

Sixty-second  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE CONCURRENT  
RESOLUTION NO. 3019**

Introduced by

Representatives Schmidt, Carlson, Hofstad, Porter

Senators Schaible, Stenehjem

1 A concurrent resolution urging the United States Army Corps of Engineers to immediately cease  
2 wrongful denial of access and wrongful requirement of payment for the natural flows of the  
3 Missouri River.

4 **WHEREAS**, the Pick-Sloan Project, as authorized in the Flood Control Act of 1944, as  
5 amended, provides major flood control benefits, recreational benefits, water supply benefits,  
6 hydropower benefits, and navigational benefits for the downstream states of Iowa, Nebraska,  
7 Missouri, and Kansas through construction of large reservoirs in the state's lying upstream from  
8 these states; and

9 **WHEREAS**, the Pick-Sloan Project reservoirs have been in place for many years, thus  
10 providing downstream states in the Missouri River Basin all the benefits promised in the  
11 Pick-Sloan Project; and

12 **WHEREAS**, the state of North Dakota lost more than 500,000 acres of valuable river  
13 bottom lands as a result of construction of the Missouri River reservoirs and the Flood Control  
14 Act of 1944, causing an annual loss of millions of dollars in economic gross product and an  
15 additional annual loss in personal income as well as other serious impacts to individuals,  
16 political subdivisions, and North Dakota's Indian nations; and

17 **WHEREAS**, the United States Army Corps of Engineers, through the Surplus Water Report,  
18 is clearly challenging the state of North Dakota and the upper basin states' rights to access the  
19 states' natural flows; and

20 **WHEREAS**, the Flood Control Act of 1944, as amended in 1958, limits any repayment  
21 requirement by any water user for a term not to exceed 50 years; and

22 **WHEREAS**, in contradiction to the Dakota Water Resources Act of 2000 and the 1958  
23 Water Supply Act, the United States Army Corps of Engineers is forcing reimbursement of  
24 nonreimbursable costs by withholding review of future easement applications; and

1       **WHEREAS**, before the dams were constructed, the Missouri River provided ample water;  
2 and

3       **WHEREAS**, the natural flows of the Missouri River, even during the lowest flow periods,  
4 were and continue to be more than plentiful for the needs of North Dakota; and

5       **WHEREAS**, the natural flows of the Missouri River through Lake Sakakawea and Lake  
6 Oahe are not, and should not be, considered stored water; and

7       **WHEREAS**, any attempt by the United States Army Corps of Engineers to impose a storage  
8 fee and deny water users in the state to access the natural flows of the Missouri River is  
9 misguided;

10       **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF**  
11 **NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

12       That the Sixty-second Legislative Assembly urges the United States Army Corps of  
13 Engineers to immediately cease wrongful denial of access and wrongful requirement of  
14 payment for the natural flows of the Missouri River; and

15       **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution  
16 by certified mail with return receipt to the President of the United States; the Majority Leader of  
17 the United States Senate; the Minority Leader of the United States Senate; the Majority Leader  
18 of the United States House of Representatives; the Minority Leader of the United States House  
19 of Representatives; the Speaker of the United States House of Representatives; the District  
20 Engineer, Omaha District, United States Army Corps of Engineers; the Division Commander of  
21 the Northwestern Division of the United States Army Corps of Engineers; the Secretary of the  
22 Army; the Secretary of the Interior; the Governor; the Attorney General; each member of the  
23 State Water Commission; and each member of the North Dakota Congressional Delegation.