

**AN EXAMINATION OF THE UNITED STATES BU-  
REAU OF RECLAMATION'S NORTHWEST AREA  
WATER SUPPLY PROJECT**

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**HEARING**

BEFORE A

SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

**SPECIAL HEARING**

AUGUST 11, 2010—WASHINGTON, DC

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AREA WATER SUPPLY PROJECT**

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WEDNESDAY, AUGUST 11, 2010

U.S. SENATE,  
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT,  
COMMITTEE ON APPROPRIATIONS,  
*Minot, North Dakota.*

The subcommittee met at 2:30 p.m., in the Minot City Hall Council Chambers, Minot, North Dakota, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senator Dorgan.

OPENING STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. We'll call the hearing to order. I'm Senator Byron Dorgan. This is a formal hearing of the Energy and Water Appropriations Subcommittee of the U.S. Senate. I'm joined by Roger Cockrell who is a principal staffer on that subcommittee. Roger does a great job on water issues from Maine to California, and he knows all of them. I'm also joined by Justin Schardin from my Senate office, who works on water issues as well.

The purpose of this hearing is to have a discussion and testimony about the progress of NAWS. The Northwest Area Water Supply Project is a very important project; one that I fully support and believe will enhance life in this region of North Dakota. I have been involved with this project for a long while, along with many of you who are in this room, and believe that the project, as designed, has merit, and will be completed. It should be completed, and will be completed.

The reason for this hearing is to try to understand when that might happen, what the roadblocks are, what we can expect as a result of those roadblocks and when the people of this region—and the people of our country, who are spending a lot of money on this project—can expect to get to the finish line.

Just a brief history: We know that the State of North Dakota accepted a one-half million acre flood in the middle of our State that came, and stayed. President Eisenhower was here to dedicate the dam that caused the flood, and that flood was something we were willing, as a State, to accept. A lot of people probably wouldn't say, "Yeah, give us the flood, we'll accept a permanent flood," but we did because there was a promise attached to that permanent flood. The promise was that, "If you allow us to dam up the Missouri River and you create a very large permanent flood behind it called

a reservoir, we will allow you to use that water for beneficial purposes, beneficial uses.” North Dakota had been long left out of the process of irrigation opportunities and clean and fresh water delivered to people and communities around North Dakota—they thought that was a pretty good deal. You have a cost and you have a benefit. The cost is the inundation of towns and Missouri River bottomland in order to create the flood, and the benefit was a whole series of things, including the Garrison Diversion Project, and the Regional Rural Water Projects, along with other benefits. We fully received the costs of this project. We have never fully received the benefits. That’s the purpose of the discussion today, about one of those benefits; the development of a regional water supply project called NAWS.

Now, NAWS is a project that’s been in the works for a long while. I was here, along with, perhaps, many in this room, to do the groundbreaking and was proud to be a part of that as, I’m sure, were all of the others. It was probably the largest groundbreaking I’ve ever been a part of, just because so many people have been involved in this project.

We have a project that is expected, with current design, to cost about \$217 million to complete. We’ve spent \$82 million on this project. Of that, \$45 million has been Federal Government expenditures, \$30 million the city of Minot, and \$7 million by the State of North Dakota.

The treatment plant for this project is still at odds, and under discussion, and part of the issue facing the courts; we’ve had a couple of legal challenges to the project itself. The question is what kind of a treatment plant will be necessary? If one style of treatment plant is built, it’s somewhere in the neighborhood of \$18 million, perhaps, \$15–\$20 million. If a much different treatment plant were required, it could be \$90 or \$100 million.

The court filings that have been made by Canada and the State of Missouri have contested this project on a number of grounds. First, with respect to the State of Missouri, the State of Missouri is questioning the consumption of water out of the reservoir from this NAWS project. That is the most absurd thing I have ever heard. We’re talking about 5/100 of 1 percent of the water in the Missouri River System.

If the State were a person, it would be hard for a State like Missouri to suppress a grin when they file this lawsuit, because they would fully understand that there’s no merit whatsoever. Regrettably, the judge in the case seemed to believe there was some merit. It’s beyond my comprehension that a judge has made that kind of a ruling, but we’re now going to have to respond to that, which will be easy enough to do. But, I’m still disappointed in that court ruling. It is just an absurdity to give any credibility at all to that portion of the suit.

The second lawsuit is from Canada. Canada, of course, is concerned about water moving from the Missouri River Basin to the Hudson Bay drainage basin. Canada always wants to be involved, and they want to be concerned about their basin; I fully understand that, Canada has a right to be concerned about that. We have, however, always and continue today to say to Canada that

we will not ever do anything to violate the Boundary Waters Treaty. That's a fact.

We have always insisted that what we will be delivering in the pipeline that carries Missouri River water to communities that need that supply of water will be drinking-quality water. So, it seems to me that, in itself, resolves the issue.

Nonetheless, the Federal judge in the District Court ruled that additional environmental studies need to be done, or additional work on the environmental studies, need to be done and I'm going to ask the Bureau of Reclamation about that at this hearing.

So, having said all of that, a lot of money having been spent—let me put up a chart to show you what we have done at the Federal level. These are all earmarked funds; by the way, I've earmarked all of these monies. You probably noticed when I became chairman, right there, of the subcommittee, I've put a little more money in. What we've done with that money is to lay pipe. We're creating a pipeline, and we're burying pipeline in order, some day, to carry Missouri River water. There's no Missouri River water in the pipeline that we have built, none. The water in the pipeline is Minot water. And, of course, that is not a sustainable circumstance.

So, I wanted to have a public record made today of where are we, where are we headed, what are the obstacles, and when do we get to the finish line. Where is the finish line and when do we get there? People of Minot want to know that, the people of the region want to know that, and those of us who are engaged with spending the Federal taxpayers' money want to know that, as well.

So, I have a lot of questions today, but prior to that we have five witnesses. I know this is a bit Napoleonic in the way this is set up with us far away from the crowd, up here, but that's the way the room is set up, I guess. And I'm going to ask you, if I could, to have the witnesses come to the dais, if you would, there, and provide the testimony, following which I will ask a series of questions, as will Mr. Cockrell and Justin if they have questions.

Let me begin, if I might, with the Dakotas Area Manager of the Bureau of Reclamation, Dennis Breitzman. Mr. Breitzman, you've been involved in this for a long, long time, and I want to make one final comment before I ask you to testify and begin. I very much wish I had had a hearing the last time I was here, because we had a roundtable discussion, I think, it was now 2 years ago, and we had then an assessment of what we thought, where we were headed, what progress was being made with the Canadians and this, and that, and the other thing. We probably should have had that on the public record, but all we have at the moment are distant memories of what was discussed. That's one of the reasons I wanted to have a public record today, so that we'd have some demarcation of where we are, and what the best judgment of all of you is, where we expect to be in the future.

Mr. Breitzman, I've asked you to be here because the Federal judge has required additional environmental studies, as a result of the ruling of the Federal court. Until we resolve these issues, there will not be Missouri water in the pipeline. So, I'd like to ask you to testify, if you would, about what is happening at the Bureau, what your timeline is, what kind of costs are necessary for that work, and then give us your best estimate of a finish line. I call

you here recognizing this is not a Bureau project, per se. As I understand it, it's a State, city, Federal project, but the Bureau is involved, and you're going to be responsible for the environmental studies.

Mr. Breitzman, you may proceed.

**STATEMENT OF DENNIS BREITZMAN, DAKOTA AREAS MANAGER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR**

Mr. BREITZMAN. Thank you, Senator.

I am Dennis Breitzman, Manager of the Bureau of Reclamation Dakota Area Office, and I'm pleased to have an opportunity to provide a brief summary of the Bureau of Reclamation's involvement in the NAWS project.

NAWS is authorized by the Garrison Reformulation Act, 1986, and the Dakota Water Resources Act, 2000, and is being funded through the Statewide Municipal, Rural and Industrial (MR&I) grant program. And, Senator, as you mentioned, that makes Reclamation's role unique, at least for Reclamation, in that our role is to budget for, and make grant funds available to the project. We do provide a level of construction and financial oversight, and we have to ensure that all Federal laws are being complied with.

So, typically, our primary role on these grant projects is to complete the appropriate environmental compliance, and in the instance of NAWS, we're also responsible for compliance with the Boundary Waters Treaty.

This is just a brief summary; a chronology of where we've been with the environmental compliance. In the late 1990s, Reclamation worked with the State Water Commission to complete an environmental assessment of the project. Based on that environmental assessment, in 2001, we signed a finding of no significant impact. And, in the same year, we received a determination from the Secretary of the Interior that the level of treatment that was proposed, at that time, was adequate to meet the requirements of the Boundary Waters Treaty.

In 2002, the Province of Manitoba challenged the sufficiency of the environmental documents in the U.S. District Court, and in 2005, that case was remanded to Reclamation for additional environmental analysis. We completed an Environmental Impact Statement in 2008, and the focus of that EIS was two things: It was potential consequences of a pipeline failure, and an expanded discussion of treatment alternatives. Those two items were also the focus of the 2005 court order.

Based on that EIS, we signed a Record of Decision in 2009, describing our decision to construct a water-treatment plant using chemical disinfection and ultraviolet radiation. This plant would be located near the community of Max.

Manitoba and the State of Missouri immediately filed separate legal challenges, stating that the EIS was insufficient. In March of this year, the Court issued an order directing Reclamation to do additional analyses on two issues: The potential cumulative impacts of water withdrawals on the Missouri River, and the consequences of the transfer of non-native biota into the Hudson Bay Basin. Reclamation and the State of North Dakota filed separate motions for reconsideration of specific parts of that ruling; both motions were

denied. And the United States has decided not to appeal the Court's ruling.

So, on the advice of our attorneys and after consulting with the Department of Justice, State Department, Environmental Protection Agency and the State of North Dakota, we're planning to prepare a supplement to the Environmental Impact Statement. And we believe a Notice of Intent to prepare that document will be published this Friday. We've scheduled four public meetings during the week of September 13, and this supplemental EIS will address the two items of concern identified in the court order, but it will also address things brought forward during the public scoping process. And, in addition, we're going to do a thorough review of the 2001 environmental documents, and the 2008 EIS, just to look for any flaws or items that might need updating.

We will be establishing a cooperating agency team to assist with this supplemental EIS, and anticipate the membership of that team to be similar to the one formed in 2006 and 2007 for the EIS.

Our schedule; we are anticipating that we can have a draft of this supplemental EIS done by December of 2011. And Reclamation remains committed to completion of this document, and the successful completion of the NAWS project. And, with that, I thank you.

Senator DORGAN. Mr. Breitzman, thank you very much. I want to have all of the witnesses testify and then I have some questions.

Mr. Todd Sando, the newly minted State Engineer of the North Dakota Water Commission, but a veteran of the Water Commission, I might add. Congratulations to you, Mr. Sando.

**STATEMENT OF TODD SANDO, STATE ENGINEER, NORTH DAKOTA  
STATE WATER COMMISSION**

Mr. SANDO. Thank you. My name is Todd Sando. I am the State Engineer for North Dakota and we're in charge of building the NAWS, Northwest Area Water Supply Project. So, what I want to do is give you an update on the construction activities since we started construction.

The Project began back in 2001. And we did the design work, and actual construction began in December 2002. And I have a map over here that will lay out what we've been doing for construction, and how it all works into delivering water to Minot and to the rest of the Northwest Region. So, I'm going to have Michelle Klose, the project manager, she'll kind of point out a few things as I go through it.

First of all, like I said, we're in the 8th year of construction, and you mentioned how we spent, like, \$82 million, so far, on the NAWS Project. And the first thing that we worked on is a main transmission line, and that comes from Lake Sakakawea and Highway 82 embankment, and travels 45 miles north to Minot, and that's all completed. We got that completed in the spring of 2008. So, we got the main transmission line from Lake Sakakawea all the way to the city of Minot.

At the same time, building out for the rural water systems in some of the communities, and the first segment that we worked on was the Berthold Segment. And we came off the water treatment plant in Minot and built west. And it consists of 25 miles of pipe-

line and has three pump stations and two reservoirs. And that was completed in August 2008. So, we're delivering water to Berthold.

And then the next project we worked on was the NAWS All Seasons up-end, over by Bottineau. And we provided 13 miles of pipeline there from All Seasons water treatment plant near Bottineau, and that's delivering water to that part of the State.

And the next segment that we've been working on is the Kenmare Segment. And that's continuing from Berthold, and that's a 52-mile pipeline. And that consists of one pump station, and that was in place December 2009. We're right in the middle of adding storage, and there's a million-gallon storage reservoir right by Kenmare that they actually filled with water, just recently. Today, okay.

Other projects that we've been working on for the NAWS Project; there was a major project that was dealing with the High Service Pump Station right within the city of Minot, and that was for 18 million gallons per day, High Service Pump Station with a 2 million gallon underground storage tank in Minot. And we have that completed, and that started operation last winter, December 2009.

And the other components that we've been working on right now that we just completed have connections to West River Water District and Burlington. In fact, today we just turned the water on for Burlington. We opened the valve with the Mayor this afternoon, and we'll be serving water to Burlington. So that's where we're at with actual construction of the project, right now, what's been completed.

We are working on the Mohall-Sherwood-All Seasons Line, and sometime this fall we'll have water to Mohall and Sherwood also, and we're looking at having a celebration for Kenmare and Sherwood, Mohall and that whole region. We're shooting for sometime this fall. So, that's where that's at.

Our big issue is the injunction that's in place. And what—the next step for—in our minds—is, we need to get that injunction, you know, removed. And that's, you know, standing in the way of getting water from Lake Sakakawea to Minot. So, we're unable to build our treatment plant to deal with the biota. We haven't started on the construction of the intake, yet, but we need a control structure and storage reservoir in between the lake, too, so you can see it's highlighted in the map. And we can leave the map with you, too, so you can have that for the record.

So, like Dennis Breitzman and the Bureau's mentioned, you know, there are legal strategies, and we really can't go into detail—you know, work through them, but we have an attorney in Washington, DC that works for the Water Commission, and we work with the Justice Department really closely, and we are trying to work out the deal; work it out so we can get through the issues that are at hand and hopefully we can have a new EIS. This will be the third round of NEPA compliance. We went through an EA, went through an EIS and now the supplemental EIS, and until that is freed up, that's what we will really be working towards.

A couple of the issues with taking a re-look at the EIS, you mentioned about the Missouri River and how much water there is and the water that comes through our State. When Garrison Diversion was formulated, there were 3.1-million-acre-feet that were to be al-

located for water projects throughout our State for giving up 550,000 acres of land. And, to date, I mean, we haven't been delivering hardly any water to our citizens of the State, and it's just a small fraction, like you said, of water that would be delivered to NAWS and we feel, I mean, depletion, like you said, it's so miniscule, it's not even measurable downstream. So, we baited these arguments with our downstream neighbors and our neighbors in Canada, but I just wanted to point out, regarding to depletions, we do have the right to the water, we have the right to the natural flows, and we do want to put this water to beneficial use.

So, that's where the project's at right now, and we would like to continue building out. One of the things with the future funding, we have \$2 million through the Bureau of Reclamation to do additional studies. There will be additional needs for—to build the intake structure. The intake will cost, probably, \$18 million, so we're looking for money for the intake structure.

Our other goal for next year is Minot Air Force Base; we want to build a pipeline to Minot. So we're looking at trying to fund that. Minot's been very, very good for the project and for the whole region. They've stepped up with \$30 million, so they've been helping to get the water out to these rural areas, and we'd like to continue with that next year. So, we're looking at angles to try to keep the project moving and still building out next year.

We do know there are issues with groundwater. As you know, you talked about how the interim water is coming from an aquifer system. It's coming from the Minot aquifer and the Sundry aquifer. And as everyone's aware, the aquifers are being mined, and in the last couple of decades, you know, we track it very closely, and the water levels are dropping in the aquifer. So, we have an interim agreement right now with the city of Minot for 10 years, and that was signed in 2008. So, they're willing to provide it for 10 years. But they have an opt-out clause in it, too, if those aquifers get too low. So, as of now, they're willing to supply water to all of the neighboring communities, and we do have an agreement in place for 10 years.

#### PREPARED STATEMENT

And, you also wanted to know about timeline. Based on what we're working toward we still, I mean, to build a treatment plant, to upgrade the treatment plant in Minot, to build the intake and to build the other features, we're still probably 6 or 7 years away from completion in getting water to the city of Minot from Lake Sakakawea.

So, that's my summary for you.  
[The statement follows:]

#### PREPARED STATEMENT OF TODD SANDO

It is difficult to fully describe the care taken by the State water commission, the NAWS Advisory Committee, the city of Minot, and the cities and rural water systems in the region under trying circumstances. Because of the ongoing litigation over the project, all parties have carefully striven to balance the use of the existing ground water supply and continuing development of the project. First, and most important, we have encouraged the Federal Government to do everything in its control to satisfy the edict of the court so that the injunction could be lifted completely. Second, we have cautiously, but consistently, sought relief from the court to allow construction to continue in a phased approach that allows work to proceed, while the

supplemental environmental review is completed in an open and fair manner and in full compliance with the court's order.

The support we have received from the Senate Appropriations, Energy and Water Development Subcommittee, has been very much appreciated in assisting us to address the water needs of this region. We respectfully request your continued support for these types of water supply projects. The construction funding the last few years has connected communities to better water quality. Those living in the communities and rural homes and farms have expressed to us their sincere thanks and appreciation for water service from the project. I want to take this opportunity to thank you on their behalf.

Even when the court has found elements of the project environmental review to be lacking, it also has confirmed what we all know—that the project is essential for the public health and safety for northern and central North Dakota. The court has allowed construction to continue so long as the specific project elements do not foreclose water treatment options. The court has also recognized that Reclamation had taken a hard look at reasonable in-basin alternatives, and concluded there is a need for transferred water from the Missouri River for this project.

It has been suggested that we should re-engage consultation with Manitoba. We are interested in having discussions with Manitoba if there is interest from Manitoba in reviewing the current NAWs project to address specific concerns to allow a Missouri River water supply to this region. We anticipate that the current supplemental NEPA process that is underway will provide additional and real opportunities for Manitoba and the State to engage in a productive dialogue.

But we should also be clear: the history of this project reflects adaptations to address many of the concerns expressed by Manitoba over the control of invasive microscopic biota. In particular, the project has advanced from an open canal diversion to a closed pipeline, with water disinfected and radiated to kill bacteria and viruses. It would be good for all sides to see similar advancement in a resolution. However, it must be recognized that the formal consultation process with Canada required under the Boundary Waters Act Treaty has been completed. Additional discussions over the nature of water treatment options can and will take place. The State would support a reasonable and affordable resolution that would permit the project to proceed without future litigation. That result may or may not be achievable in light of the State of Missouri's participation in the case, but we remain open to all reasonable options to avoid further court involvement.

The NAWs Project will alleviate serious water quality and water quantity problems in the area to be served by the project. These areas have been in need of a new source of water to provide good quality drinking water not only to improve human health and comply with Federal drinking water standards, but also for the positive economic and social impacts good water will have on individuals and communities.

Some of the drinking water sources within the project area pose health problems because they contain high levels of sodium, sulfates, and chloride. For example, the town of Berthold was the first community to receive an interim water supply from Minot through the NAWs pipeline—starting in August 2008. Berthold's local water supply had Total Dissolved Solids (TDS) at 2300 mg/L, far above the Safe Drinking Water Act's secondary TDS standard of 500 mg/L. Berthold was a community where people were trucking/hauling in water for their drinking water. The city's well water system was used for flushing toilets, but not for drinking, not for watering gardens or lawns, and not for washing white clothes. The attached articles from the Minot Daily News by Jill Schramm, Berthold Rates to Reflect Better Quality Water and NAWs Celebrates Water Delivery to Berthold, provides the local perspective on the value and need of a new water supply.

Further, naturally occurring arsenic is present in some area water supplies. The arsenic standard for drinking water is a primary standard under the Safe Drinking Water Act. The maximum contaminant level for arsenic is 0.010 mg/L. Arsenic levels in the drinking water of two communities served by NAWs—Kenmare and Upham—violated the Federal arsenic standard. Kenmare was facing the situation of investing funding in a separate reverse osmosis water treatment plant or seeking an interim water service connection through NAWs. Connecting to the NAWs Project gave these communities the best opportunity at the time to address arsenic. The attached articles from The Kenmare News by Caroline Downs, Kenmare Turns on the Tap for NAWs Water and Donnybrook and Tolley Area Water Users Now Hooked Up to NAWs, provides the local perspective on turning on water service after the Kenmare-Upper Souris segment of the pipeline was completed in December 2009. Also attached are articles from the Minot Daily News by Jill Schramm, discussing the connection of water service to Burlington and West River Water Dis-

trict this summer. They are entitled Water Flows West and NAWS Water Flows to Burlington.

Issues still being faced in this area are wells going dry, routinely hauling water to local cafes, and difficulties getting home loans due to a lack of reliable water is highlighted in the attached articles from the Minot Daily News by Jill Schramm, Carpio-area Residents Need Money to Connect to NAWS and Carpio sees Opportunity for NAWS Water.

It is very difficult with the water supply needs of this region to draw a line of where the connection to an interim supply will end. It was precisely this difficult decision that was made with care by the State water commission and the city of Minot, in consultation with the NAWS Advisory Committee, and the communities and rural water districts in the region. Minot and the State water commission agreed in the interim water service contract that water supply to meet the current average needs up to 771,800 gallons per day in 2010 could be provided to specified communities and rural water systems. Any additional water needs of those areas would have to be met by blending their lower quality water with the NAWS water, which typically would significantly degrade the water quality and aesthetics. The contract was reviewed and approved by the Minot City Council and the North Dakota State Water Commission. The interim supply agreements with each city and rural water district was reviewed and approved by their city councils or district boards and the North Dakota State Water Commission. The city of Minot and the State water commission closely monitor the aquifers for both water quality and quantity.

As the court found, no action is not an option in this case. Consistent with that finding the court has permitted and the State has requested and vigorously pursued completion of project elements that can reasonably provide interim water supply and move closer to project completion. The construction contracts have been proceeding to provide the interim supply envisioned in these water service contracts. And, the construction north of Minot has been limited to the areas that can be served through this interim supply contract—until the long term supply is available from the lake.

The groundwater available in Minot has never been a solution for the water supply needs of the region. The legislation for construction of the Garrison Dam forming Lake Sakakawea, enacted as The Flood Control Act of 1944, recognized the need for water supply in the NAWS region. Of the options considered at that time, the legislation called for the diversion of a water supply from Lake Sakakawea. On September 25, 1970, Congress passed legislation (84 Stat. 866) for the Sundre Pipeline/Minot Extension for the first interim solution, because it was recognized the supply from the lake was still being delayed. The objective of the authorized Minot Extension, as explained in a 1981 letter to Honorable Byron Dorgan from the city of Minot, was two fold: (1) to provide a supplemental supply from groundwater from the nearby Sundre Aquifer to meet immediate needs; and (2) to provide a dependable supply of good quality imported Missouri River water for the long-range municipal and industrial requirements of the city of Minot. This groundwater supply from the Sundre Aquifer has helped Minot for many years, and as expected in 1976 when the construction was completed, this supply was not going to be adequate for the population growth in Minot.

Every year of delayed construction, specifically on structures like the intake, treatment plant, and pump stations, it increases costs, and impacts Minot's ability to continue cost-sharing the project for the benefit of the region. The cost estimates for construction of the High Service Pump Station were increasing over 6 percent each year. With construction of that facility completed, the guesswork on how much additional dollars would have to be set aside for that facility has also ended. In addition, by using this facility now, even without the water supply from Lake Sakakawea, benefits are being realized in more storage and reduced power costs for both NAWS and the city of Minot.

The need for additional funding to support the successful completion of the project is clear. One year ago, a representative of the Bureau of Reclamation stated in a sworn affidavit that: "Delays in completing the project have resulted in increased costs to the Federal Government and the State of North Dakota. Costs for materials and labor, coupled with rising inflation, have risen significantly between 2002 and 2009 and the project is now more expensive to complete. The Dakota Water Resources Act of 2000 requires that all construction costs be indexed yearly to keep pace with inflation. For example, between 2002 and 2009 there was a 36 percent increase in construction costs for pipelines and a 34 percent increase in costs for pumping plants. Further delays in the project will continue to significantly increase the total costs for completion."

The reality of further increased costs over time is undeniable. But so too is the ever-increasing need for a safe and reliable source of water for our communities. The long-term benefits in public health and safety, economic development and community stability will far exceed ever these increased costs. Again, we thank you for your continued support and respectfully urge your continued support and patience as we work to bring the NAWS project to fruition.

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[From the Minot Daily News, August 8, 2008]

#### BERTHOLD RATES TO REFLECT BETTER QUALITY WATER

BERTHOLD—Berthold residents will pay a little more for water beginning later this month, but Mayor Alan Lee said the price is a bargain.

“I think It’s an extremely good buy for what we are getting,” Lee said.

Berthold and the Northwest Area Water Supply project will be celebrating the arrival of a new water supply on August 18. That’s when Berthold is expected to begin supplying residents with NAWS water purchased from Minot. A celebration ceremony is set for 2 p.m. in the Sportsman Club, followed by a 3 p.m. ribbon cutting at the NAWS tank site.

The Berthold City Council approved an increase of \$2 per 1,000 gallons in the price to water users. The average household will see its water bill increase \$10 to \$15 a month, assuming water usage remains the same.

Lee said many residents haven’t watered lawns and were buying or hauling drinking water because the quality of Berthold’s water has been poor. With the arrival of good water, usage of the municipal system is expected to increase.

Under a contract between the State Water Commission and the city of Minot, the commission will pay Minot \$1.57 per 1,000 gallons for treated water to be delivered through NAWS to Berthold. Those costs, along with operation and maintenance costs of NAWS and the city of Berthold, will be passed on to water users.

Berthold expects to purchase an average of 34,000 gallons a day from Minot this year. In the event of drought, Berthold would share in any water restrictions that Minot might impose on use of city-treated water.

The Minot Water Treatment Plant produces an average of 10 million gallons a day for summer use and 5 million gallons a day in the winter for Minot, Minot Air Force Base and North Prairie Rural Water. Based on June billings, Minot used about 72 percent of the water produced, or more than 7 million gallons a day.

Minot also has a contract with NAWS for use of its pipeline to distribute an average 1.16 million gallons a day to some city customers this year. Minot will pay NAWS 28 cents per 1,000 gallons to cover operation and maintenance.

JILL SCHRAMM,  
*Staff Writer.*

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[From the Minot Daily News, August 19, 2008]

#### NAWS CELEBRATES WATER DELIVERY TO BERTHOLD

BERTHOLD—Water flowed from Minot’s treatment plant into a storage tank at Berthold as Berthold residents and others involved in the Northwest Area Water Supply project celebrated Monday.

“Now we are going to have good water,” said Bob Inman, a member of the Berthold City Council. “It will help the city grow “

Berthold’s community band kicked off festivities that included speeches, a ribbon-cutting and what might have been the first ceremonial visit by a State Governor to Berthold. Joining Governor John Hoeven were other leaders who have worked on water issues, including area legislators, representatives of the State’s congressional offices and officials from the State Water Commission, Garrison Diversion Conservancy District, city of Minot and Ward County.

The State Water Commission is purchasing water from Minot to serve Berthold, a community of about 466 people. NAWS built a pipeline this past year to connect the two towns, located 25 miles apart, “I know this isn’t our long-term goal. Our long-term goal is to get Missouri River water here,” said Dale Frink, State engineer with the water commission. “I think it will happen. But this really is a very nice first step.”

A lawsuit brought by Manitoba over proposed water treatment has prevented access to Missouri River water. The court has ordered more studies, and the Bureau

of Reclamation hopes to finish an Environmental Impact Statement by the end of the year.

Minot is providing water to Berthold in the interim.

Following the ribbon-cutting, Minot Mayor Curt Zimbelman signed an agreement with the State Water Commission to authorize the sale of water. The Minot City Council will consider an amendment to address the city's long-term involvement should water from the Missouri River be indefinitely delayed. The amendment won't affect water sales for the interim projected in the agreement.

"We are going to complete NAWS, and today is a big step forward," Hoeven said during Monday's ceremony. "It really symbolizes the progress we are making on the Northwest Area Water system."

He said the environmental study will ensure the project protects the interests of the State and Canada.

"We are doing it right. We are doing it well. We are being very diligent that it's environmentally sound, but we will not be dissuaded or deterred," Hoeven said. "We are going to keep moving this forward. This is important to our State."

Berthold Mayor Alan Lee credited the project's progress to Minot's commitment, including passage of a 1 percent sales tax to pay local costs of NAWS for the region.

"This is a major day, a major step forward, and without that 1 percent sales tax to push this forward, we probably wouldn't be where we are today," Lee said.

Minot voters enacted the sales tax in 1999. In June, they rejected a plan to divert a portion of the tax to a community bowl.

"We have tried to help the communities around us as best we can," Zimbelman said. "Certainly when we put in this city sales tax, we didn't think it would be in as long as it has been. This thing has been drug out. This has certainly slowed down projects we might have been able to do otherwise, but I know the community is behind NAWS. The importance of water just can't be overstated."

Michelle Klose, NAWS project manager with the water commission, said a delay in getting a pump station into operation has kept the people of Berthold from already being able to run Minot water out of their taps. The State is conducting bacterial testing today on the water in storage. If the water passes the test as expected, the city of Berthold can begin Wednesday to flush its distribution system in preparation for delivering the new water.

Monday's celebration drew some Berthold residents who are eager for the switch-over.

Ever since he was a kid, Gary Gathman said, all he's known is hauling water for drinking. Things finally will change for him.

"I am looking forward to it," he said.

"I am, too," added Klint Hanson. "It will be nice, real nice."

Hanson said he has drinking water delivered but must use Berthold's water for other purposes, much to his wife's chagrin. She will be happy when she can wash white clothes and have them turn out white, he said.

Now that a NAWS transmission line to Berthold is in place, North Prairie Rural Water District also can begin branching off to serve new customers. North Prairie will hold a meeting this fall with Berthold-area residents interested in a rural water system.

JILL SCHRAMM,  
*Staff Writer.*

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[From the Kenmore News, December 9, 2009]

#### KENMARE TURNS ON THE TAP FOR NAWS WATER

With the thermometer shivering at 6 degrees below zero, the valves were opened Monday between the Northwest Area Water Supply (NAWS) and the city of Kenmare water distribution lines.

Kenmare now receives its water supply from the city of Minot and will continue to do so until the NAWS system has the capability of treating and distributing water from the Missouri River at Lake Sakakawea through its lines.

"This is the day we've been waiting for," said Kenmare mayor Roger Ness. "This is one more step for us."

He added that Kenmare still has to build a new water tower and install a pressure regulating system to complete the upgrade to the city's municipal water system. Those projects will likely be bid in January or February 2010. "We're planning a celebration next year when everything's done," he said.

Many residents may want to celebrate now, knowing the water coming from their taps, filling their toilets or rinsing loads of laundry no longer contains the tannins and other solutes that have characterized Kenmare's water for decades.

However, don't fill that coffee pot at the kitchen sink just yet. "It's not something you're going to notice today," said Ness.

The entire Kenmare system has to be flushed. City employee Mike Thompson and city engineer Ryan Ackerman of Ackerman-Estvold Engineering in Minot already started that process, but it's going to take some time.

Ness said the water pipes throughout town hold about 80,000 gallons of water, the tower holds between 25,000 and 30,000 gallons, and businesses and residences serve as another storage site for water. City employees drew down the city's cistern and tank as much as they could to maintain service before the valves were opened to the NAWS line, but the lines are still filled with old Kenmare water.

On Monday, Ackerman and Thompson discussed a strategy for flushing hydrants around town. They were concerned about creating sheets of ice for drivers, given the week's forecast of single digit high temperature readings.

"We'll attempt to divert any water away from the streets," said Ackerman. "We want to develop a flushing program to minimize impact to streets and properties."

Michelle Klose, NAWS project manager from Bismarck, recommended that homeowners do their part to flush their own lines. "Citizens should run their taps for a few minutes extra," she said. "It will take a little time, but you'll see the water clear up once you run it a while."

She emphasized the change to Minot City water could take several days, a prediction supported by Ackerman. "The city will start flushing right away, but these transitions always take a little bit longer than you expect," said Klose.

Ackerman said residents should not notice any changes in their home water pressure over the next few days. "This will be no different than the regular flushing process," he said.

Perry Weiner, water resource senior manager with the State Water Commission, cautioned residents and businesses who own older hot water heaters. "That clean, clear water acts like flushing a radiator," he said, "and you could see leaks. We've seen that a lot in the Southwest Area Water Supply project."

#### NEW WATER, NEW BILLING RATES

The new water comes with an increased billing rate that went into effect December 1. The basic monthly fee remains \$23, but the rate per 1,000 gallons has been raised from \$2.50 to \$5.00.

"People will see that on their December billing," said city auditor Mary Brekhus. Those statements will be printed later this month. "You have to pay by January 10."

That new rate may require further adjustment as the project continues. "We're going to have to take a look when the project gets done and re-evaluate," Ness said.

Ness and Brekhus noted that approximately 75 water meters still need to be replaced at locations around town. The new meters will allow remote readings to be taken. According to Brekhus, the city has about 550 meters in service throughout town.

Kenmore uses an average of 116,000 gallons of water per day. The city of Minot will provide 120,000 gallons of water to flush the system.

#### JUDGE REVIEWING NAWS LAWSUIT

While Klose was in Kenmare on Monday, she informed Ness about the status of the lawsuit filed by the province of Manitoba and joined by the State of Missouri to stop the NAWS project. An injunction was imposed on any design and construction work on the treatment plant for Missouri River water until the suit is resolved, but the judge has allowed construction of the pipeline itself.

Final documents were submitted on behalf of NAWS in mid-November. Klose noted the judge filed an order last Thursday requesting more information regarding the placement of pipe in one particular location. The explanation must be given to the court by Friday, December 11.

"It's good she has responded to what we submitted earlier," Klose said.

#### NOW IN COMPLIANCE FOR ARSENIC STANDARD

The city of Kenmare has had an adequate supply of water for years from the city's two deep wells. However, the quality of the water has been less than satisfactory for many local residents, who often purchase water for drinking and resign themselves to discolored garments, towels and bedding after a few rounds through the washing machine.

When Federal regulations went into effect in 2006 to reduce arsenic levels in municipal water supplies from 50 to 10 parts per billion, Kenmare water was found to be in violation. Samples showed arsenic levels at 11 to 14 ppb. "It wasn't dangerous, but it was out of compliance," Ness explained.

After examining several plans to bring the city's water supply into compliance with the arsenic standard, the city council agreed to purchase water from the city of Minot for delivery through the NAWS system.

"In any strategic planning session we've ever had, water quality is the key issue," Ness said. "This is going to be great for the future of Kenmare, to have water that's high quality. Water is one of the most important commodities."

Klose joined Ness in celebrating completion of this part of the NAWS project. "The community has been looking at different options," she said. "There's been so much effort for construction, funding, communities working together, to keep this project going."

Minot is currently supplying water through the NAWS system to Berthold, with Kenmare in service and the Upper Souris Water District scheduled to come online within the next few weeks. Pipeline construction to Sherwood, Mohall and the All Seasons Water District should be finished next summer "Next year, we'll have a couple more communities coming on," said Klose.

Alan Walter, Minot City public works director, has predicted Minot has enough water to fulfill the needs of the entire system during off-peak usage in the fall and winter months, with the outlying systems prepared to blend Minot water with their current sources for peak usage months.

Ness said Kenmare will consider blending its water, but the city council may also look at restricted use of water for yards and gardens during the summer months to reduce or eliminate the need for blending.

He praised the city of Minot and the State Water Commission for their cooperation on the NAWS project through the years and the commitment made to residents and communities of the northwest corner of the State.

"The stars must have been aligned just right to get this many entities working together in such a short time," Ness said. "I give credit to Alan Walter and his department in Minot. They have been key to this project. And to the city of Minot and the Magic Fund for paying for much of this, and supplying this region with water until we can get water out of Lake Sakakawea."

CAROLINE DOWNS.

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[From the Kenmare News, December 31, 2009]

#### DONNYBROOK AND TOLLEY AREA WATER USERS NOW HOOKED UP TO NAWS

Approximately 150 water hook-ups in the Donnybrook and Tolley areas were connected Tuesday to water supplied by the city of Minot through the Northwest Area Water Supply (NAWS) pipeline.

Gary Hager, general manager of the Upper Souris Water District met with Perry Weiner from the State Water Commission and engineers on the NAWS project to oversee a smooth transition as valves between the two systems were opened.

Hager said customers in Plain, Ivanhoe, White Ash, Roosevelt, the eastern half of Sauk Prairie and the western half of Callahan townships would start receiving the new water in their taps, as well as residents in the towns of Donnybrook and Tolley.

"We have about 90 rural hookups and about 35 each in Tolley and Donnybrook," said Hager.

The area served by the new water supply represents a portion of the Upper Souris Water District System I, with customers along the rest of that system scheduled to receive the new water after construction on the pipeline is completed to Sherwood and Mohall during the summer and fall of 2010.

Customers of the Upper Souris Water District System II will have to wait until NAWS pipeline construction is finished north of the Minot Air Force Base. "We're shooting for 2011," Hager said.

The city of Kenmare connected to the NAWS system 2 weeks ago, purchasing water from Minot so the municipal water supply would comply with Federal arsenic standards. For the Upper Souris Water District, the change to the new supply will assist with the issue of water quantity. "We needed more gallons," said Hager.

He noted the current sources for both systems on the water district meet all Federal regulations for quality. "We're even better than some places," he said.

However, some customers along the line have lost water service during times of peak demand. "Our plant is designed to provide 150 gallons per minute," Hager said. "At peak times, the demand can be 250 gallons per minute."

Much of the water flowing during those peak demands goes toward agricultural use. Hager noted an increased demand for water in Systems I and II with recent changes in farming techniques. Forty to 45 percent of the total water usage in the Upper Souris Water District goes toward agricultural application.

"Ten years ago, we sold 47 million gallons a year," he said. "With the increase in spraying, by 2008, we sold 61 million gallons. Our average use per month is 3.6 million gallons on System I, but that goes up to 6 million gallons a day during the spraying season. That's when this will help."

Hager did not anticipate a need to blend the new water with that from the district's current supply at this time. "But we will blend during the peak time if the demand out there requires it," he said.

Initial flushing of the affected portion of System I took place Tuesday, with more flushing scheduled over the next few days.

"People should be patient," Hager said. "This may take a week to 10 days. We're flushing as fast as we can."

He also noted the disinfectant used in the Minot water supply is the same as that used by the Upper Souris Water District.

The cost for the new water will be shared among all System I members at this time. The contract with NAWS and the city of Minot calls for a charge of \$2.20 per 1,000 gallons purchased. "Everyone (on System I) will benefit," Hager said. "This frees up more gallons at our Kenmare water treatment plant for use during peak times."

For now, Hager estimated an increase of \$3.50 per month for most customers. The rates may be re-evaluated and adjusted after more customers are added along the line, and then again after water can be supplied by the Missouri River, treated, and distributed throughout the NAWS system.

Hager emphasized that Upper Souris Water District customers would continue seeing the same service and attention to water quality matters they've been experiencing.

"We're doing everything right now the same as we've been doing, plus buying water," said Hager. "When we can use Lake Sakakawea water, that will supply 100 percent of our needs, and we may see a cost savings at that point."

U.S. Senator Byron Dorgan of North Dakota sent his congratulations for another successful NAWS connection. Dorgan serves as Chairman of the Senate Energy and Water Appropriations Subcommittee, with a total of \$25.84 million approved in the past 3 years specifically to fund construction on the NAWS project.

"The funding we've been able to direct to the Garrison Diversion and NAWS has allowed us to make some exciting progress on the rural water supply in North Dakota," Dorgan said. "The completion of this latest component of NAWS will be a great benefit for those who live in the Donnybrook and Tolley area." This is an investment in the region that is welcome news during Christmas week.

The connection between NAWS and the Upper Souris Water District provided another visible sign of progress for the project. In addition to the pipeline segment completed between Berthold and Kenmare earlier this year and the connection to NAWS established for the municipal supply in Kenmare, a million gallon NAWS storage tank was under construction east of Kenmare at a cost of \$1.841 million, and several miles of pipeline were laid on the Mohall-Sherwood-All Seasons segment at a cost of \$5.114 million and on the All Seasons-Upham segment at a cost of \$680,000.

Once those segments are completed next year, water from the city of Minot will flow through the entire northern tier of the system until Lake Sakakawea water is available. Design and construction of a water treatment plant for the NAWS project is on hold until a lawsuit filed by the Province of Manitoba and the State of Missouri is settled in Federal court. Currently, the judge assigned to the case is reviewing final statements and additional information regarding placement of pipeline in specific areas.

Hager told his customers to expect to see clearer water flowing from their taps within the next few days. "I'm told it will even make good coffee," he said.

CAROLINE DOWNS.

[From the Minot Daily News, August 12, 2010]

#### NAWS WATER FLOWS TO BURLINGTON

BURLINGTON—Burlington residents will be seeing a positive change in the water coming out of their taps soon.

On Wednesday, the Northwest Area Water Supply project and city of Burlington turned the valve that will bring Minot's treated water to the 1,300 residents of Burlington.

Clint Cogdill, Burlington's public works director, said residents could notice the difference by next week, once the city finishes flushing lines and draws down the existing water level in the reservoir. The water will be blended initially during the switch-over.

Governor John Hoeven joined Mayor Jerome Gruenberg shortly after 1 p.m., in turning the valve located near Speedway, between Minot and Burlington along U.S. Highways 2 and 52.

"We have been waiting for this for a long time," Gruenberg said. "We were one of the first ones to sign up for this."

Gruenberg said the city built a treatment system to handle the high iron and magnesium that left its water supply brown. However, the water still contains other minerals that have prompted many residents to acquire water softeners or buy drinking water.

"We have really bad water," Gruenberg said. "We have made it so it's usable but this will be better water for us."

Burlington had shared its water with the neighboring West River water system, which includes some housing developments between Burlington and Minot. NAWS turned on water to West River in June. Burlington waited to get an electronic water monitoring system set up.

Burlington will receive up to 170,000 gallons a day from Minot through the NAWS line. The city will maintain its existing water supply and treatment plant to provide fire protection and a supplemental supply in times of heavy usage.

Sherwood and Mohall are next in line to receive Minot's water through NAWS. That is expected to occur in October or November. All Seasons Water Users District also will get water at that time to serve the rural area north of Minot, including residents of Newburg, Antler and Russell.

JILL SCHRAMM,  
*Staff Writer.*

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[From the Minot Daily News, June 23, 2010]

#### WATER FLOWS WEST—NAWS BEGINS SERVING WEST RIVER RESIDENTS

The day that many residents of the Burlington area had long been waiting for came on Tuesday when water from the Northwest Area Water Supply project began flowing to West River Water and Sewer District.

The city of Minot is providing water through NAWS until the project obtains water from the Missouri River.

West River serves about 170 users and the Dakota Boys and Girls Ranch. Max Weppler, vice chairman for the water district, said people have been calling every day, anxious to know when the NAWS water would be turned on.

"Everybody is excited about it," he said.

Dale Frink, State engineer, and Michelle Klose, NAWS project manager, both with the North Dakota Water Commission, were on hand for the turning of the valve near Speedway, between Burlington and Minot, that sent water flowing to the district. Officials with Minot, Burlington, West River and others involved in the project also were present.

NAWS planned to flush lines Tuesday afternoon before introducing the new supply. Residents are advised that they may need to run their water for about 20 minutes to clear any sediment stirred up in the process.

West River has been receiving its water supply through Burlington.

Burlington is scheduled to begin receiving water in about 2 weeks once technical issues are finalized to enable the city's storage system to accommodate the flow.

"We are real pleased that this is going in," Burlington Mayor Jerome Gruenberg said. "A lot of people in Burlington are looking forward to getting better water."

He said Burlington will be blending its existing water with the NAWS water. The city needs to maintain its existing water supply to provide adequate fire protection.

Construction started this spring on the pipeline that is providing the water. Steen Construction completed the \$471,000 project, which was funded with Federal and State dollars and Minot's 1 percent sales tax for NAWS.

The two water systems will get up to 179,000 gallons of water a day.

JILL SCHRAMM,  
*Staff Writer.*

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[From the Minot Daily News, March 5, 2009]

#### WATER OPPORTUNITY—CARPIO SEES OPPORTUNITY FOR NAWS WATER

A Northwest Area Water Supply pipeline soon will be bringing water toward Carpio, giving the community a chance to tap into more dependable, safe water supply.

Members of the city council have been knocking on residents' doors to share information and sign up potential water customers.

"The more people we sign up, the better it is looking to go forward," Mayor Jamie Armstrong said. "It sure would be nice to turn your spigot on and not have to worry about where the water is coming from."

Carpio has no public water system. Residents are served by private wells. Last summer, some residents had problems with wells going dry. Water quality also has been an issue for some. The community's stockholder-owned cafe hauls water from Minot because its well water doesn't meet State standards for public drinking.

Residents who sign up could be in line to receive water in 2010 through North Prairie Rural Water District, working through the North Central Water Consortium. North Prairie would tap into the pipeline that NAWS plans to build from Berthold to Kenmare this year. The area would be served by water from Minot until the day that treated water from the Missouri River becomes available.

Armstrong said there are 93 households in Carpio, and North Prairie wants 60 percent to sign up to proceed with a project.

So far, interest has been good, Armstrong said. The council will assess the interest at its meeting March 9. If it looks positive, the council will meet with North Prairie.

North Prairie would bring pipeline within 50 feet of homes at a cost of \$525 per customer. Residents would be responsible for the hookups to their homes, Armstrong said he has been researching that cost but hasn't any estimate yet.

Once water is delivered, the cost is projected to be \$49 a month to cover operating, plus \$4.60 per 1,000 gallons. The average household uses 4,000 to 5,000 gallons a month.

Carpio's last opportunity to hook up to rural water was 30 years ago, Armstrong said. Residents declined at that time, but Armstrong believes circumstances are different for residents today.

Good, reliable water can make a difference in getting a home loan or in selling a home, he said. It can determine Carpio's future.

"It's another expense, but it's something that's, hopefully, going to build this community," Armstrong said. "It's a small town not far from Minot who could see potential growth."

Residents who pass up this opportunity can hook up later but at higher cost. The hookup charge rises from \$525 to \$1,200 in the first year and \$2,400 after the first year.

Armstrong said many residents, including himself, have looked at the costs and concluded that the water is worth it.

"Water is an important commodity," he said, "and when you have the opportunity to get hooked up to it, it's so nice."

JILL SCHRAMM,  
*Staff Writer.*

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[From the Minot Daily News, December 17, 2009]

#### CARPIO-AREA RESIDENTS NEED MONEY TO CONNECT TO NAWS

CARPIO—Carpio-area residents aren't sure how long they will have to wait for good water even though a hookup is waiting for them in a Northwest Area Water Supply pipeline only one-half mile away.

Water began flowing through the pipeline December 7 on its way from Minot to Kenmore. The problem for Carpio is there's no money yet to tap into the pipeline and build a distribution system for the water.

The city of Carpio had hoped to receive water from NAWS next year through the North Central Water Consortium. The consortium, which consists of North Prairie Rural Water District and Central Plains Water District, plans to purchase water from NAWS to bring service to at least 65 subscribers in Carpio and about 100 more subscribers in the rural area.

The consortium needs about \$3 million to build a distribution system for the town and the surrounding rural area. It is seeking grants to make the project affordable.

"I would be really nice if we could figure something out," Carpio Mayor Jamie Armstrong said. He said the toughest part of the delay is "not knowing what to tell the residents in Carpio if they are going to get water or not. . . . It's disappointing because they won't give you any sort of an answer. They just keep waiting for funding."

Darrell Hournbuckle, the consortium's engineer with Interstate Engineering, said there wasn't an opportunity to get Federal funding for 2010 through the Municipal, Rural and Industrial program. The consortium is working with Senator Byron Dorgan, D-N.D., to get funding into the 2011 budget.

Money might be available through the U.S. Department of Agriculture's Rural Development program to get started next summer on a system for the town of Carpio only. The problem is that separating Carpio with its higher population concentration from the rest of the project jeopardizes the financial feasibility of getting water to the scattered rural customers, Hournbuckle said.

"No one wants to just abandon the rural people," Hournbuckle said.

The Rural Development program would provide 45 percent financing, compared to the 75 percent financing associated with MR&I funds.

"It means the cost to each individual could be quite a bit higher," Hournbuckle said.

The latest figures, based on costs last spring, showed that North Prairie could bring a pipeline to within 50 feet of homes at a cost of \$525 per customer. Residents would be responsible for the hookups to their homes. Once water is delivered, the cost was projected to be \$49 a month to cover operating, plus \$4.60 per 1,000 gallons. The average household uses 4,000 to 5,000 gallons a month.

Carpio residents are working through the consortium rather than directly with NAWS because they have no public water system. Residents are served by private wells.

Residents have had problems with wells going dry, and water quality is an issue. Armstrong said one home buyer was required to put in a reverse osmosis system to qualify for a mortgage. The community's stockholder-owned cafe has hauled water from Minot because its well water hasn't met quality standards.

JILL SCHRAMM,  
*Staff Writer.*

Senator DORGAN. All right. Thank you very much, Mr. Sando.  
And, next we'll hear from Mayor Curt Zimbelman, mayor.

**STATEMENT OF HON. CURT ZIMBELMAN, MAYOR, CITY OF MINOT,  
NORTH DAKOTA**

Mr. ZIMBELMAN. Thank you, Senator. Welcome to Minot. We always appreciate it when you take the time to be here.

My name is Curt Zimbelman; I'm the mayor of Minot.

What is the future for NAWS? Currently plans are being developed for the NAWS improvements needed on the Minot Water Treatment Plant. Plans are also near complete for the extension of NAWS to the Minot Air Force Base and beyond. Preliminary plans are being looked at for the continuation of NAWS to the east of US Highway 83 along US Highway 5. This is all being done with the anticipation that we will get approval for the treatment and transmission of water from Lake Sakakawea.

As you know, a U.S. District Court Judge is still reviewing this matter. We are working with the North Dakota State Water Commission and the U.S. Bureau of Reclamation to develop a supple-

mental EIS to answer questions raised by the project. To date, the city of Minot has spent \$30,385,311 on the NAWS Project. This money has all been raised by the city of Minot through the NAWS \$.01 sales tax, specifically for the development of NAWS. The city has done this in good faith with the process starting in 2002. We had fully expected to have construction of NAWS complete by this time, eliminating the need for a local sales tax for this purpose. As a growing city, there are many other infrastructure needs that exist and have had to be put on hold.

With the mandated need for a supplemental EIS for NAWS we are now looking at approximately 2 more years before approval is granted for the project. So, we have a ways to go before construction can continue on the intake structure for the system at Lake Sakakawea, the treatment system at Max and the tank located near the Radar Base, south of Minot.

The U.S. District Court is asking that we take a hard look at the transfer of biota from the Missouri River Basin to the Hudson Basin via the NAWS Project. There have been several studies completed on this subject. All of them conclude that the chance of the transfer of biota are negligible compared to what is happening routinely in nature.

A study was conducted in Pennsylvania from 2005 to 2010 related to the transfer of vectors for disease-causing pathogens by Canada geese. The study concluded that this is going on today. A copy of that study is included with this testimony. So, regardless of NAWS, vectors are being transferred across the Continental Divide from the Missouri Basin to the Hudson Bay Basin. On top of that, all legitimate studies show that there is almost no chance of biota transfer under any of the treatment alternatives for NAWS.

U.S. Judge Collyer stated in her first ruling that NAWS is a needed project. The major remaining question is what type of treatment needed. Engineering studies have proven that the lowest cost treatment alternative, \$17 million, treats the water the same as the highest cost treatment alternative, nearly \$100 million. However, the U.S. District Court has asked that the EIS be looked at a little harder before the water treatment portion of the project can go forward. In the meantime, the Canada geese, ducks and all other water birds are flying back and forth doing what they do without the assistance of any project.

The city of Minot has signed a contract with the North Dakota State Water Commission and the NAWS system to temporarily supply water for its existing ground water source. The contract has a limited term. Limitations are also necessarily in place in this contract on the amount of water that each entity can draw from the NAWS system to protect the current Minot water supply. So, in addition to the city of Minot raising the sales tax to complete NAWS, we are also temporarily supplying water to the legion. Should the supplemental EIS process be prolonged, the temporary contract and temporary regional water supply could become another hurdle for NAWS.

To move this project forward we need the entities which are conducting the supplemental EIS to do so with due concern for the timely completion of that study. We are two years into the contract for temporarily supplying water from the Minot ground water

source. We may have two more years to get the supplemental EIS completed and then considered by the judge. After this process is complete and the NAWS project receives the green light to proceed, we will still have more years required constructing the system south of Minot to get water from Lake Sakakawea to the Minot Water Treatment Plant.

Should the decision be made that the highest-cost treatment alternative is the one chosen for NAWS, that \$100 million Federal cost will present a significant funding timeline issue for NAWS completion.

In conclusion, to move the project forward we need the supplemental EIS completed as soon as possible. We need Federal funding for the project to be timely and sufficient to complete the water treatment at Max. We also need continued cooperation with all entities involved in the process and in this project.

#### PREPARED STATEMENT

Thank you for the opportunity to testify today and look forward to the completion of the NAWS Project and the continued working relationships we have with the North Dakota State Water Commission, the Bureau of Reclamation and our Congressional Delegation.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF MAYOR CURT ZIMBELMAN

We want to thank Senator Dorgan again for holding the Energy and Water Subcommittee hearing on August 11, 2010 in Minot, North Dakota for the NAWS Project. There were several concerns raised at the end of the hearing that we would like to give input on.

The first concern is the expected progress on the project. The second concern is the use of the Minot water supply. The third concern is the depletion of the Missouri River as a result of water pumped for the Northwest Area Water Supply.

#### PROGRESS AND CONSTRUCTION OF NAWS

The North Dakota State Water Commission, the U.S. Bureau of Reclamation, and the city of Minot have continued with the construction of court approved non-treatment related segments of the NAWS Project based on the approval from the U.S. District Judge Collyer as part of her ruling on the NAWS lawsuit. We clearly had not expected our project to be delayed so long by the lawsuit filed by Manitoba, Minnesota and Missouri.

It is also clear that the citizens of North Dakota have the right to access water in the Missouri River System. The water that we would draw for the NAWS project is a very small portion of the water that drains into the Missouri River System from within our own State. So, our project has been constructed with full anticipation that we would be given a water right and that we would be able to draw water for our citizens.

After substantial completion of the water main between lake Sakakawea and the Minot Water Treatment Plant we have continued with the construction by building water lines to the west and then to the north of Minot. Currently, we are anticipating construction of water lines north to tie into the Minot Air Force Base and that part of our region.

We are also asking the court to allow the construction of the intake facility for withdrawal of water from the Missouri River System for our project. We have received concurrence for the construction of the improvements at the Minot Water Treatment Plant in preparation for NAWS water.

So, construction of the NAWS system to this point has been approved by the court. We have not blindly forged ahead on NAWS construction. We have received concurrence and approval on all phases that have been constructed. We continue to anticipate the day when the court will rule in favor of a water treatment alternative for the Missouri River water that we have sought for so long. It is worth repeating that the judge stated in her first ruling, that NAWS is a needed project. It needs

to be clearly understood that treatment of the Missouri River water, to whatever level is finally determined by the Federal Court, is a Federal responsibility.

#### USE OF MINOT'S WATER SUPPLY

As the construction of the NAWS Project began there were negotiations and a contract with the North Dakota State Water Commission developed for the use of Minot's interim water supply to supply water to the NAWS system until we had received approval to draw water from the Missouri River System. The Minot water supply is mainly from the Sundre Aquifer located southeast of Minot. Again, our current aquifers are an interim water supply. The water line to this source was constructed by the Corp of Engineers in 1974. This water supply was constructed with full anticipation of Missouri River water being delivered to Minot.

Because of our knowledge of the capability and limitation of the Sundre Aquifer, contracts were developed between the city of Minot, the North Dakota State Water Commission and the U.S. Bureau of Reclamation. These contracts have limitations, both for the term for usage and for the amount of water that can be supplied daily to the outlying communities.

The North Dakota State Water Commission previously did a study on the Sundre Aquifer. They are fully aware of the capability of the Sundre Aquifer and its use as an interim water supply for the NAWS System. We are now relying on that interim water supply for the city of Minot and for some of the communities in the NAWS System. Some of the small communities to be served by the NAWS system were under EPA requirements to improve their water treatment because of poor water quality. So, on an interim basis the NAWS project has been able to help provide these communities with a good quality, clean water supply.

#### DEPLETION OF THE MISSOURI RIVER SYSTEM WITH THE WITHDRAWAL FOR NAWS WATER SUPPLY

During the hearing there was mention of the depletion aspect of the Missouri River system due to the withdrawal of water for NAWS and for other projects in North Dakota. That issue was previously studied by the U.S. Bureau of Reclamation and the Corp of Engineers and they reported that the withdrawal of water from the Missouri River System for these projects would have a negligible effect on the water in the river system. The Environmental Impact Statement that has been completed for the NAWS project stated that the withdrawal of water for the NAWS Project from the Missouri River System would not be able to be measured downstream of the Garrison Dam. Even though the State of Missouri claims all of the water in the Missouri River System, the citizens of North Dakota have a right to water that is flowing into the river directly from our State.

As an example, if one were to suppose that a dam were constructed in North Dakota on Shell Creek to store water for domestic use it would be the same water that is flowing into the Missouri River System in the vicinity of Van Hook. And, this would be water coming off of our State and being put to public use as potable water before it got into the Missouri River System. That same proposition could be used on all of the rivers flowing into Lake Sakakawea or the Missouri River from the State of North Dakota. It is the right of the citizens of North Dakota to use the water that runs off of our State for our purposes.

Again during the hearing, the question of previous meetings being held between the Province of Manitoba, the State of North Dakota and the U.S. Bureau of Reclamation was discussed. It was indicated at the hearing that there had been some progress made between the entities as those previous meetings proceeded. However, progress at those meetings was not significant. The meetings were cordial and to the point. The topics discussed were the treatment processes with particular emphasis on the dissolved air flotation process that the Canadians favored for pretreatment of the water. No final resolution was found on the issues that have divided us.

If as suggested at the hearing, the meetings should be continued, the responsibility to facilitate them must be on both Federal governments. The responsibility should not lie with the State of North Dakota or with the city of Minot.

The city of Minot still expects a fair ruling from the judge in the lawsuit. We hope that due consideration will be given to the studies and in particular to the study of the three treatment options that have been presented. If the court looks at the reports on the treatment options, we believe the decision will be to move forward with the least costly option. The reason for this is that all three options give basically the same level of treatment. There is no significant statistical difference between the treatment of the water from the least cost option to the most expensive option.

We thank you for the opportunity to present this additional testimony for the hearing.

Senator DORGAN. Mayor, thank you very much. We appreciate your being here and your testimony. Next we'll hear from Mr. Roger Ness, who is the mayor of Kenmare, North Dakota.

Mr. Ness.

**STATEMENT OF HON. ROGER NESS, MAYOR, CITY OF KENMARE, NORTH DAKOTA**

Mr. NESS. Thank you. Thank you Senator Dorgan for all you've done and for your commitment to this project. It's vital to this area, and it's vital to every little town, like Kenmare.

Kenmare was a town that had lots of water, we had no problem with quantity, but our quality was very bad. Three years ago we were out of compliance with arsenic. So, we did a study and it was a \$2.5 to \$3 million project to make our water drinkable. We have 550 hook-ups; therefore it was an economic burden for our town to even consider that.

So, we went to NAWS, the committee agreed to look into it, the State did a study on it, and we were able to get water within 18 months after we asked; so that was a huge thing for our city.

The water is unbelievably great. It's Minot water, which we totally appreciate, because our water was terrible. And we want to thank the city of Minot, for the funding, and giving us water.

We were in a situation, even last week, where we all of a sudden had to start rationing water, because this is—our interim is not capable when it gets to be a hot period in the summer. So, we're already looking at implementing different programs for rationing and cutting back on water, because we do not want to have to blend our water with this good-quality water, and if this lawsuit isn't taken care of, our future is in doubt. We're looking at if we have to either go back to blending, or the worst scenario, we have to build a new treatment plant. And right now, I'm sure that would be between \$4 and \$5 million.

So, for every little town that is in this, like Mohall and Berthold, the quality that we're getting out of this water is unbelievable, and it helps our town's economic future is looking very good for these towns because of this. And we're just very concerned that this lawsuit gets taken care of and we are ready to go on and not worry about it.

So, thank you very much, and hopefully we can get this solved.

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

Next, we will hear from Dan Schaefer, who is the manager of All Seasons Water Users District, Dan.

**STATEMENT OF DAN SCHAEFER, MANAGER, ALL SEASONS WATER USERS DISTRICT**

Mr. SCHAEFER. Thank you, Senator. I'm Dan Schaefer, Manager of All Seasons Rural Water; our office is located in Botenhall. We won't go to extremes, but we serve the north central part of the State from Mohall to Rockley, from the Canadian Border south to Balta, the little town of Balta. Our last user is Devil's Lake. So, we cover a pretty big area; 1,600 miles of pipe in the ground, 1,350 users, forward bulk users. The difference between this is, its four

separate systems, only two of the systems will receive water through NAWS.

One of the systems that will be receiving water this fall is System Three. That area runs from west of the Souris River which is east of Mohall, that is System Three. We serve people within the towns of Newburg, Russell, Antler, and the areas around Westhall. Our water treatment plant is located three miles south of Antler, the original well field was developed in 1976, four wells for that system, in 1980—or 1991—we added an additional well field north-east of Antler. That well field was added because of the drought that started in 1987 in that area. We experienced a severe water shortage, ended up having to buy water from the city of Westhall just to keep water in the pipes, let alone have water in the homes.

After an extensive test drilling plan, we did locate additional wells northeast of Antler. Those are 300 feet in depth and the water quality in those wells are poor-quality water. And when we drilled those wells, they're 300 feet deep, the water started at 30 feet above the ground when we developed them. Today its 230 feet down to the water, and the pumps are set at 270. So, those wells are getting to a point of being critical, besides.

The original wells are shallow wells. This spring, with the dry spring we went into—believe it or not is what it is in the State right now—we had to quit using the shallow wells altogether and depend upon only the deep wells to supply water at this time.

We will be receiving an interim water supply from NAWS this fall on that system. That will be additional to what we already have. There will be times in the summer that we will not receive enough water through NAWS that we'll have to run our own plants and wells to keep up with agriculture spray needs.

So, obviously the completion of NAWS where we get full flow through NAWS, the System Three area is very, very important, besides improving the quality of water. All Seasons System One is the area around the Bottineau area, serves from the Souris River east to Rolette County and south of Willow City and Kramer and Upham.

That system serves individual homes within Landa, Gardena, Kramer, Overly, and we are currently—as of the first of December—supplying bulk water to the city of Upham through funding through your generosity or the funding that you've provided.

That system was built in 1976, also, with two existing wells. In 1981, additional water was looked for in that system, which was located northeast of Bottineau. Poor quality water, so an iron manganese removal plant had to be built to handle that water. Again, those wells were built in 1981 and continued to drop into the early 1990s when we found the third water supply for that system. That water is a lot higher quality water, but as we found in the study that we did with the city of Bottineau, trying to find a better source of water for Bottineau, that the Water Commissioner did in 2002 and 2003 that showed that our well field was capable of handling our current needs, but not enough to help the city of Bottineau. The city of Bottineau wells could handle their needs, but that was it. There wasn't a big abundant supply of water in that area, also.

So, since that time, Bottineau has built an iron manganese plant to improve their quality problems. They are continuously testing

for Radionuclides Gross Alpha Emitters from the uranium that's in the water. So, I talked with the city, even this morning, and they've got two wells they absolutely don't use unless it's a dry, dry season, and then that's—they'll have to deal with the by-products of the uranium. So, again, completion of the NAWS project into that area is very important to that area.

Also, just to show the cooperation of NAWS, the city of Minot, and everybody involved, through the funding I talked about to the city of Upham, there is a need to parallel a line from our treatment plant toward Upham. Not all the way to Upham to the city of Gardena. This meant that when NAWS came there would be areas that there were four water lines in the ground.

So, I approached NAWS Committee and the Water Commission about possibly putting a line in that could be used by NAWS in the future. We can use it now to supply water to Upham. That agreement was made, there was 3.5 miles of 10-inch pipe put in the ground in 6 miles that was paid for through NAWS and the city of Minot. And now that is in place and we're supplying water to the city of Upham through most of that line.

So, like I said, that demonstrates how NAWS is helping the area, the Water Commission is helping the area—helping us work on projects that can get water to people, rural people in North Dakota.

A few little, what I'm calling points of interest. All of a sudden there's an oil boom northwest of Bottineau where they're not into the Bakken Formation, they're drilling above that. They are fracking those wells, not near the amount of water required to do the Bakken fracks, but they're up there looking for water. And you hear rumors, the oil business is rumor-related, but of hundreds of wells going in that area, and there isn't any of us that can handle that kind of water supply to supply to the oil fields. So, that's a new problem that we're going to have to deal with in that area.

#### PREPARED STATEMENT

The other one that I'd like to point out is that All Seasons is currently serving two Canadian ports of entries. We've got two Canadian customers on our system—one will be receiving water through NAWS this fall. And I've been approached, several times, gone on tours into Canada, by people in Canada, wanting to know how we can get them water. The southern part of Manitoba is—well, it's just as dry as it was back in the 1980s, 1990s. And they've contacted us on how to get water to them. So, the need is even in Southern Manitoba. It's just, the politicians of Manitoba doesn't understand that.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF DAN SCHAEFER

Dear subcommittee members, All Seasons Water Users District (ASWUD) System III provides water for rural users in the area west of the Souris River and south of Russell, south of Newberg, east of Mohall and east of Sherwood, individual hookups within the city of Newberg individual hookups within the city of Antler, with the northern border being the U.S. and Canadian border. (See attached map for approximate System III Service area.) The Water Treatment Plant is located 3 miles south of Antler and the original well field is located northwest of Antler (4 original wells) and the second well field is located northeast of Antler (2 wells installed in 1990).

Due to the drought conditions which started in 1987, ASWUD System III experienced a severe water shortage, after extensively test drilling in the Antler area two wells were drilled northeast of Antler. These wells are approximately 300 feet in depth and the water quality is considered to be poor. Since these wells were put into production the water level has continuously dropped. With the wet cycle over the past years the existing wells were able to be used to help increase the quality of the water and also helped to decrease the drop in the levels of the newer wells.

In the past several years the Antler area has gone from extremely wet to a dryer fall than we experienced in the late 1980s. In the spring of 2010, the water level in the 4 existing wells dropped low enough that we had to rely entirely on the two deep wells. The interim water supply that we will be receiving this fall from NAWS will provide an additional water supply to supplement our existing wells and hopefully avoid any water shortages in the near future.

The completion of the NAWS Project would give ASWUD System III a reliable source of high quality water.

All Seasons Water Users District (ASWUD) System I provides water for rural users in the area east of the Souris River and south of Willow City, east to Rolette County, individual hookups within the city of Kramer, individual hookups within the city of Landa, individual hookups within the city of Gardena, individual hookups within the city of Overly and Bulk Water Service to Upham, with the northern border being the U.S. and Canadian border. (See attached map for approximate System I Service area.)

In 1981 ASWUD located an additional water source northeast of Bottineau which required the construction of an iron/manganese removal plant. The water quality from the new water source and the existing source was still not high quality water. The water level in the wells of the new source continuously dropped from the day they were put into production.

In 1993 ASWUD located a new water source west of Bottineau; the water from this source was a much higher quality of water.

In 2002 and 2003 the North Dakota State Water Commission conducted a study to determine the capacity of the city of Bottineau and ASWUD well fields, this joint study determined that the existing water sources for both the city of Bottineau and ASWUD were capable of meeting the current needs of each entity. ASWUD has added additional users and is supplying bulk water service to the city of Upham, which has expended the current water supply and does not allow for any additional expansion.

Since then Bottineau has constructed an iron/manganese removal plant to improve their quality problems, and are continuously testing to stay in compliance of the Radionuclide Rule (Goss Alpha Emitters). ASWUD and the city of Bottineau are continuing to work together, but NAWS still continues to be the most feasible option.

The completion of the NAWS pipeline to the Bottineau area is necessary to solve the emergency situation in the Bottineau County and the surrounding areas.

*The All Seasons System I.*—Service to Upham Project that provided bulk water service to the city of Upham required that ASWUD parallel our existing 4 inch line from our Water Treatment Plant south in order to increase the flow into our reservoir/pumping station located at Gardena. Through an agreement with the North Dakota Water Commission (Commission) and NAWS the Commission, through planning on the NAWS project, determined that NAWS would be paralleling these features in the future. Through this agreement the pipeline project between the Water Treatment Plant and Gardena was sized to meet the immediate needs for service to Upham as well as the long term needs planned to be served through NAWS and construction costs for this portion of the line was funded through the NAWS project.

The Project included installing approximately 3.3 miles of 10 inch and 10 miles of 6 inch pipe, road crossings, connections to existing pipeline, and related appurtenances sized and required for NAWS between the ASWUD System I Water Treatment Plant and Gardena. This NAWS Project was part of the larger construction contract All Seasons System I—Service to Upham Project to provide the city of Upham with a water supply from the All Season's water system.

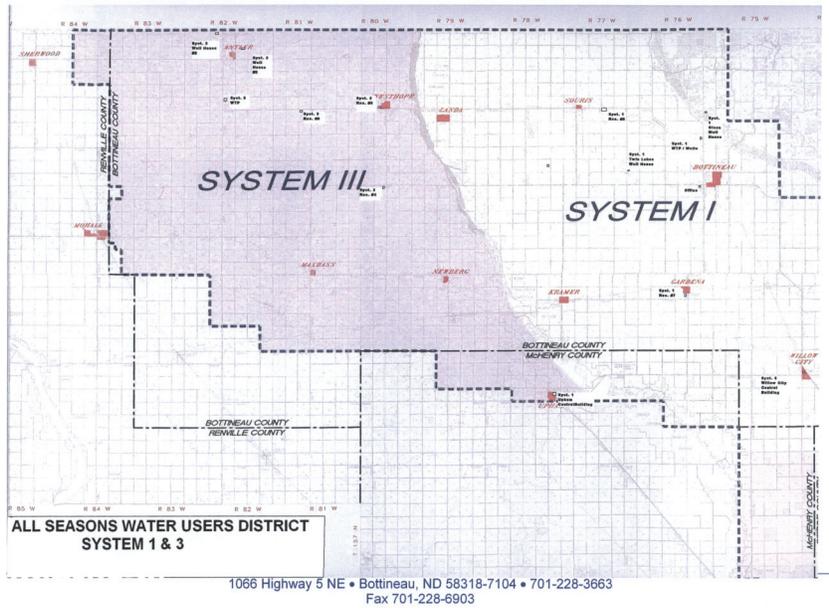
Through the agreement ASWUD will turn over possession and operation and maintenance of any and all features requested by the Commission, including pipeline, facilities, and easements associated with the NAWS Portion of the Project to the Commission, or entity designated by Commission, when at the sole discretion of the Commission, it is determined water supply is available from Lake Sakakawea and NAWS features have been constructed to serve the Project constructed through this agreement.

This Agreement between ASWUD and the Commission/NAWS demonstrates the good working relationship that NAWS has with the existing water systems and communities within the NAWS service area.

Thank for allowing us to provide this information.

POINTS OF INTEREST

- With the renewed oil exploration in the area northwest of Bottineau and the demand for water in the development of these oil wells, this presents a new demand for water in Bottineau County that will put more strain on the current water sources.
- ASWUD System III currently provides water service to two Canadian ports of Entry, One located north of Westhope, North Dakota (Coulter, Manitoba) and one located north of Carbury, North Dakota. (Goodlands, Manitoba)
- ASWUD management has had several conversations with residents in southern Manitoba about ASWUD possibly providing them water service.



Senator DORGAN. Thank you very much for your testimony.

I have a number of questions. First, let me deal with this question of the depletion of the water resource in the Reservoir.

Mr. Sando, can you amplify on the 3.1-million acre feet allocation? When you say North Dakota has allocated 3.1-million acre feet, where does that allocation exist? It's your choice.

Yes, get very close to the microphone, if you will.

Mr. SANDO. Is it on?

Senator DORGAN. Yes, I believe so.

Mr. SANDO. Regarding the 3.1-million acre feet, that's what was allocated for the Garrison Diversion Project. So, to come from Lake Sakakawea, that's part of the Mothall use carryover zone for the Garrison Project.

Senator DORGAN. Is that in the Reformulation Act, or is it in the original contracts; where exactly does that exist?

Mr. SANDO. Where does that exist? Boy, off the top of my head, I couldn't answer that question.

Senator DORGAN. Mr. Breitzman, do you know?

Mr. SANDO. I can take a shot at it.

Senator DORGAN. Okay.

Mr. SANDO. It's part of the 1944 Flood Control Act—with the help of Michelle—

Senator DORGAN. So, you're saying, in the 1944 Flood Control Act, there is a 3.1-million acre feet allocation?

Mr. SANDO. And they applied for a permit through the North Dakota State Water Commission, so there's a water right out there for 3.1-million acre feet of water to be—

Senator DORGAN. When you say, "They applied for," who are they?

Mr. SANDO. The Bureau of Reclamation.

Senator DORGAN. The Bureau applied for that?

Mr. SANDO. Yes, this long portion of the Flood Control Act.

Senator DORGAN. All right. So, if there's a 3.1-million acre feet allocation, my understanding is that, of the 3.1-million acre feet, the NAWS Project is probably about 10,500-acre feet, is that correct?

Mr. SANDO. The number is up to about 15,000-acre feet.

Senator DORGAN. Fifteen thousand?

Mr. SANDO. Very small amount.

Senator DORGAN. Yes, minimal.

Mr. SANDO. Minimal, right.

Senator DORGAN. It's a miniscule amount of water, all right. So, it seems to me that when next the Federal court addresses this, if they have any amount of facts or logic that they could bring together and apply, like a tongue-in-groove fitting, maybe they can reach a conclusion that this is an infinitesimal amount relative to that which has been promised our State. Would you agree with that?

Mr. SANDO. Oh, I'd definitely agree with that.

Senator DORGAN. You'll tell the Court that, personally, I hope?

Anyway, it is just irritating to even be talking about that issue, but I wanted to just lay that out at the front end.

Let me ask a series of questions, here, on timing. Mr. Breitzman, I believe you said, you will complete the additional environmental studies, or requirements, that you believe the court needs by the end of 2011, is that correct?

Mr. BREITZMAN. We believe we can have a draft document done by the end of 2011, Senator.

Senator DORGAN. Tell me what that means. I know a little bit about what timelines mean for the Bureau of Reclamation, and what draft documents mean, but explain, if you will, for the rest of the folks, what it means to have a draft.

Mr. BREITZMAN. We would have any analysis done that we have to do, any new information gathering, any new modeling, and some was mandated by the Court. And that will all be completed, we will have a document written, and at that time a draft document, then, is ready to be circulated to the public for one final comment period.

Senator DORGAN. And describe that period.

Mr. BREITZMAN. It is usually 60 days. And the reason I don't give you a timeline as to the final document is because it's really difficult to know what we might get in terms of comments. When we put out a draft for comment, sometimes it takes a year to respond just to the comments, which have to be included in the final document—both the comments and our responses. Sometimes it takes a month. And it just depends on the type and magnitude of comments that we receive.

Senator DORGAN. So, then you respond to the comments, and when does the draft become final? When will what you're working on become a final submission that represents a response to the Court requirement?

Mr. BREITZMAN. As soon as we can assimilate all of the comments we receive on the draft and write responses to each one of those comments—and change the document, if necessary, based on those comments—which can take—that's why I say, it can take months, or it can take a year. But, as soon as we're done with that process, then it's a final environmental impact statement.

Senator DORGAN. Mayor, it seems to me that Mr. Breitzman is describing a process—that, at the very earliest would get to a final EIS, or a final Bureau of Reclamation product, by July 2012. If comments are extensive—and one would expect that you would have a lot of comments in something that is controversial, especially with the Canadians, it may be the end of 2012. So that's 2 full years from now. I want to ask you the question about the supply of Minot water. You have a contract for 10 years with an opt-out clause, and you're 2 years into a 10-year supply for Kenmare and others, Burlington, I assume.

So, go down the road another 2½ years. Where are you with respect to the Minot aquifers, the aquifers from which you get your water?

Mr. ZIMBELMAN. Well, Senator, as was stated earlier, it's a limited supply to the NAWS Project. So, as—if our aquifers get low, we have the ability to stop providing that water. And we felt that was important for the people of Minot to protect their aquifers.

So, depending on what kind of years we have, you know, it's going to be very difficult for us to supply any more than we have to, to the small towns around us.

Senator DORGAN. Well, the reason I asked that question is, the testimony here is about continuing to build additional pipeline capacity to supply additional regions, and it's a pretty aggressive approach, which I think is the right approach, the question is the timing. If you're laying pipe through which no Missouri water is moving, 3 years, and 5 years from now, it seems to me there's a real serious dilemma that we're establishing. We're putting money in pipes, in the ground, which will not carry Missouri River water, and which could conceivably not carry Minot water, if a Minot aquifer is sufficiently depleted to be a problem for the people of Minot. The people of Minot, after all, are the ones who have contributed the second-largest quantity of money, here, a rather substantial amount of money.

So, I'm trying to understand the timing, and what we should all expect, going forward. The first Canadian filing in the Federal

Court was in 2002. Mr. Breitzman, that's 8 years ago. So, what I'm also trying to understand; how is it 8 years after the Canadians went to court to cause problems for us with this project that we're not through the court system, somehow? I just don't understand. Can you explain that to me?

Mr. BREITZMAN. Not very well.

Senator DORGAN. Well, do the best you can, if you will. I mean, I don't understand it. Eight years, it seems to me, should have been enough time for us to resolve the legal disputes that might or might not exist. Because, as I understand it, the circumstances now are about, how the water is going to be treated. Isn't that the major part of the issue that was raised by the judge?

Mr. BREITZMAN. The biota transfer has always been a major issue. And now the depletions on the Missouri River have come into play, as well.

I can tell you this; the suit was brought against us in 2002. It took—I think it was nearly 2 years before we were on the calendar to have the first hearing, for the case. The process went that slow. We had hearings, we tried to get the case dismissed, and we weren't successful in that. And then we prepared the EIS. It was based on the judge's court order, which really addressed two issues. The first court order—which was in 2005, she focused on the consequences of a pipeline failure, No. 1, and then just asked us to take a hard look at treatment alternatives—do an expanded analysis of the different treatment alternatives.

And so, we did an EIS, and we scoped it to those two issues, that's what we looked at in the EIS.

Senator DORGAN. That was the EIS for 2008?

Mr. BREITZMAN. Correct.

Senator DORGAN. Okay.

Mr. BREITZMAN. And in retrospect, maybe we would have done something different. Our NEPA experts in our agency and our attorneys said that was the appropriate way to respond to her order.

When we received the Court's order this year, it went into issues beyond those two issues. The depletion analysis came in. And, to paraphrase—

Senator DORGAN. But, you know what, that cannot possibly be serious, in my judgment. With all due respect to the court system, the depletion issue is specious, as far as I'm concerned.

Mr. BREITZMAN. And I agree. I agree, and I think we have the information to show that, and we're working with the Corps of Engineers to run their river model to show what that impact would be.

But, I guess my point is, she brought that up—which was not a point included in the court order in 2005. And so, she expanded this last ruling beyond what we thought we were addressing in the 2005 ruling.

Senator DORGAN. Set aside the depletion issue. What I'm trying to understand is if, in 2002, they raised the questions about treatment and transferred biota and so on why did we come up short in the EIS in dealing with that question?

Mr. BREITZMAN. I don't know that I can answer that. I think we're very disappointed. We thought we did a very good job, and we were surprised that we lost that suit this year.

Senator DORGAN. I think you just said that a potential breach in the pipeline was one of the issues. The suggestion was that it could cause a quantity of water that exceeds Niagara Falls, is that—

Mr. BREITZMAN. I know it was in the hearing transcript, if it's not in the order. That she was convinced a breach in the pipeline would release the same amount of water that flows over Niagara Falls in a day or something like that.

And the court order also addresses the mountain range between Lake Sakakawea and Minot. There are things there that we disagree with and we're disappointed with, but we have to comply with the ruling.

Senator DORGAN. Yes, but we've got to move, here. My point is, it's 8 years later and we're still waltzing around trying to figure out how we're going to treat water. We know that we've got to build a holding structure, right, a reservoir. We know we have to build a treatment plant, is that correct? So, we've got several things we have to do at the lake in order to get that water treated and into a pipeline. So, what are the three things we have to do, there?

Mr. BREITZMAN. Well, it's primarily—it would be chlorine disinfection, and then we've added ultraviolet radiation at that treatment plant.

Senator DORGAN. But you have to build something to take the water out.

Mr. BREITZMAN. At the intake?

Senator DORGAN. Yes, the intake.

Mr. BREITZMAN. Oh, yes.

Senator DORGAN. And then you have to have a control structure, and then a treatment plant. Are those the things that you have to do?

Mr. BREITZMAN. Right.

Senator DORGAN. Let's assume that today you had clearance, or we had clearance in this project of ours to go ahead and do that. How long would that take, do you think? What is the estimate of that? Mr. SANDO.

Mr. SANDO. In regards to, if we got everything cleared up with the court ruling?

Senator DORGAN. Yes.

Mr. SANDO. We could be moving forward, we could probably—within 6 years have everything in place.

Senator DORGAN. You're talking about those three structures: intake, control, and treatment?

Mr. SANDO. Yes.

Senator DORGAN. That's going to take 6 years from the time you start?

Mr. SANDO. Yes.

Senator DORGAN. All right. Now, I am understanding the dilemma.

Mr. SANDO. Yes, we could probably really do it in 5 years if we had everything cleared up?

Senator DORGAN. Yes.

Mr. SANDO. Yes.

Michelle was also mentioning that we have to do improvements into the Minot treatment plant, not just the treating for biota, but other treatment plant issues, for treating water.

Senator DORGAN. Will that add to the time?

Mr. SANDO. No, that will fit within the timeline.

Senator DORGAN. Within the timeline. I understand.

Let's assume for the moment that the intake is built, control structure, treatment plant, and water is now running from the reservoir into Minot. Is that water, then, also running through the Minot treatment plant?

Mr. SANDO. Yes, everything would be complete—

Senator DORGAN. So, it's going to be treated twice?

Mr. SANDO. Well, two different levels of treatment. That one Danny is explaining was chloramines and UV, and then full treatment would take place at Minot.

Senator DORGAN. I understand. But, the point is, you treat it at one level as it's taken from the lake, and then treat it to drinking-water quality here in Minot, is that correct?

Mr. SANDO. Yes.

Senator DORGAN. That's what goes out through the control structure to all those who are being served by NAWWS?

Mr. SANDO. Right.

Senator DORGAN. Now, let me come back to this question because I think I understand the pretty serious dilemma, here.

Here's the question. As we sit here in Minot today, if we have a situation where we've now spent \$82 million on this project, and it's good. The people of Kenmare are drinking good water and good for them. Burlington and others are going to drink good-quality water because we've laid the pipe. We're actually taking water out of the Minot system, treating it, from the aquifer, and moving it out. So we've spent \$82 million, \$45 million Federal, \$30 million city and \$7 million State. \$125 million are remaining, that's exclusive, I believe, of the treatment plant, I assume.

Assuming the plant costs \$15, \$17 million, that might be \$80 million short. But, \$125 million is remaining to be spent or perhaps \$200 million if you had another \$80 million and you had to do the much higher level of treatment.

Mr. Breitzman and I have worked with the Bureau for a long time, so I have some notion of timelines, and sometimes they do really, really well and sometimes, only rarely, would they ever ask for an extension of time or not meet their time deadline. But, I've seen that rare occasion a few times.

I worry about whether the potential of 2 years, which I think is what I'm hearing, is probably a more reasonable guess. Assuming everything goes as you believe it should, your target date is to be finished December of next year. Put it out for comments for a couple of months. You get comments, and then the Bureau begins to work to evaluate the comments, respond to the comments, and then relate to the comments and then submit this as a final product.

You know, under the best of circumstances, you're talking about July 2012. I would say, probably more likely toward the end of 2012. My guess is, between now and that moment, no one is going to be building an intake, or control structure, or treatment plant. I might be wrong about that, but you're certainly not going to be building a treatment plant, because you will not have resolved the issues of what kind of treatment at this point.

For purposes of being very optimistic, it's July 2012 and the Court now has your product. We don't know how long the Court might take to evaluate that, so let's take that to the end of 2012. Then, all of a sudden, you have a decision from the Court that says, "Here's the treatment that you have to do and this resolves all of the issues," and it rejects the Missouri thing as goofy and specious, at the end of 2012. Then you, Mr. Sando, are going to get really busy and in 5 years you're going to build the intake, the control structure, and the treatment plant, and ergo, it's done. That's 2017. That comes back to the question I continued to ask you, Mr. Zimbelman about whether those who are on the end of that pipeline are going to feel, between now and 2017, that there is a reliable and a guaranteed supply of water coming. It seems to me that that's at odds with the concern about the Minot aquifer, and whether that is capable of handling this to the year 2017.

That, then, leads me to the question of why do you want to lay more pipe between now and 2017 or now and 2015, if we don't have Missouri River water to put in that pipe, at this point? The purpose of holding this hearing is to try to understand where we're going, and when we're going to get there, and when the people of Minot, this region, the State, and the Nation can expect to complete this project. The more I understand it, the more concerned I become about the amount of time it's going to take. Most of my concern deals not with the Bureau, I'm not suggesting that you're wearing out your shoes dragging your feet, but the fact that in 2002, the first court action ensued, and it's 8 years later and we're not anywhere near a conclusion in the court system. As I understand, this discussion could not even begin to come until the beginning, perhaps, of 2013. Can you tell me where I'm wrong if you think I'm wrong?

Mr. ZIMBELMAN. I don't think you're wrong. I think that's a very real possibility, and we certainly all have concerns about that. When you have a judge that certainly can find—there's always a way to hold this up, and I think that's kind of our feeling right now—or my feeling, personally, that you know, those delays can go on for as long as she wants them to go on. How do you deal with the Court, I think, is really, you know, where we're at, at this point.

If I were—in your earlier question, if I were a smaller town that's using NAWS water now, I would be unsecure; I'd be concerned. And, certainly, I'm concerned for the city of Minot, when we're using our aquifer, and that valuable resource. But we think it's important for the region in order to for us to grow and work together.

Senator DORGAN. I think that's generous of the city of Minot. Not only have you contributed a great deal of money to this, but you've also decided that you wanted to move water through your system to be able to benefit those smaller communities.

It seems to me, however, that those communities that you are now hooking up with Minot water through pipe that we've laid with these appropriations while we're waiting, would be less secure if we lay pipe to a lot of other cities and put water in that pipe to go serve more communities. The greater likelihood is, if there's a shutoff of water at some point, here, the more communities you

put on that system using Minot water, the more likely it is you're going to have problems, if this is going to take 6 or 8 more years.

So, Mr. Sando, when you talk about wanting to get money to build out and lay more pipe I'm not so sure that's in Minot's interest—or anybody else's interest, for that matter, at this point.

Mr. SANDO. Okay, I'd like to try to answer—we're at the point we're not going to build up any additional to the communities, because we feel—and Minot feels—we're pretty stretched. So, what we're looking at is, next year going to the Minot Air Force Base a little north. Already, Minot is delivering water to Minot Air Force Base, so that is not additional water, it's just—be a little bit of additional water to the north of Minot Air Force Base, so it's not a lot more water.

In fact, under contract, I think the number is like 700,000, is that about right? And, under contract for, like, Berthold, Upper Souris, Kenmare, Mohall, Sherwood, Carfield, Burlington, and West River—it is a small percentage of what Minot actually uses. And the number is like 700,000. And we're just going to supply average—not the peak daily use, either, right now, because we know that, you know, there's a limited supply.

And, so right now, what we've hooked up isn't a tremendous amount of water compared to what the use is in Minot. So, we're to the point, now, that the buildup is going to have to stop until we get things resolved with the court system, get this EIS completed, and get water from Lake Sakakawea. So, basically, the build-out is where it's at for water use.

Senator DORGAN. Let me ask you another question. As I looked through this, I was surprised that the State has put virtually no money into this. With \$82 million having been spent, the State's put in 8 or 9 percent of the funding. Was that part of the original plan; that the Federal Government would do 65 percent and the rest would be picked up by local, as opposed to, State funding?

Mr. SANDO. To answer that question, the project was designed to be a 65/35 percent cost-share—65 percent with the Federal Government, 35 percent local, and the State of North Dakota would provide the engineering and contract management so that there wasn't going to be dollars put in from the State side. But we have been putting money in, like you said, the \$6.8 million.

In fact, in this biennium, we allocated \$10 million towards NAWS projects—State dollars, too. So originally, it wasn't planned to put State dollars in, but that's what it's been coming to.

Senator DORGAN. You mean in the biennium ahead of us, or the one that we're currently in?

Mr. SANDO. No, the one that we're currently in.

Senator DORGAN. Okay.

Mr. SANDO. There's \$10 million set aside, allocated towards the NAWS Project.

Senator DORGAN. Okay, so the State does have an additional \$10 million.

Mr. SANDO. Right. So, we've spent \$6.8 million so far, the State, and we allocated \$10 million. I think we spent \$800,000 of that \$10 million this biennium, so there's still \$9.2 million available for the NAWS Project, for dealing with the intake, or going to the Minot Air Force Base, or whatever we build next.

Senator DORGAN. Is there a lengthier process that will be required to build the much larger treatment option than the smaller option? I mean, are we talking about a substantial difference in time required to construct the treatment plant?

Mr. BREITZMAN. I don't know if I have a very precise answer. I would assume it would be a lengthier process, yes. It would be a more sophisticated treatment plant. So, the difference would be between a chlorination system and building a microfiltration plant.

Senator DORGAN. All right. Let me ask a question about a meeting I held here almost 2 years ago, I think it was. I lose track of time, it moves so quickly sometimes. We had a meeting in this room at a roundtable and talked about it, and there was a lot of discussion then about discussions with Canada outside of the court system to resolve these issues. We were there and when I say "we," I mean people from North Dakota had been there. I don't know whether the Canadians were there or not, but discussions were moving on and there were hopeful signs that progress was being made on various issues. You were in that meeting. Are there more discussions? What happened in those discussions? I thought there was such promise and such optimism the discussions were taking place. Anybody have a response to that?

Mr. BREITZMAN. I can tell you that we've not had those discussions as of late. We were having good discussions. And they were both about the NAWs Project, and at that time, we were working on the Red River Valley water supply system EIS, and we were talking to the Canadians about those. Specifically on NAWs I met with the Canadians and Todd's predecessor, Mr. Frink, in the State Water Commission building. And I believe that was the last conversation that we've had. And it was a very dissatisfying conversation. And it seemed that we thought we had set some goals that they had agreed to that we could achieve and it appears those were wavering a little bit, and the discussions just have kind of broken down from there.

Senator DORGAN. Does anyone want to add anything to that?

Mr. Cockrell, do you have any questions?

Mr. COCKRELL. You talked about some upgrades that need to be done to the Minot water plant. The question I have is, we don't know what the Court's going to rule, but if you build this more expensive water treatment plant at Lake Sakakawea, are those upgrades to the Minot plant still necessary, or can they be postponed? In other words, are we going to build them and then have that plant taken offline once the plant at Lake Sakakawea is completed?

Mr. ZIMBELMAN. I'll try to answer that. I know that our concern is that we will not take our water treatment plant offline. We don't think we can afford to do that, because you take a water treatment plant offline, it doesn't take long for it to rust up and have all kinds of problems. So, we would keep our water treatment plant online, as far as the city is concerned.

Mr. COCKRELL. Are you going to be blending water at that point, or will it be strictly just the Missouri River water? Will you be re-treating the treated water? Do you know exactly what will be done at that point?

Mr. SANDO. To try to answer that question, the city of Minot would really like to have backup water supply, too. So, if you do

get Lake Sakakawea water, Missouri River water, and then there's issues, they still could go to their groundwater, and so that's why they want to keep their treatment plant in Minot functional, and so it's there in case there is some times of need.

So, if they go to a higher level of treatment, right now the selected alternative is an \$18 million alternative, which is chloramines and UV. If they go to full treatment, there might be a need for two treatment plants—one down there and one at Minot. I don't—I mean, that's Minot's decision, if they want to—you know, what they want to do with their treatment plant. But I'm sure what you're hearing is they want to keep their treatment plant.

So, if we go to a higher level of treatment, we might have two full treatment plants, that's the problem. We'd much rather see an \$18 million treatment plant that deals with biota, that's handled with chloramines and UV, not to go to full filtration down at the lake.

Senator DORGAN. Mr. Schardin.

Mr. SCHARDIN. I want to add a little bit to the timeline portion of the questioning. The Senator laid out, very well, the possibility of getting the major features of this project done by 2017. It's also a best-case scenario. It assumes that all of the funding would be in place, and assumes that the supplemental EIS is done in a very timely way, and that the judge accepts what's in it, also in a very timely way.

In the ruling that she gave in March, and any other discussions and subsequent filings, what kind of indication have you gotten as to what the judge will accept in the supplemental EIS, as to whether she will accept the conclusions therein, what she's looking for?

Mr. BREITZMAN. I don't know that I can—I certainly can't speak to what the judge will accept. I don't know. I can tell you this. We're opening the scoping of this supplemental EIS up, wider than, perhaps, we might have, given her last court order, which took us by surprise, frankly. And we're going to go back and look really hard at the 2001 EA, the environmental assessment, which is still an effective document. That's the environmental document that covers all of the construction work the State's been doing. So, we're going to look at that, look at the 2008 EIS to see if there is anything we can update. There are certain things that—through the course of time—come to be issues: climate change is one. That's, since 2001, that's a real issue that needs to be addressed, now, in more detail than we've done in the past. We're going to be looking at all of those things. Not sure what she's looking for, but we're trying to cover all of the bases.

Mr. SCHARDIN. But she was not clear, in her written statements, in terms of what she's looking for, correct? I mean, you can't read her mind, obviously, but—

Mr. BREITZMAN. Well, you know, with regard to this last order, she was pretty clear that she wants us to take a harder look at what the consequences would be if there's a biota transfer into Hudson Bay Basin, particularly on the Canadian side of the border.

Mr. SCHARDIN. But there is no good indication as to what she thinks is significant?

Mr. BREITZMAN. What the level of that analysis would be.

Mr. SCHARDIN. Okay.

There's another question, of course, as to the Canadian side of this suit. If you were to say, today, "Okay, we'll build the \$90 million plant, treatment plant," do we know that the judge would accept that and that the Canadians would accept that? I suppose it would have to be the Canadians first, would they accept that and say, "Okay, we drop our suit, we're satisfied with that."

Mr. BREITZMAN. Actually, the judge really doesn't rule on the treatment. We wouldn't expect her order to say, "Okay, I'm picking this alternative, you do that one." Her role, here, is to make sure that we are procedurally correct.

Mr. SCHARDIN. Right.

Mr. BREITZMAN. And I think if we get through that loop—I don't know. But, I guess I would sit here now and say, I would fully expect Manitoba to continue to challenge.

Senator DORGAN. You're saying that, even if we were to do the highest level of treatment, you expect that Manitoba would continue to challenge that?

Mr. BREITZMAN. I do. I don't think that's out of the—in the realm of impossibility.

Senator DORGAN. You know, I don't think any of us know what might or might not happen, we're just prognosticating in response to questions. On the other hand, will the Canadians take yes for an answer, if we say that we will treat to the highest level? You're talking about another \$80 million, perhaps, for that more expensive treatment plant. Then, as I understand it, we'd run the water through that, run it up to Minot, and run it through Minot's treatment plant, which produces the water that the folks in Minot drink, right? Somehow, it is probably not a surprise in the year 2010 that the Canadians are objecting. They were objecting in 2002, we've dealt with the Canadians on Devil's Lake, we've dealt with the Canadians on a lot of other issues, they have a right to object, and they have a right to use our court system to do so. We have a Boundary Waters Treaty, and of course, they would like to put some of these issues into a JTC process, which means that 50 years from now, somebody might see that they did a study but they'll never get a conclusion.

My great concern is that we're in a situation at the moment where we probably have to stop laying pipe and find a way to make progress, getting the right water in the pipe to get out to those communities that now have a pipe, and now have the capability of getting distributed water. Mr. Mayor I assume, in response to your duties to the people of Minot, that you're going to have to watch very closely what that aquifer is doing, and therefore what your needs are in this city. This is a city that's growing very rapidly, at the moment. Your first responsibility is to the city, to use that water treatment plant that you have here, and the water in the aquifer, here, for the benefit of the people of Minot.

So, what I have concluded is troubling to me in the sense that we are putting our head down and just continuing to build with the very likely prospect, if you just play the hand out, here, that even if you got a green light, and a yes from the court, that it is now 2017, when at which point this treatment plant that is built, Missouri water is treated through the plant, and is now beginning to flow. The question is, will those communities now on that system

still be getting water in 2017 from the Minot aquifer. Which, I think none of us know that that could be the case.

So, I have earmarked one-half of the \$45 million that we've put in for Federal funding in the last 3 years. This project is a good project, it needs to be completed and built. The promise of moving good-quality Missouri River water around this State for beneficial use is a promise we need to keep.

Now, we've got the Bureau issue, and we've got the EIS, and we've got the time for construction in front of us. The whole timeline is a very troubling timeline to me.

Mr. Breitzman, is there any reason that the Bureau needs to take a year and a quarter to finish the draft of the EIS? I mean, isn't there a way for you all to evaluate what you believe the court needs? Having done the EIS, first in 2001, and then in 2008, why on earth would you need another 1¼ years to go back and do something the judge says that she needs additional information about?

Mr. BREITZMAN. Well, part of it comes back to the question Mr. Schardin asked, and that is that the scope of this consequence analysis. That's a question that's really in the air, and can go a lot of places. When we talk about, what's the potential impact to Canada of an invasive species? We can do an analysis this big, or we can do an analysis this big.

And, I think a great part of this time is to determine exactly what your question was—what do we think is most acceptable to the court? What's an appropriate standard, here? And so we are doing something different on this EIS than we've done in the past, and we're looking to hire a consulting firm that's had some experience in dealing with issues like this, and getting them on board, getting them up to speed, letting them help us scope out this consequence analysis.

And the contract—our contracting process—onto what we think it would take to do that analysis, and we think that—this is an appropriate amount of time.

Senator DORGAN. Mr. Breitzman, I think in the last 30 years that I have served in Congress, I have heard so much and so often about the issue of biota transfer, and its impact on Lake Winnipeg, and its impact on the Canadians that I assume that's been studied to death in a number of different venues, has it not? That issue has been attached to a number of issues, here in North Dakota, and the Canadians have engaged on it in a number of different occasions so has that issue not been studied to death?

Mr. BREITZMAN. There's a lot there—there's a lot of information available, but it keeps changing. And just as the treatment technologies change, maybe species information changes, as well. And so, yes, it's been studied a great deal and it's probably a matter of assimilating the right information and putting it in a scope that is satisfactory to the court.

I don't think—I would add onto that—that we're going to have a lot of people going out and taking samples in Canada or in the Missouri River or anything like that. It's a matter of pulling together information that's available and putting it in a form that we think is acceptable.

Senator DORGAN. It seems to me that this project is a prisoner of a timeline that doesn't add up, at the moment. It doesn't mean

the project shouldn't be done or won't be done someday, but it just seems to me that this timeline doesn't add up, in terms of Minot's potential vulnerability for your water supply, and the ambition of putting Minot water in pipes in the meantime.

Mr. Mayor, in your testimony, you talked about the 2 years plus 2 years, which gets you to the end of 2012, I believe. We're talking about a timeline, the earliest of which, would probably get you out to 2017, in terms of having the structures built and Missouri River water flowing through those pipes. I know you don't have a wand to fix it, nor do I, but we obviously have to understand the circumstances, and then plan for and build appropriately to the circumstances. That's why I wanted to have a hearing so we understand where we are, where we are headed, and what the dilemmas are that we can address and deal with.

Mr. Ness.

Mr. NESS. Yes, we have a—we talked—I was told about a communication between the Bureau and Canada, how all of a sudden, you know, it—one time you didn't have a good communication, you said. And nothing's ever happened since? To me, it should be pretty much common sense that we get together with them and figure it out, then always go through the court systems. But, I'm sure it has to go through the court system. But, I think communication is something that should be looked at, a lot more, in my personal. Because it is very—we're very concerned. And if this doesn't get cured, I don't know. We're looking at different options.

But I just was really worried about this, when he talked about communication, and then it broke down. We should try again.

Senator DORGAN. Mr. Breitzman.

Mr. BREITZMAN. It's much more difficult to have those discussions once we're in active litigation. You know, I think before, we were working on this, on another Environmental Impact Statement, for the Red River Valley, that gave us a venue to meet with the Canadians and have technical discussions that are much more difficult to have, now that we're in litigation. And, again, I just say that it's really tough.

And, if I might, Senator, I just want to clear up, or get on the record something I said about what I think Manitoba might do at the conclusion of our environmental document. The statements they've made, more and more—I guess I said what I did because they lead me to believe that there's really a feeling that there should be zero risk to Manitoba for a project that's being constructed in North Dakota. And with the very best—with the \$120 million treatment plant, we can never attain zero. And that's why I said I think that they would continue to question what we come up with.

Senator DORGAN. I think it's important for the Canadians to understand, and I hope they do understand that there's no one that is involved, here in North Dakota, myself, any of you at the table, or anybody else involved in water projects that ever wishes to visit trouble on the Canadians. We're not interested in having species move to the Canadian watershed that would be troublesome to them. We have no interest in, and will not violate the Canadian boundary, U.S./Canada Boundary Waters Treaty. It is not in our

interest, ever, to want to visit problems on the Canadians. So, we want to do all that we can to address problems.

We also don't want this to take forever, and we don't want to be forever challenged just because somebody has the right to challenge. Our goal is to build a project here to benefit North Dakota in a region of North Dakota that needs that benefit, and do it without, in any way, causing any problems for the Canadians. That's our goal. I can't tell you the number of times we have reiterated to the Canadians: We intend to abide by the U.S./Canada Boundary Waters Treaty. We will always intend to do that, and not just intend, but we will do that.

So, it seems to me that we need to re-engage in consultations with the Canadians and I'm not quite sure the structure of that at the moment, but that seems pretty clear. The fact is there are a whole lot of lawsuits that are settled before the conclusion of the suit, just by negotiations of the parties.

As I said a moment ago, I think we're in a situation where the timeline doesn't add up with respect to the purposes and what we want to accomplish in that timeline. We have to recognize that, and we have to address that with what we want to do in terms of build-out and progress.

Mr. Mayor, you've asked the people of this community to spend a lot of money to build this project. They've owned up to that and committed a substantial amount of money to the project. I know that they want, I want, and everyone else wants to see us get to the finish line as quickly as is possible. I think we're past the time now where we put our head down and just keep laying pipe, despite the fact that the court says we can. Laying more pipe and serving more communities will put those communities already served in jeopardy, if the Minot aquifer does not support the additional communities on the pipeline.

So, we need to get to the finish line as quickly as we can. I think from this discussion, I confess I'm a bit more troubled at the end of the hearing than when I started the hearing, as a result of a timeline that I think doesn't fit. This is like having pieces to a puzzle that never quite fit together. I think we are all committed to completing a project. This is not a project that can be, or should be, or will be abandoned. It is enormously frustrating to see, 8 years after the first court suit was filed by the Canadians, 8 years later, we now look at many more years in order to resolve the issue.

Does anyone have any other questions? I would like to submit a list of additional questions if we have some, following the hearing. And this hearing will then represent a formal record of where we see things in August 2010. My hope is that we are able to find ways to make more progress than we have been able to describe today, because I think people of Minot and this region well deserve that.

The hearing record will remain open until August 27. If there are others in North Dakota or others who hear of this hearing and wish to submit comments, we would invite anyone who wishes to submit comments to do so. Outside witnesses should provide comments to us via e-mail before August 27, and my staff will be available to provide e-mail addresses.

## CONCLUSION OF HEARING

I want to thank the witnesses who have taken time out of your afternoon to be with us. Mr. Ness and Mr. Schaefer, you both described the delight of an area that finally gets good-quality, fresh water. Something we almost take for granted every day in much of the country. That illuminates for us what can be the case in a significant area here in a project that will be a good project when completed. Not if ever, but when completed. I hope that, perhaps, from this hearing we can spur just a bit more progress. I personally believe we're going to have to spur some additional consultations with Canada, as well.

Thank you all for being here, this hearing is recessed.

[Whereupon, at 4 p.m., Wednesday, August 11, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]



## **MATERIAL SUBMITTED SUBSEQUENT TO THE HEARING**

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Energy and Water Development subsequent to the hearing for inclusion in the record.]

### **PREPARED STATEMENT OF ROBERT SANDO, MINOT, NORTH DAKOTA**

I came away from the recent meeting held in the Minot City Council Chambers regarding water issues in North Dakota—specifically NAWS—very much disillusioned. Senator Dorgan chaired the meeting with you and one of his aids seated on either side of him.

I am very concerned with Senator Dorgan's impending retirement from the Senate that this project will never be completed. A pipe line going "no where" with millions of dollars of Minot and Federal money wasted.

We have a judge, U.S. District Judge Rosemary Collyer, that single handedly has stalled the project and probably will end up killing it. One could easily question her ability to serve in such a position. In her opinion/commentary on the project she is credited with making reference to a mountain range between Lake Sakakawea and the city of Minot. Hell, North Dakota doesn't even have a mountain range.

Either she or the Canadians are also credited with saying if the pipe line between the pump station (not even built yet) and Minot should break, "a flow of water comparable to that which goes over Niagara Falls would occur." These people are dumber than a box of rocks.

As for the Missouri lawsuit, NAWS is projected to use a fraction of the water promised North Dakota when we agreed to allow the Garrison Dam to be built here and flood thousands of acres of good farm land. A reputable judge would have dismissed that lawsuit the same day it was put on her desk.

As for the Canadians they will and have protested nearly every proposed project in North Dakota and for that matter the entire United States. At the meeting testimony was given stating two Canadian Border Stations wanted access to NAWS water and that Canadian citizens have requested access to the water as well. Yet, their provincial leadership continues to oppose the project.

If NAWS wasn't so important to this entire region, one could easily think of the legal process as one very big bad joke.

Senator Dorgan hit the nail on the head with his observations/concerns of Minot adding community after community to its (Minot's) water supply in the name of NAWS. Water may never come from Sakakawea. If water doesn't come from Sakakawea the day will come when Minot will have to shut the spigot off on these communities. I would hate to be a Minot Council member when the lynch mob comes to town on their way to Bismarck and the State Water Department.

A very concerned taxpayer.

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### **PREPARED STATEMENT OF KENNETH ROGERS, MAXBASS, NORTH DAKOTA**

My name is Kenneth Rogers. I am a life long resident of Bottineau county and live in the NAWS area. I am a director on the Garrison Diversion Conservancy District, All Seasons Water Users District, North Dakota Water Users, and the NAWS advisory committee.

The Northwest Area Waster Supply is a MUST. It is absolutely essential to the future of this area of the State of North Dakota, especially in retaining our youth and having an economic future. It is a sin that this project has met so many delays and funding. This project in the original plan was to be completed next year. Now we are talking another 10 years. This project needs to be on a 911 emergency type schedule. It should not take a lifetime to complete a simple water project like this with life's most basic necessity, good water.

The Canadian objections are ridiculous. Biota transfer in treated water is so small compared to it happening through natural means such as wild life, fishing boats, human movement between the two basins, as well as agricultural means. Inter basin transfer of water between the Missouri River Basin and the Hudson Bay Basin already exists in the Milk river region of Montana and Canada. Interbasin transfer of water is common in western Canada. The Canadians have a better chance of winning the lottery than biota transfer through treated water. It should also be noted that only a portion of all the water to be used by NAWS would actually make its way back into the Hudson Bay drainage basin. My guess is less than 50 percent. We have numerous other water problems that are of immediate concern for the Hudson Bay basin such as nutrient loading, invasive species and others. We need to be working on these real problems not theoretical what if problems of biota transfer through treated water. Their delays are continually costing all of us more money in construction costs. It is time for this to end.

In conclusion, we have lost 500,000 acres of prime North Dakota land for flood control with the promise of irrigation. The irrigation project now is minimal and we are promised Municipal, Rural and Industrial water which is what NAWS is under. We have provided billions of dollars in flood control to the States of Missouri, Nebraska and others. Now is the time for the U.S. Government to keep its promises. NAWS is a MUST.

Thank you.

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