Canada Goose Permits

North Dakota Game and Fish Department
June 2002

Resident Canada goose populations in North Dakota have been on a steady increase in recent years. Consequently, the number and severity of complaints from agricultural producers concerning Canada goose damage to commodity crops has also been on the rise.

To address these Canada goose depredation challenges, USDA Wildlife Services, with funding provided by the North Dakota Game and Fish Department (NDGFD), has worked with producers, using scaring and hazing devices (e.g., propane cannons, flagging, cracker shells, kites, etc.), fencing, and natural barriers. The Department also implemented an early September Canada goose management season in Richland and Sargent counties in 1999 and statewide in 2000 and 2001. In addition to these activities, NDGFD decided this spring to pursue special Canada goose permits, an approach used in other states for several years, and analyze their use and effectiveness in North Dakota. NDGFD hopes by adding these special permits to the arsenal of integrated tools and methods already used for minimizing and alleviating goose-inflicted crop damage, the effectiveness and success of all the prevention methods may be increased.

In May of this year, NDGFD applied to the U.S. Fish and Wildlife Service (FWS) for the authorization to obtain and issue special Canada goose permits on a trial basis. Realizing the initial year for using this new method would require extensive coordination and set-up, the Department requested the authority to remove 2,000 geese as a conservative but manageable starting point.

The intent of the program is to focus on Canada goose depredations associated with agricultural commodity crops, not nuisance geese on golf courses, city parks, or housing developments. Legal hunting seasons are used to manage populations. It is essential producers faced with Canada goose use hunting seasons to their full potential to reduce increases in local birds. This program is not a hunting season and is not intended to be a means of population control. Removing some geese in conjunction with other hazing and scaring tactics is known to be an effective way to produce a learned response in geese by teaching them to avoid specific fields or areas where these activities are being conducted. Shotguns rather than rifles have the ability provide this learned response. Rifles used at long distances may easily eliminate birds but this tactic does not scare or teach other birds in the flock to avoid the area.

The FWS mandates specific standards and guidelines be followed for conducting authorized control activities (see attached 50 CFR Sec. 21.26), summarized as follows:

- control activities are limited to resident Canada geese
- all geese dispatched and their disposition must be documented and reported
- geese dispatched may not be available for sale, barter, or shipped for sale or barter including their plumage or eggs
- all geese dispatched must be burned or buried
- all individuals authorized by permit to dispatch geese must have a copy of the permit in their possession when carrying out any control activities
- the property owner or occupant of the land in which control activities have been permitted must allow, at all reasonable time, including during actual operations, free and unrestricted access to any FWS special agent or refuge officer or NDGFD warden on the premises where they are, or were, conducting activities

In addition to these federal restrictions, the NDGFD established a set of conditions and stipulations by which it will issue special Canada goose permits. The following conditions and stipulations will apply to all of the special Canada goose permits the NDGFD approves and issues to producers in 2002:

- permits will be available statewide from June – July (Would be available from May-July in future years)
- program will require producer to submit a signed permit request to NDGFD
- permit approval will require consultation and written recommendation from USDA Wildlife Services personnel
- producer must have prior documented Canada goose crop depredation with Wildlife Services and exhausted other prevention methods as prescribed by Wildlife Services specialists
- program will require the producer to designate and list the name, address, and phone number of all individuals (up to five) who will serve as control agents on his/her property
- permits will not be granted to, nor can a producer list, a control agent that is less than 18 years of age unless they have obtained a Hunter Safety Certificate.
- permit will only be valid on producer's property and crop fields (land description of property must be specified on permit request)
- permits will allow the removal of up to 20 Canada geese (any age) per producer
- permits will allow only the use of shotguns (less than or equal to 10 gauge in size) with non-toxic shot (The intent of the permitted control activity is not the elimination of geese but to improve the effectiveness of non-lethal scaring and hazing tools by using them in concert with a lethal tool. Rifles used at long distances may be an effective means to remove birds but do not scare or teach other geese to avoid the field or area.)
- shooting and dispatching of geese must be used in combination with other non-lethal scaring devices

- calls, blinds, and decoys will not be allowed for control activities
- permits will require the producer to remove a head of each goose taken to be kept in a frozen condition and have available for inspection by the NDGFD as documentation
- permits will require the burning or burying of the remaining goose carcass. (Buried geese must be in the ground, covered by a least 6 inches of soil with no protruding parts. Burned geese must be completely destroyed by fire so no useable parts remain.)

If a violation of these conditions or stipulations should occur, the act will be considered an illegal take of a migratory bird and the individual(s) involved will be charged as per Chapter 20.1-04 of the North Dakota Century Code or the Federal Migratory Bird Treaty Act and will be ineligible for a future special Canada goose permit. A permit will not be granted to any producer, nor can a producer name a control agent, that is involved in any state or federal wildlife investigation (associated with Canada goose depredation control). No permits will be granted retroactive. Any taking of Canada geese, nests or eggs prior to permit issuance will be considered a violation of appropriate State and Federal regulations.

U.S. Fish & Wildlife Service

News Release

March 4, 2002

Service Releases Draft EIS on Resident Canada Geese

News Releases Home Page

Search the News Releases
U.S. Fish & Wildlife Service Home

Contacts

Chris Tollefson 202-208-5634

Dario Bard 202-208-5634

The U.S. Fish and Wildlife Service is proposing the creation of a new regulation to allow State wildlife management agencies to actively manage populations of resident Canada geese that cause personal and public property damage and, in some cases, pose a threat to public health and safety.

Under the proposed alternative identified in the draft Environmental Impact Statement released today, the Service would grant the States the authority to undertake approved population control strategies, such as nest and egg destruction, trapping and culling programs, and expanded hunting opportunities.

"The Service believes that the problems caused by resident Canada geese can be best addressed at the State level," said Service Director Steve Williams. "To that end, we are committed to providing State wildlife management agencies with as much flexibility as possible to address the issue."

The draft EIS evaluates a range of alternatives in relation to their ability to reduce and stabilize resident Canada goose populations, reduce conflicts with humans and minimize impacts to property and human health and safety. Aside from the proposed alternative, the EIS analyzes other alternatives, including continuing current management practices unchanged; implementing non-lethal methods such as harassment and habitat management designed to make areas less attractive to geese; expanded hunting opportunities; and creating various depredation orders allowing expanded lethal take of resident geese. A 90-day public comment period on the draft EIS will remain open until May 30, 2002.

Most Canada goose populations are migratory, wintering in the United States and migrating north to summer breeding grounds in the Canadian arctic. But a large availability of habitat, especially in urban and suburban areas where there are park-like open spaces with short grass adjacent to small bodies of water, has resulted in growing numbers of locally-breeding geese that live year round in the lower 48 states.

In temperate climates across the United States, these places provide geese with relatively stable breeding habitat and low numbers of predators. In addition, hunting is usually not allowed in urban and suburban areas, restricting the ability of state and local authorities to control populations using traditional methods. Those resident populations that do migrate often fly only short distances compared to their migratory relatives that breed in Canada. For

these reasons, resident Canada goose populations enjoy consistently high reproduction and survival rates.

The Service estimates that there are 3.5 million resident Canada geese in the United States. Resident Canada goose populations in both the Atlantic and Mississippi Flyways now exceed 1 million birds each and have increased an average of 14 and 6 percent per year, respectively, over the last 10 years. Indices of resident Canada geese in the Central Flyway are now approaching 1 million birds and populations in the western portions of the country have shown similar growth rates over the past 10 years.

Resident Canada geese are protected under the Migratory Bird Treaty Act and can only be legally taken during a hunting season, unless a special federal permit is obtained from the Service. The Service is in the process of drafting proposed regulations that would authorize the States to implement the proposed alternative and undertake a number of population control and management actions without having to go through the permit process.

Large flocks of resident Canada geese can denude grassy areas, including parks, pastures, golf courses, lawns, and other landscaped areas where there are ponds, lakes, and other bodies of water nearby. At airports, resident Canada geese have become a significant safety threat, resulting in dangerous takeoff and landing conditions and costly repairs to aircraft. Excessive goose droppings are also a health concern, and have contributed to the temporary closure of public beaches by local health departments in several States. In addition, agricultural and natural resource damage, including depredation of grain crops, overgrazed pastures, and degraded water quality have increased as resident Canada goose populations have grown.

The release of the draft environmental impact statement was announced in the March 1, 2002, Federal Register. The document is the result of a process that began in August 1999. Public input on the alternatives to be considered by the draft environmental impact statement was solicited through Federal Register notices on August 19 and December 30, 1999 and at a series of public meetings held in February and March 2000 across the country.

Written comments concerning the draft EIS should be addressed to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634 ARLSQ, 1849 C St., NW, Washington, D.C., 20240. Copies of the draft EIS are available at the same address or by calling the Service at 703-358-1714. The Service will schedule public meetings later this year, and the dates and locations will be announced in the Federal Register in March.

The U.S. Fish and Wildlife Service is the principal Federal agency responsible for conserving, protecting and enhancing fish, wildlife and plants and their habitats for the continuing benefit of the American people. The Services manages the 95-million-acre National Wildlife Refuge System which encompasses nearly 540 national wildlife refuges, thousands of small wetlands and other special management areas. It also operates 70 national fish hatcheries, 64 fishery resource offices and 78 ecological services field stations. The agency enforces Federal wildlife laws, administers the Endangered Species Act, manages migratory bird populations, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and helps foreign governments with their conservation efforts. It also oversees the Federal Aid program that distributes hundreds of millions of dollars in excise taxes on fishing and hunting equipment to state fish and wildlife agencies.

-fws-

For more information about the U.S. Fish and Wildlife Service, visit our home page at http://www.fws.gov

DRAFT ENVIRONMENTAL IMPACT STATEMENT ON RESIDENT CANADA GOOSE MANAGEMENT

Questions and Answers

The following document answers some common questions about the issue of overabundant resident Canada goose populations and the draft environmental impact statement (DEIS) the U.S. Fish and Wildlife Service has developed.

Question. What are resident Canada geese and how do they differ from other Canada geese?

Answer. Most of the 11 subspecies of Canada geese (Branta canadensis) are encountered in the lower 48 States only during the fall, winter and spring of the year and migrate to the arctic and sub-arctic regions of Canada and Alaska to nest. Some, however, stay in the U.S. year around. To distinguish these resident Canada geese from their migratory brethren, the Service identifies "resident Canada geese" as those that nest within the lower 48 States in the months of March, April, May, or June, and that reside within the lower 48 States in the months of May, June, July, and August. Canada geese normally return to the same breeding areas and no evidence presently exists documenting inter-breeding between Canada geese nesting within the lower 48 States and those subspecies nesting in northern Canada and Alaska.

Question. What is the status of resident Canada goose populations?

Answer. The Service's best estimate places the total number of resident Canada geese at 3.5 million. The population has increased dramatically during the past several decades. Presently, resident Canada goose populations in both the Atlantic and Mississippi Flyways exceed 1 million birds each and have increased an average of 14 and 6 percent per year, respectively, over the last 10 years. Indices of resident Canada geese in the Central Flyway are now approaching 1 million birds and populations in the western portions of the country have shown similar growth rates over the past 10 years.

Question. Why has their population grown so much that they have become a problem?

The rapid rise of resident Canada goose populations has been attributed to a number of factors.

Most resident Canada geese live in temperate climates with relatively stable breeding habitat conditions and low numbers of predators. They tolerate human and other disturbances, have a relative abundance of preferred habitat (especially those located in urban/suburban areas with current landscaping techniques), and fly relatively short distances to winter compared with other Canada goose populations. Additionally, Canada geese, like other geese, are long-lived birds. This combination of factors contributes to consistently high annual production and survival. Further, the virtual absence of waterfowl hunting in urban areas provides additional protection to those urban portions of the population. Given these characteristics, most resident Canada goose populations are continuing to increase in both rural and urban areas.

Question. What kind of problems do they cause?

Large flocks of resident Canada geese can denude grassy areas, including parks, pastures, golf courses, lawns, and other landscaped areas where the grass is kept short and where there are ponds, lakes, and other bodies of water nearby. At airports, resident Canada geese have become a significant safety threat, resulting in dangerous takeoff and landing conditions, costly repairs, and fatal airplane accidents. Excessive goose droppings are also a health concern, and have contributed to the temporary closure of public beaches in several States by local health

departments. In addition, agricultural and natural resource damage, including depredation of grain crops, overgrazed pastures and degraded water quality, have increased as resident Canada goose populations have grown. Losses can be significant.

Question. What is a draft EIS and why was its preparation necessary?

An EIS is required by the National Environmental Policy Act to assess the potential environmental impacts of any proposed major Federal action and to offer reasonable

alternatives. Since the purpose of the draft EIS is to evaluate alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce related damages, any ultimate decision to implement an alternative strategy to manage resident Canada geese constitutes a major Federal action. The DEIS documents this assessment and, together with supporting documents, considerations, data, and public comments, will be used by the Service's Director to prepare a final EIS from which to select the appropriate alternative for implementation.

The DEIS is a comprehensive programmatic plan intended to guide and direct resident Canada goose population control and management activities in the conterminous United States.

The objective of the DEIS and any ultimate proposal is to provide a regulatory mechanism that will allow State and local agencies, other Federal agencies, and groups and individuals to respond to damage complaints or damages by resident Canada geese. Any strategy should be more effective than the current system; environmentally sound, cost-effective, and flexible enough to meet the variety of management needs found throughout the Flyways. Further, the management strategy should not threaten viable resident Canada goose populations, the objectives for which have been determined by each Flyway Council, and must be developed in accordance with the mission of the Service.

Question. What would happen to the resident Canada goose population if we did nothing?

Answer. With no action, the Service estimates that the population of resident geese in most areas would continue to increase until reaching the carrying capacity of the environment at some time in the future. As the populations grew, the conflicts would grow increasingly unbearable. In the Atlantic Flyway, we estimate that the population will approach 1.3 million in 5 years and 1.6 million in 10 years. In the Mississippi Flyway, we estimate that the population will approach 1.7 million in 5 years and 2.0 million in 10 years. In the Central Flyway, we estimate that the numbers will approach 1.3 million by 2010. In the Pacific Flyway, we estimate that the populations will approach 450,000 geese by 2010.

Question. What action does the Service propose to address the problem?

Answer. In light of the projected increases in resident Canada goose populations (despite past and current management actions), we believe a much more aggressive management program is warranted and must be implemented. Under the "State Empowerment" alternative, State wildlife management agencies would be provided flexibility to deal with the problems caused by resident Canada goose populations within their respective States. States could choose to implement specific strategies, such as specific depredation orders on nests and eggs, at airports, atagricultural areas, or at locations where public health may be an issue; expanded hunting opportunities; or other indirect and/or direct population control strategies. We believe the combination of various management strategies would successfully reduce numbers of resident Canada geese to more acceptable levels.

Question. Isn't the proposed action in the DEIS contrary to the protections afforded Canada geese by the Migratory Bird Treaty Act (MBTA)?

Answer. The MBTA provides strong measures for the protection and conservation of migratory birds (including resident Canada geese), while at the same time providing opportunities for people to use the resource for sport, recreation, and scientific endeavors. The MBTA also provides considerable flexibility for dealing with situations where birds may come into conflict with human interests, such as those posed by the increasing numbers of resident Canada geese.

Question. Why isn't the existing program adequate for dealing with resident Canada goose problems?

Answer. Normally, complex Federal and State responsibilities are involved with Canada goose control activities. All control activities, except those intended to either scare geese out

of or preclude them from using a specific area (e.g., harassment, habitat management, or repellents), require a Federal permit issued by the Service. As the number of problems with resident Canada geese have continued to grow, the Service, with its State and Federal partners, believes alternative strategies are needed beyond those presently employed to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce related damages. In this way, all agencies can provide the most responsible, cost-effective, biologically-sound, and efficient assistance available.

The Service has attempted to control and manage growing populations of resident Canada geese through existing annual hunting season frameworks (special and regular seasons), the issuance of control permits on a case-by-case basis, and special Canada goose permits. While this approach has provided relief in some areas, it has not completely addressed the problem. We realize that more management flexibility is necessary to meet the needs of the public. Because of the unique

locations where large numbers of these geese nest, feed, and reside, we believe that new and innovative approaches and strategies for dealing with bird/human conflicts are necessary.

Question. I am currently suffering damage and other economic losses due to resident Canada geese. How does this help me?

Answer. Depending on what management strategies your State elects to implement, your damage and losses could be significantly reduced. For example, if you are an agricultural producer, your State could choose to allow you to aggressively harass resident Canada geese that are causing problems on your property.

Question. Why was the proposed action largely limited to situations between April 1 to August 31?

Answer. Migratory Canada goose populations interact and overlap with resident Canada goose populations during the fall and winter. Migratory Canada geese, therefore, could be impacted by management actions and programs targeted at reducing resident Canada goose populations during this time. To avoid potential conflicts with other Canada goose populations, most aspects of the proposed alternative are restricted to the period April 1 through August 31 each year. However, some resident Canada geese begin nesting in the early spring, and therefore the proposed alternative does allow the take of Canada goose nests and eggs during the entire month of March, since any nesting Canada geese in the U.S. would clearly be resident birds.

Question. What effect will the proposed alternative have on resident Canada goose populations?

Answer. Resident Canada goose number are so abundant (3.5 million) that even with these control measures, the Service estimates they will number approximately 2.1 million a decade from now. These measures may even benefit the population by reducing it to a level that is in better balance with available food and habitat.

Question. What impact will the proposed alternative have on existing sport-hunting opportunities?

Answer. Regular hunting seasons would be largely unaffected under the "State Empowerment" alternative. Most goose population reductions would occur in areas already closed to hunting or with limited hunting.

Alternatively, special hunting opportunities for resident Canada geese and potential harvest would be significantly increased. States could opt to increase and expand special hunting opportunities for resident Canada geese through newly-available hunting methods and an expansion of the special seasons. The proposed alternative would authorize the use of additional hunting methods, such as electronic calls, unplugged shotguns, and expanded shooting hours (one-half hour after sunset). During existing, operational, special September

Canada goose seasons (i.e., September 1-15), these additional hunting methods would be available for use on an operational basis. Utilization of these additional hunting methods during any new special seasons or other existing, operational special seasons (i.e., September 15-30) could be approved as experimental and would require demonstration of a minimal impact to migrant Canada goose populations. All of these expanded hunting methods and opportunities would be in accordance with the existing Migratory Bird Treaty frameworks for sport hunting seasons (i.e, 107 day limit from September 1 to March 10) and would be conducted outside of any other open waterfowl season (i.e., when all other waterfowl and crane seasons were closed).

Additionally, States would be able to offer special expanded harvest opportunities during either the Treaty closed period (August 1-31) or the open period (September 1-15) of the Treaty. We would establish a Conservation Order under the authority of the Migratory Bird Treaty Act, with the intent to reduce and/or stabilize resident Canada goose population levels. The Conservation Order would authorize each State in eligible areas to initiate aggressive resident Canada goose harvest strategies, with the intent to reduce the populations. The Order will enable States to use hunters to harvest resident Canada geese, during a period when all other waterfowl and crane hunting seasons, excluding falconry, are closed, inside or outside the migratory bird hunting season frameworks. The Order would also authorize the use of additional methods of take to

harvest resident Canada geese during that period. Finally, the Conservation Order would authorize the use of electronic calls and unplugged shotguns, liberalize daily bag limits on resident Canada geese, and allow shooting hours to continue until one-half hour after sunset.

Question. Would these new, expanded hunting provisions really make a difference?

Answer. The potential is definitely there. Available information from the use of additional hunting methods, such as electronic calls, unplugged shotguns, and expanded shooting hours, during the special light goose seasons indicates that total harvest increased approximately 50 - 69 percent. On specific days when light goose special regulations were in effect, the mean light goose harvest increased 244 percent. One study showed that lesser snow goose flocks were five times more likely to fly within gun range (≤50 meters) in response to electronic calls than to traditional calls, and the mean number of snow geese killed per hour per hunter averaged

9.1 times greater for electronic calls than for traditional calls. Given a total special season harvest of approximately 520,000 geese, a 50 percent increase in special season and conservation season harvest would result in the harvest of an additional 260,000 resident Canada geese each year. A 70 percent increase in special season and conservation season harvest would result in an additional 364,000 resident Canada geese annually.

While we believe a more conservative estimate of the percentage increase in harvest attributable to the use of additional hunting methods within the hunting season frameworks would be 25 percent, this increase in special season harvest would still result in the harvest of an additional 130,000 Canada geese each year.

Question. What assurances are there that we would not overharvest these birds and harm the population?

Answer. In addition to required annual breeding surveys, the Service would annually assess the overall impact and effectiveness of the Conservation Order to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that there no longer exists a serious threat of injury to the area or areas involved for a particular resident Canada goose population, we will initiate action to suspend the Conservation Order, and/or regular-season regulation changes, for that population. Suspension of regulations for a particular population would be made following a public review process.

Question. Aren't non-lethal control techniques effective in reducing conflicts between

resident Canada geese and people?

Answer. The Service also prefers nonlethal control activities, such as habitat modification, as the first means of eliminating resident Canada goose conflict/damage problems. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are sometimes necessary to increase the effectiveness of nonlethal management methods.

While it is unlikely that all resident Canada goose/human conflicts can be eliminated in all urban settings, implementation of broad-scale resident Canada goose management activities may reduce the likelihood for other management actions, such as large-scale goose round-ups and lethal control.

Question. Doesn't the proposed alternative discourage States and other parties from investing in non-lethal, long-term solutions to resident Canada geese?

Answer. No. The State Empowerment alternative does not absolve affected parties from the responsibility of employing non-lethal control techniques. It simply provides additional tools for use in an integrated approach to reducing problems caused by resident Canada geese. We believe that the States and the public should share responsibility for reducing resident Canada goose problems and should promote other activities that exclude or repel resident Canada geese, as well as the use of non-lethal deterrents.

Question. What happens next and how do I make my views known?

Answer. The DEIS will be open for public comment until May 30. During the public comment period, we will hold a series of public meetings in areas experiencing conflicts with resident goose populations. The location, date and time of those meetings have not been determined but will be announced in a future notice in the Federal Register. After the public comment period closes and we review all of the public comments, we will prepare a final EIS recommending a preferred alternative or alternatives.

To obtain a copy of the DEIS, you may contact the Division of Migratory Bird Management, U.S. Fish and Wildlife Service at (703) 358-1714. Comments should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634 ARLSQ, 1849 C Street NW., Washington, D.C. 20240. All comments received, including names and addresses, will become part of the public record. You can inspect comments during normal business hours in Room 634 Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

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U.S. Fish and Wildlife Service.
Privacy Notice.

Control of Bird Populations

Why does Fish and Game New Zealand control bird populations?

Fish and Game New Zealand manages waterfowl and upland gamebirds on behalf of recreational hunters. Management of these birds includes setting rules for how many birds can be taken by hunters and at what time of the year. Gamebird species include Canada geese, ducks, swans, pheasants and quail.

Gamebirds are hunted and harvested at a rate that is sustainable and in most cases at levels that are appropriate to all people including farmers whose crops birds occasionally feed on. Sustainable gamebird hunting ensures the birds are not over-hunted.

The role of hunting

However some bird populations are unable to be managed through traditional hunting. Reasons for this include the intelligence of the bird, the rugged terrain they inhabit and the almost endless source of good quality food. Paradise shelduck, and Canada geese are in this group.

In some cases population explosions result in the birds' health suffering and pressure from farmers to control the increasing population. As the statutory manager Fish and Game New Zealand has the responsibility to effectively manage these population increases.

The aim is to achieve desired population levels through recreational hunting. If this is not sufficient, then Fish and Game New Zealand sometimes undertakes population control operations. In most cases this is achieved through organised hunts using a number of recreational hunters but occasionally Canada geese are shot from helicopters.

The Canada goose problem

In the early 1990s the Canada goose population in the South Island began to rise quickly. This was partly due to the improvement of high country farm pasture and the abundant food supply for both stock and geese.

Rather than have the bird be classed as a pest the Minister of Conservation asked Fish and Game New Zealand to prepare a Canada goose Management Plan. This plan was implemented in 1995 and sets regional population levels for Canada geese.

The most common population control method besides recreational hunting takes place in January when the birds are moulting and unable to fly. Staff move the birds into holding pens where they are stunned and beheaded.

This method may seem crude but it is the most humane method available. It is approved by both the Ministry of Agriculture and Fisheries (MAF) and the Society for the Prevention of Cruelty to Animals (SPCA).

Gamebird Management

As part of Fish and Game New Zealand's ongoing gamebird management field staff undertake aerial counts of all gamebird waterfowl species. From these results the Canada goose population can be estimated and population targets for the coming year set. These targets are also governed by the Canada Goose Management Plan.

Fish and Game New Zealand actively encourages hunters to target Canada geese through organised shoots, competitions and improving access to farmers' land. When hunting increases there is less need to undertake population control.

For more information, contact your local Fish & Game office or the New Zealand Council on (04) 499 4767 or fax (04) 499 4768

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Department of the Interior
U.S. Fish & Wildlife Service

Expires 04/30/2004
OMB No. 1018-0022

Federal Fish and Wildlife License/Permit Application Form

Return to: *Click here for addresses*
Migratory Bird Permit Office
U.S. Fish and Wildlife Service
P.O. Box 25486
DFC (60130)
Denver, CO 80225-0486

Type of Activity:

Migratory Bird - Depredation

A. Complete if applying as an individual

1.a. Last name:	1.b. First name:	1.c. Middle name or initial:	1.d. Suffix
1.e Doing business as (dba):	2.a. Street Address (line 1):	2.b. Street Address (line 2):	
2.c. Street address (line 3):	3.a. City:	3.b. County:	3.c. Province: / 3.d. State:
3.e. Zip code or postal code:	3.f. Country (only for non-commercial):	4. Date of birth (mm/dd/yyyy):	5. Social Security No:
6. Occupation:	7. List of any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by this license or permit:		
8. Home telephone number:	9. Work telephone number:	10. Fax number:	11. E-mail address:

B. Complete if applying as a business, corporation, public agency or institution

1.a Name of business, agency, or institution:	1.b. Doing business as (dba):	2. Tax identification no.:	
3.a. Street address (line 1):	3.b. Street address (line 2):	3.c. Street address (line 3):	
4.a. City:	4.b. County	4.c. State:	4.d. Zip code:
5.a. Principal officer - Last name:	5.b. First name:	5.c. Middle name or initial	5.d. Suffix
5.e. Principal officer title:	6. Describe the type of business, agency, or institution:		
7. Home telephone number:	8. Work telephone number:	9. Fax number:	10. E-mail address:

C. All applicants complete

1. Do you currently have or have you had any Federal Fish and Wildlife License or Permit?
   Yes ☐ If yes, list the number of the most recent license or permit you hold: No ☐
2. Have you obtained any required state or foreign government approval to conduct the activity you propose?
   Yes ☐ If yes, provide a copy of the license or permit. No ☐ Not Required ☐
3. Attachments: Complete the additional pages of this application. Application will not be considered complete without these pages. Incomplete applications may be returned.
4. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of $25.
   Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.
5. Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.
6. Signature (in ink) of applicant or person responsible for permit in Block A or B: 7. Date (mm/dd/yyyy):

D. DEPREDATION PERMIT (Migratory Bird Treaty Act, 50 CFR 21.41)

Note: **A Migratory Bird Depredation Permit authorizes certain management and control activities necessary to provide for human health and safety, protect personal property, or allow resolution of other injury to people or property. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species and bald or golden eagles. A depredation permit is intended to provide short-term relief from migratory bird depredation until long-term measures can be implemented to reduce or eliminate the depredation problem through nonlethal control techniques. You must be at least 18 years of age to apply. Please make sure you attach a copy of any applicable State permits, as requested in C.2. on page 1 of this application.**

Please provide the following information:

1. Briefly describe the nature of the problem you are experiencing and the remedy you propose.

2. List the species of migratory birds committing the injury and estimate the quantity of each involved.

3. Provide the exact location where the depredation control activity would be conducted.

4. Describe the specific damage being caused and how long it has been occurring. Describe any human health and safety hazards involved.

5. Describe the extent of the damage and estimate the economic loss suffered as a result.

6. Describe the nonlethal control techniques you have used to control or eliminate the problem, including how long and how often they have been conducted.

7. Anyone who will be assisting you with the activities authorized by your permit must be authorized as a subpermittee under your permit. Please provide the name and address of anyone who will be directly involved in the depredation control activity. Include any commercial company that may be contracted to conduct the work.

8. You must retain records relating to the activities conducted under your permit for at least 5 years. Provide the address where these records will be kept.

9. You must obtain a Migratory Bird Damage Project Report (WS Form 37) prepared by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, providing their recommendation regarding your depredation problem. Please provide a copy of the completed form with your application.

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard License/Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. Please read the General Permit Procedures (50 CFR 13) sent with this package.

* Complete all appropriate blocks/lines. Print clearly or type in the information. *A complete application prevents delays!*
* Sign the application *in ink* and send an *original* to the address on the top of the application. Faxed copies will not be accepted.
* Applications will be processed in the order they are received.

Most of the application form is self-explanatory, but the following provides some further assistance for completing the form.

COMPLETE EITHER BLOCK A OR BLOCK B:

Block A. **"Complete if applying as an individual"** - Enter the complete name of the responsible party who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying on behalf of a client, the personal information must pertain to the client. A notarized document stating power of attorney must be included with the application.

Block B. **"Complete if applying as a business, corporation, public agency or institution"** - Enter the complete name and address of the business, agency or institution who will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in, the name and phone number of the person in charge, and if the company is incorporated, the state in which it was incorporated.

ALL APPLICANTS COMPLETE BLOCK C:

Block C.1 **"Do you currently have or have you had any Federal Fish and Wildlife license or permit?"** - List the number of any FWS or CITES permits. If applying for a renewal, the original permit must be returned with this application.

Block C.2 **"Have you obtained any required state or foreign government approval to conduct the activity you propose?"** - If the proposed activity is regulated, check the appropriate box. If "yes", list the State or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no" indicate what steps you have taken to secure approval (use attachment if necessary). If the proposed activity is not regulated check "not required".

Block C.3 **"Attachments"** - Consult the fact sheet or regulation. Provide any required additional information outlined on the supplemental page(s) (Section D) of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application. An incomplete or unclear application may cause delays in processing.

Block C.4 **"Check or money order (if applicable)"** - There is a permit processing fee unless you are fee exempt. Consult the enclosed APPLICATION PROCESSING FEE information. Make the check or money order payable to the "U.S. Fish and Wildlife Service" and attach it to the application form. If you are fee exempt, write "exempt" in this space.

Block C.5 **"CERTIFICATION"** - The individual applicant in Block A, the person named in Block B, or a person with power of attorney must sign and date the application in ink. This signature binds that person to the statement of certification. This means that you certify that you read and understood the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.

APPLICATION FOR A FEDERAL FISH AND WILDLIFE LICENSE/PERMIT

Paperwork Reduction Act and the Privacy Act - Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife is authorized by:
   (a) Bald Eagle Protection Act (16 U.S.C. 668);
   (b) Endangered Species Act of 1973 (16 U.S.C. 1539);
   (c) Migratory Bird Treaty Act (16 U.S.C. 703-711);
   (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383);
   (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916);
   (f) Lacey Act (18 U.S.C. 42 & 44);
   (g) Convention on International Trade in Endangered Species of Wild Flora and Fauna (TIAS 8249);
   (h) Title 50, Part 10, of the Code of Federal Regulations;
   (i) Title 50, Part 13, of the Code of Federal Regulations;
   (j) Title 50, Part 14, of the Code of Federal Regulations;
   (k) Title 50, Part 15, of the Code of Federal Regulations;
   (l) Title 50, Part 16, of the Code of Federal Regulations;
   (m) Title 50, Part 17, of the Code of Federal Regulations;
   (n) Title 50, Part 18, of the Code of Federal Regulations;
   (o) Title 50, Part 21, of the Code of Federal Regulations;
   (p) Title 50, Part 22, of the Code of Federal Regulations; and
   (q) Title 50, Part 23, of the Code of Federal Regulations.

2. Information requested is this form is purely voluntary. However, submission of requested information is required in order to process applications for licenses or permits authorized under the above acts. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny a permit. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.

3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the Federal Register as required by the two acts.

4. Routine use disclosures may also be made:
   (a) To the U.S. Department of Justice when related to litigation or anticipated litigation;
   (b) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license;
   (c) From the record of an individual in response to an inquiry from a Congressional office made at the request of that individual (42 FR 1903; April 11, 1977);
   (d) To subject matter experts, and State and other Federal agencies, for the sole purpose of obtaining advice relevant to issuance of the permit.

5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.

6. The public burden for information collection varies depending on the activity for which a permit is requested. The relevant burden for a Depredation application is 1-1.5 hours and 1 hour for reporting. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240.

Freedom of Information Act - Notice

For organizations, businesses, or individuals operating as a business (*i.e.*, permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

APPLICATION PROCESSING FEE

The fee to process a migratory bird permit application is $25.00. Checks should be made payable to "U.S. Fish and Wildlife Service." The fee applies to new permit applications and renewals. The processing fee will not be refunded if the permit is issued or denied, or if the application is abandoned.

The fee schedule does not apply to any Federal, State, or local government agency or individual or institution under contract to such agency for the proposed activities. There is no fee for eagle permits issued under 50 CFR 22. Until further notice, the fee will be waived for migratory bird rehabilitation permits and for permits for public institutions. As defined in 50 CFR 10.12 - "*Public* as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized but not operated for profit."

AUG 15 '02 15:13 FR SEN CONRAD FARGO 7012326449 TO 17017245467 P.10/13
08/15/2002 THU 10:48 FAX 701 250 4206 USFW/LE BISMARCK ND 001

U.S. FISH AND WILDLIFE SERVICE
DIVISION OF LAW ENFORCEMENT
3425 MIRIAM AVENUE
BISMARCK, NORTH DAKOTA
58501

TELEFAX TRANSMISSION

TO: Scott Stofferahn	**DATE:** 8-15-2002
FAX NO# 701/232-6449	**TIME:** 11:55 AM
FROM: SA Rich Grosz	**TELEPHONE:** (701)255-0593 **FAX:** (701)250-4206
SUBJECT: Your request referencing 50 CFR 21.26 and the USFWS Special Canada Goose Permit issued to North Dakota Game and Fish Department.	

NUMBER OF PAGES TRANSMITTED (INCLUDING THIS COVER SHEET): 4

MESSAGE: Please call if I can be of any further assistance.

of the permit shall not exceed three (3) years from the date of issuance or renewal.

(60 FR 38960, July 7, 1995, as amended at 61 FR 18151, Apr. 24, 1996; 63 FR 52691, Oct. 1, 1998)

§ 21.26 Special Canada goose permit.

(a) *What is the special Canada goose permit and what is its purpose?* The special Canada goose permit is a permit issued by us to a State wildlife agency authorizing certain resident Canada goose management and control activities that are normally prohibited. We will only issue such a permit when it will contribute to human health and safety, protect personal property, or allow resolution or prevention of injury to people or property. The management and control activities conducted under the permit are intended to relieve or prevent injurious situations only. No person should construe the permit as opening, reopening, or extending any hunting season contrary to any regulations established under Section 3 of the Migratory Bird Treaty Act.

(b) *Who may receive a permit?* Only State wildlife agencies (State) are eligible to receive a permit to undertake the various goose management and control activities. Additionally, only employees or designated agents of a permitted State wildlife agency may undertake activities for injurious resident Canada geese in accordance with the conditions specified in the permit, conditions contained in 50 CFR part 13, and conditions specified in paragraph (d) of this section.

(c) *How does a State apply for a permit?* Any State wildlife agency wishing to obtain a permit must submit an application to the appropriate Regional Director (see § 13.11(b) of this subchapter) containing the general information and certification required by § 13.12(a) of this subchapter plus the following information:

(1) A detailed statement showing that the goose management and control activities will either provide for human health and safety, protect personal property, or allow resolution of other injury to people or property.

(2) An estimate of the size of the resident Canada goose breeding population in the State;

(3) The requested annual take of resident Canada geese, including eggs and nests;

(4) A statement indicating that the State will inform and brief all employees and designated agents of the requirements of these regulations and permit conditions.

(d) *What are the conditions of the permit?* The special Canada goose permits are subject to the general conditions in 50 CFR part 13, the conditions elsewhere in this section, and, unless otherwise specifically authorized on the permit, the conditions outlined below:

(1) *What are the limitations on management and control activities?* (i) Take of resident Canada geese as a management tool under this section may not exceed the number authorized by the permit. States should utilize non-lethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take for the control of injurious resident Canada geese are at the State's discretion. Methods include, but are not limited to, firearms, alpha-chloralose, traps, egg and nest manipulation and other damage control techniques consistent with accepted wildlife damage-management programs.

(2) *When may a State conduct management and control activities?* States and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between March 11 and August 31. In California, Oregon and Washington, in areas where the threatened Aleutian Canada goose (*B. c. leucopareia*) has been present during the previous 10 years, lethal control activities are restricted to May 1 through August 31, inclusive.

(3) *How must the States dispose or utilize geese taken under this permit?* States and their employees and agents may possess, transport, and otherwise dispose of Canada geese taken under this section. States must utilize such birds by donation to public museums or public institutions for scientific or educational purposes, by processing them

for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. States, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any Canada geese taken under this section, nor their plumage or eggs.

(4) *How does the permit relate to existing State law?* No person conducting management and control activities under this section should construe the permit to authorize the killing of injurious resident Canada geese contrary to any State law or regulation, nor on any Federal land without specific authorization by the responsible management agency. No person may exercise the privileges granted under this section unless they possess any permits required for such activities by any State or Federal land manager.

(5) *When conducting management and control activities, are there any special inspection requirements?* Any State employee or designated agent authorized to carry out management and control activities must have a copy of the permit and designation in their possession when carrying out any activities. The State must also require the property owner or occupant on whose premises the State is conducting activities to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (wildlife officer) on the premises where they are, or were, conducting activities. Furthermore, any State employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(6) *What are the reporting requirements of the permit?* Any State employee or designated agent exercising the privileges granted by this section must keep records of all activities carried out under the authority of this permit, including the number of Canada geese killed and their disposition. The State must submit an annual report detailing activities, including the time, numbers and location of birds, eggs, and nests taken and non-lethal techniques utilized, before December 31 of each year. The State should submit the annual report to the appropriate Assistant Regional Director—Refuges and Wildlife (see § 10.22 of this subchapter).

(7) *What are the limitations of the special permit?* The following limitations apply:

(i) Nothing in this section applies to any Federal land within a State's boundaries without written permission of the Federal Agency with jurisdiction.

(ii) States may not undertake any actions under any permit issued under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act.

(iii) We will only issue permits to State wildlife agencies in the conterminous United States.

(iv) States may designate agents who must operate under the conditions of the permit.

(v) *How long is the special permit valid?* A special Canada goose permit issued or renewed under this section expires on the date designated on the face of the permit unless it is amended or revoked or such time that we determine that the State's population of resident Canada geese no longer poses a threat to human health or safety, personal property, or injury to other interests. In all cases, the term of the permit may not exceed five (5) years from the date of issuance or renewal.

(vi) *Can we revoke the special permit?* We reserve the right to suspend or revoke any permit, as specified in §§ 13.27 and 13.28 of this subchapter.

(e) *What are the OMB information collection requirements of the permit program?* OMB has approved the information collection requirements of the permit and assigned clearance number 1018-0068. Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We will use the information collection requirements to administer this program and in the issuance and monitoring of these special permits. We will require the information from State wildlife

AUG 16 '02 15:13 FR SEN/CONGRD FARGO 701 235 4419 TO 17611724 3467 P.17/13
08/16/2012 THU 10:49 FAX 701 250 4203 USFWS/LT BISMARCK ND

AUG 16 '02 15:15 FR SEN CONRAD FARGO 7012326449 TO 17017243467 P.13/13
03/15/2002 THU 10:50 FAX 701 250 4208 USFW/LE BISMARCK ND 004

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

3261
(197)

FEDERAL FISH AND WILDLIFE PERMIT

U.S. Fish and Wildlife Service
Migratory Bird Permit Office
P.O. Box 25486, DFC (60154)
Denver, Colorado 80225-0486
(303) 236-8171

1. PERMITTEE
NORTH DAKOTA GAME AND FISH DEPARTMENT
100 N. BISMARCK EXPRESSWAY
BISMARCK, ND 58501-5095

2. AUTHORITY-STATUTES
16 USC 703-712

REGULATIONS (Attached)
50 CFR 13
50 CFR 21.26

3. NUMBER
MB058094-0

4. RENEWABLE
☐ YES
☒ NO

5. MAY COPY
☒ YES
☐ NO

6. EFFECTIVE
06/10/2002

7. EXPIRES
12/31/2004

8. NAME AND TITLE OF PRINCIPAL OFFICER (If not a business)
DEAN C. HILDEBRAND
DIRECTOR

9. TYPE OF PERMIT
SPECIAL CANADA GOOSE PERMIT

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
NORTH DAKOTA

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK 2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. Permittee, and subpermittees, are authorized to conduct resident Canada goose management and control activities through egg and nest manipulation, trapping, relocating, and killing of Canada geese in order to contribute the human health and safety, protection of personal or public property, and prevention or injury to people in accordance with all conditions specified in 50 CFR 21.26.

E. Permittee, and subpermittees, are authorized to take on an annual basis up to **two thousand (2000) Canada Geese *(Branta canadensis)***.

Authorized to take on an annual basis up to **one hundred (100) Canada goose *(Branta canadensis)*** nests, and up to **six** hundred (600) Canada goose ***(Branta canadensis)*** eggs.

Authorized to translocate Canada geese within state of North Dakota and to other states on an annual basis.

F. Concurrent authority is granted to agency employees, contractors, and private individuals who have written authority from the state agency and are authorized to conduct activities involving the control and management of resident Canada geese.

☐ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS
ANNUAL REPORT DUE: 1/31
ANNUALLY BY JANUARY 31 ON FORMS SUPPLIED BY THE U.S. FISH AND WILDLIFE SERVICE AS REQUIRED IN 50 CFR 21.26(D)(6).

ISSUED BY	TITLE	DATE
John E Cornely	MIGRATORY BIRD COORDINATOR, REGION 6	06/10/2002

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US CODE COLLECTION

Sec. 703. - Taking, killing, or possessing migratory birds unlawful

Unless and except as permitted by regulations made as hereinafter provided in this subchapter, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972 (FOOTNOTE 1) and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.

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US CODE COLLECTION

Sec. 704. - Determination as to when and how migratory birds may be taken, killed, or possessed

(a)

Subject to the provisions and in order to carry out the purposes of the conventions, referred to in section 703 of this title, the Secretary of the Interior is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

(b)

It shall be unlawful for any person to -

(1)

take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

(2)

place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area

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US CODE COLLECTION

Sec. 705. - Transportation or importation of migratory birds; when unlawful

It shall be unlawful to ship, transport, or carry, by any means whatever, from one State, Territory, or district to or through another State, Territory, or district, or to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or district in which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried

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US CODE COLLECTION

Sec. 706. - Arrests; search warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate

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US CODE COLLECTION

Sec. 707. - Violations and penalties; forfeitures

(a)

Except as otherwise provided in this section, any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $15,000 or be imprisoned not more than six months, or both.

(b)

Whoever, in violation of this subchapter, shall knowingly -

(1)

take by any manner whatsoever any migratory bird with intent to sell, offer to sell, barter or offer to barter such bird, or

(2)

sell, offer for sale, barter or offer to barter, any migratory bird shall be guilty of a felony and shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(c)

Whoever violates section 704(b)(2) of this title shall be fined under title 18, imprisoned not more than 1 year, or both.

(d)

All guns, traps, nets and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in pursuing, hunting, taking, trapping,

ensnaring, capturing, killing, or attempting to take, capture, or kill any migratory bird in violation of this subchapter with the intent to offer for sale, or sell, or offer for barter, or barter such bird in violation of this subchapter shall be forfeited to the United States and may be seized and held pending the prosecution of any person arrested for violating this subchapter and upon conviction for such violation, such forfeiture shall be adjudicated as a penalty in addition to any other provided for violation of this subchapter. Such forfeited property shall be disposed of and accounted for by, and under the authority of, the Secretary of the Interior

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US CODE COLLECTION

Sec. 708. - State or Territorial laws or regulations

Nothing in this subchapter shall be construed to prevent the several States and Territories from making or enforcing laws or regulations not inconsistent with the provisions of said conventions or of this subchapter, or from making or enforcing laws or regulations which shall give further protection to migratory birds, their nests, and eggs, if such laws or regulations do not extend the open seasons for such birds beyond the dates approved by the President in accordance with section 704 of this title

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US CODE COLLECTION

Sec. 715j. - "Migratory birds" defined

For the purposes of this subchapter and the **Migratory Bird Treaty Act** (16 U.S.C. 703 et seq.), **migratory birds** are those defined as such by the treaty between the United States and Great Britain for the protection of **migratory birds** concluded August 16, 1916 (39 Stat. 1702), the treaty between the United States and the United Mexican States for the protection of **migratory birds** and game mammals concluded February 7, 1936 (50 Stat. 1311), the Convention between the Government of the United States of America and the Government of Japan for the Protection of **Migratory Birds** and **Birds** in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of **Migratory Birds** and their Environment concluded November 19, 1976

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Notes on Sec. 709.

CODIFICATION

Section, act July 3, 1918, ch. 128, Sec. 8, 40 Stat. 756, authorized taking and use of migratory birds, nests, or eggs for scientific or propagating purposes until adoption and approval, pursuant to section 704 of this title, of regulations dealing therewith. Regulations were promulgated by Proc. July 31, 1918, 40 Stat. 1812

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US CODE COLLECTION

Sec. 442. - Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges

For the purpose of preventing crop damage by migratory waterfowl, the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Commodity Credit Corporation to be available for purposes of sections 442 to 445 of this title or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary of the Interior shall requisition pursuant to section 443 of this title. With respect to any grain thus made available, the Commodity Credit Corporation may pay packaging, transporting, handling, and other charges up to the time of delivery to one or more designated locations in each State

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US CODE COLLECTION

Sec. 443. - Requisition of grain to prevent crop depredation by migratory waterfowl

Upon a finding by the Secretary of the Interior that any area in the United States is threatened with damage to farmers' crops by migratory **waterfowl**, whether or not during the open season for such migratory **waterfowl**, the Secretary of the Interior is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Commodity Credit Corporation through price-support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory **waterfowl** away from crop depredations and at the same time not expose such migratory **waterfowl** to shooting over areas to which the **waterfowl** have been lured by such feeding programs

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US CODE COLLECTION

Sec. 448. - Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting

Upon a finding by the Secretary of the Interior that migratory **birds** are threatened with starvation in any area of the United States, the Secretary is authorized to requisition from the Commodity Credit Corporation grain acquired by that Corporation through price support operations in such quantities as may be mutually agreed upon. The Corporation shall be reimbursed by the Secretary for its expense in packaging and transporting of such grain for purposes of sections 447 to 449 of this title

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US CODE COLLECTION

Sec. 445. - Authorization of appropriations for mitigating losses caused by waterfowl depredation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in the grain transferred pursuant to sections 442 to 445 of this title

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