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11TH ANNUAL INTERNATIONAL

LEGISLATORS FORUM

JUNE 19-21, 2011 – BROOKINGS, SOUTH DAKOTA



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On June 19 – 21, 2011, delegates to the 11th Annual Legislators' Forum gathered at the Days Inn and Conference Center in Brookings, South Dakota.

Background

The **International Legislators Forum** is an annual opportunity for legislators from Manitoba, Minnesota and North and South Dakota to gather to develop relationships and discuss issues of importance to their jurisdictions and the region.

Its 11th annual meeting was held in Brookings, South Dakota, June 19 – 21, 2011. This is a remarkable milestone for the group of legislators from 4 jurisdictions, and several of the delegates have attended all 10 of the previous annual meetings.

Prior Forums have taken place twice in Winnipeg and St. Paul as well as in Brookings and Pierre, South Dakota; Fargo and Bismarck, North Dakota; Gimli, Manitoba; and Moorhead, Minnesota.

The Legislators' Forum grew out of the International Flood Mitigation Initiative (IFMI), which was established to address flooding issues in the Red River Basin following the 1997 flood. In 2002, all four jurisdictions signed a memorandum of understanding to establish the annual Legislators' Forum and continue meeting annually to discuss topics of mutual interest. Since that time, the Forum has considered a wide range of significant issues directly impacting the region. The issues

have included water quantity and quality, energy, human and animal health, food safety, illicit drugs, rural access to health care, broadband technology, migration and immigration, the Western Hemisphere Travel Initiative (WHTI), trade, and tourism.

The Legislators' Forum provides an informal venue for legislators to share information, build contacts and understandings on a number of issues of mutual concern. This includes increasing mutual understanding of flood mitigation issues faced within each of the Red River Basin jurisdictions and building relationships to foster cooperative agreements among the jurisdictions on important issues.

Sponsors

A variety of businesses and organizations provided financial and in-kind assistance and sponsorship to support specific and general aspects of the Forum. The Steering Committee and the Consensus Council would like to acknowledge these groups and individuals and express their appreciation for their generosity:

“Event” Sponsors

- **Mid American Energy** – *Pre-meeting dinner*
- **Northwestern Energy** –

Opening Reception

- **TransCanada** – *Monday Breakfast*
- **MDU Resources** – *Monday Morning Break*
- **Xcel Energy** – *Monday Luncheon*
- **Pfizer Government Relations** – *Afternoon Break*
- **SD Electric Utility Company** – *Monday Formal Dinner*
- **The Canadian Consulate in Minneapolis** – *Monday Formal Dinner*
- **Barr Engineering** – *Tuesday Morning Breakfast*

- **MDU Resources** – *Tuesday Morning Break*
- **Northwestern Energy** – *Tuesday Lunch*

“General” Sponsors

- **Basin Electric**
- **Missouri River Energy**
- **Ottertail Power**
- **Great River Energy**
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- **Brookings Economic Development**
- **Daktronics**
- **Iberdrola Renewables**
- **NextEra**
- **Manitoba Conservation**
- **Brookings Convention and Visitors Bureau**

The Forums have demonstrated that all of the jurisdictions share many common concerns, and solutions that originate in one of the jurisdictions to deal with issues can often be shared for mutual benefit. The Legislators' Forum has worked to build relationships, understanding, share information, and develop collaborative agreements on a wide variety of issues relevant to and affecting the participating jurisdictions.

In 2011, the Forum focused on two specific topics: "Innovation," including research and development and jurisdictional successes and expertise; and "energy production and transmission." The delegates also received updates on regional water issues.

Sunday, June 19, 2011

Pre-Meeting Activities

- **Tour – "Buffalo Ridge Energy Highlights"**

Jim Nichols, Site Manager, Edison Capital –
jnicholsitctel.com
Representative Roger Solum (SD) -
rsolum@wat.midco.net

The location of the Forum provided an excellent opportunity for delegates to visit and view a wide variety of energy-related sites and projects. To that end, a pre-meeting tour of these locations along Buffalo Ridge was provided for those delegates that were interested and able to attend. Jim Nichols and Roger Solum, two individuals with very unique perspectives and expertise (see bios) served as the tour

guides. The 60-mile roundtrip was highlighted by a panorama of over 300 wind turbines of varying ages and production capabilities, a stop for a tour of a "working" 1.5 megawatt wind turbine, a running view of the latest transmission lines, a drive-by of the Yankee and WAPA substations, and a guided tour of Basin Electric's Deer Creek station (300-megawatt combined cycle power plan currently under construction).

- **Steering Committee Meeting**

The ILF Steering Committee, made up of two legislators from each of the four jurisdictions, meets on a regular basis and is responsible to plan and coordinate each annual Forum. Members of this committee met briefly prior to the Forum to review the agenda and finalize the logistics and arrangements.

- **Opening Reception**



Representative Val Rausch, Speaker of the House (South Dakota)
valrausch@hotmail.com
Representative Susan Wismer (South Dakota)
swismerbrittonsd.com
Matt Michels, Lt. Governor, South Dakota

David L. Chicoine, President, South Dakota State University
Teresa McKnight, CEO and Executive Director, Innovation Campus, SDSU
teresamcknight@sdstate.edu

An opening reception, hosted at the Innovation Campus, South Dakota State University, provided the delegates, presenters, spouses, staff and dignitaries with an opportunity to renew old friendships and begin new ones. **Val Rausch** and **Susan Wismer** - South Dakota's representatives on the ILF Steering Committee and the official co-hosts of the 2011 Forum – greeted the participants and guests. **Matt Michels**, Lt. Governor of South Dakota, and **David L. Chicoine**, President of South Dakota State University, provided welcoming remarks.

Teresa McKnight, CEO and Executive Director of the Innovation Campus provided the delegates and guests with an overview of the Innovation Campus, its purpose, activities and future plans, followed by a tour of the facility.

Monday, June 20, 2011

Opening

Representative Susan Wismer (SD)
swismer@brittonsd.com
Representative and Speaker of the House, Val Rausch (SD) valrausch@hotmail.com

Representatives Susan Wismer and Val Rausch opened the first session with a warm welcome to the legislators, followed by self-

introductions and a review of the meeting agenda and materials. The delegates then reviewed and affirmed the consensus-based decision-making process and the ground rules.

This year's Forum focused on two topics:

- **“Innovation”** – An overview of the innovation environment and expertise in each jurisdiction, and discussion about the role of legislators in encouraging the growth of the knowledge-based economy; and
- **“Energy Production and Transmission”** – An overview of current activities and future plans for energy generation and transmission. The delegates also received updates on regional water issues.

Each session featured a panel presentation provided by individuals distinguished by their knowledge and experience. All presentations were followed by an opportunity for the delegates to engage in a question/answer/discussion period with the respective presenters.

Resume and background information for each delegate, presenter and dignitary, and all of the presentation materials shared at the Forum can be found on the Consensus Council's website (www.agree.org).

Session I - Innovation: Setting the Stage

This session provided an overview of the innovation environment in each jurisdiction and the practical application of



knowledge-based research and industry successes.

James Blatz, Associate Dean, Research, Faculty of Engineering and Professor of Civil Engineering, University of Manitoba

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Avery Jodoin, Business Development Manager, Manitoba Science, Innovation and Business Development, Government of Manitoba

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Mark Luecke, Managing Director and CEO, South Dakota Innovation Partners, LLC

mark@southdakotainnovation.com

Kevin Kephart, Vice President for Research, South Dakota State University

kevin.kephart@sdstate.edu

Jay W. Schrankler, Executive Director, Office for Technology Commercialization, University of Minnesota

Phil Boudjouk, Vice President, Research, Creative Activities and Technology Transfer, North Dakota State University

philip.boudjouk@ndsu.edu

Overview

Presenters from each jurisdiction provided a comprehensive outline of the current environment in their respective state/province as it related to the research that is being done, innovative policies and programs, and the efforts

that are actively underway to apply/transfer these advances to industry and business.

Delegates were informed about the activities and capabilities in each jurisdiction, and the potential opportunities to leverage the respective experience and strengths at the regional level in order to collaborate on initiatives of mutual interest and benefit.

Jurisdictional Highlights: Manitoba –

- There is a heavy reliance on federal funding of research at universities in Canada, activities are being undertaken to promote greater private sector investment in research.
- Manitoba has developed expertise in three major knowledge-based areas: life sciences, information communication technologies, and clean energy. The life sciences area includes human health and bio-products.
- To develop these knowledge-based industries, the Government of Manitoba has developed a suite of incentives including an R&D Tax Credit, Small Business Venture Capital Tax Credit and the Commercialization Support for Business Program, among others. In addition, the Science and Technology International Collaboration Fund (STIC Fund) encourages Manitoba firms to collaborate with other companies internationally. Manitoba also established the Manitoba Innovation Council, a group of local leaders from the private

sector, academia and other research-based organizations who provide advice to the government on strategies for maximizing local R&D and commercialization of research.

South Dakota –

- There is a gap in the process for commercializing research and development (R&D). South Dakota Innovation Partners (SDIP) has been able to raise about \$6 million in private investments to support their work in providing capital and business development support for scientists who are experts in their fields, but additional assistance is needed to enhance their business and operational skills. This includes the need for greater seed-stage venture capital from venture capital funds and angel investors who can fill the gap after companies “graduate” from public funding programs and bring their products to market.
- Business development assistance helps inventors to analyze and create market interest, and also provides them with a team that can provide technical assistance to help build and grow their company.
- There has been an increasing growth in research at SDSU as demonstrated by the amount of money in grants and contracts that have been secured in the last few years. But the greatest source of support for research is the federal government, through earmarks and competitive grants. Given

the current budget situation, the expectation is that this source of funding will slow significantly and new sources of revenue will have to be developed.

Minnesota –

- The primary role of Minnesota’s technology transfer office is to identify research that has potential commercial interest and find ways to bring it to market.
- In the US, small innovation grants are available from the government, but a start-up also needs to be able to raise private money.
- It is difficult for university faculty to start companies, and it is difficult for first-time entrepreneurs in general. The technology transfer office at the University of Minnesota tries to create mentoring situations by matching start-ups with people who have proven experience (also called “business incubation”). The University of Minnesota has also had great success with their “CEO-In-Residence Program.”
- Depending on the policies and regulations of universities, faculty may be under no obligation to release their inventions to the universities. As a result, it is important for universities to hire faculty and develop good, working relationships with them to encourage collaboration and partnerships.
- Minnesota continues to work on addressing the creation of the proper environment to foster start-ups. Universities cannot create this ecosystem of needed support and funding alone – they need

continued and expanded government partnerships and support.

- The “Jump Start Program” – a program that provides start-ups with community advisors - is another approach being used in Minnesota.
- The Angel Tax Credit was initiated in Minnesota to provide tax credits to start-up businesses and their investors, in response to the loss of many start-ups to Wisconsin, where tax credit incentives already existed.

North Dakota –

- The High-Tech industry is relatively new to North Dakota and the Great Plains region. However, universities, businesses and state and national policymakers are recognizing its economic and employment potentials (keeping young, well-educated people in the state’s workforce) and providing it with the attention and resources it deserves.
- Patent issues are a complex, but critical part of research, development and transfer. The barriers and challenges must be identified, acknowledged and efforts focused on positively impacting these issues.
- Ideas and inventions can be a series of patents, or a part of a package that can be sold in a particular field/area. It is important to determine who pays for patenting, which is very expensive. Most universities don’t have patent money in their budgets, but it is important because few companies are interested in buying unprotected information or inventions. Federal grant research

funding cannot be utilized to file for patents.

Post-presentation Questions and Discussion

- South Dakota has developed expertise in crop development and the extended use of agricultural products, and clean energy, including biomass and solar.
- Concerns relating to the roadblocks that the energy producing jurisdictions are facing with transmission were discussed and it was noted that:
 - Transmission is critical. The potential for energy production in the region increases the need for improved transmission, and alternative forms of energy generation require the development and integration of “smart” grids.
 - Research and development of high volume energy storage is currently receiving the attention of many groups.
 - Off-grid work is an approach that is receiving more attention. For example, when Hoover Dam was originally constructed it was far away from any place that needed or could utilize the levels of power it would generate, but Las Vegas grew up in the vicinity and is utilizing much of the power that the dam generates. This is an example of local, off-grid work that leads to larger supply opportunities.
- The University of Minnesota Morris is doing some exciting energy work with wind, solar,

- and nitrogen/ammonia fuels.
- The value of relationships between industry and universities was demonstrated in 1996 through a collaborative effort between Monsanto and South Dakota and North Dakota State Universities on Round-Up Ready wheat. Although this effort was not completely successful, the participants learned a great deal and it opened the door for future opportunities with other companies.
- There are no standard models, laws or regulations regarding patent ownership for universities. In North Dakota, patent ownership is split – 30% to inventors, 40% to where the inventors reside (though this number is negotiable), and 30% to research foundations for more patenting. In Minnesota, the university owns the patent, while in Iowa the universities are prohibited from any ownership.



Session II - Innovation: Policy Issues and Concerns

This session consisted of a review and discussion of how legislators can help to encourage growth in the knowledge-based economy, within their jurisdictions and regionally.

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Ryan Aasheim, Associate, Red River Valley Research Corridor
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Jay W. Schrankler, Executive Director, Office for Technology Commercialization, University of Minnesota
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Overview

Presenters from each jurisdiction identified the key policy issues affecting research and knowledge-based industry growth in their jurisdictions. Presenters discussed issues including:

- Examples of unique policies and/or programs that have been successful;
- Key policy, program, and/or funding issues or gaps that each jurisdiction is facing;
- How local research capabilities and knowledge-based industries are being promoted; and
- Ways to foster collaborative relationships at a regional level.

Jurisdictional Highlights:

Presenters provided the following suggestions on what their local and regional legislators could do to address policy and program issues, and suggested initiatives that could assist research and knowledge-based industries.

Manitoba:

- Act as champions to generate and support private sector

investment Ensure that policies and programs are flexible – not a lot of projects fit into a “one-size fits-all” category. Provide adequate funding and support to build an innovation environment that supports research, development, and commercialization of new technologies. For example, in Manitoba, commercialization is supported through the Commercialization Support for Business Program that assists start-ups in bringing their products to market.

- Policy makers can help skilled professionals stay in Manitoba by providing support for efforts to train, recruit and retain highly skilled professionals in the Province. Manitoba has created programs and science activities for K-12 students, a tuition rebate for students who stay in Manitoba, and initiatives that attract current leaders through the development of advanced centers of excellence.

South Dakota:

- Connectivity is vital in the research environment. It allows researchers easy access to information (their own and others) and helps to develop contacts, relationships and capacity. Addressing this issue would not be prohibitively expensive, but the lack of connectivity could be very costly in future initiatives, programs and developments. Legislators could support this project and support an integrated fiber connection from Manitoba to Kansas City, through South Dakota.

North Dakota:

- Support higher education institutions and their role in research and development.
- Support tax credit incentives and assisting in facilitating private investment in providing stable, long term funding.
- Recognize the need for a strategy that addresses patenting issues and costs.
- Study and initiate changes in policies and regulations relating to the ownership, compensation and costs.

Minnesota:

- Assist universities in creating an ecosystem of support for innovation. Provide research funding for universities at the state level.
- Invest in clean technology development.
- Implement incentives such as the Angel Tax Credit or a research and development tax credit.
- Consider utilizing a portion of the tobacco settlement funds (as is being done in Ohio) to support research, innovation and economic development.
- Develop and implement a science and technology authority to coordinate efforts to help companies and entrepreneurs get the assistance and information they need to be successful.

Post-presentation Questions and Discussion

- Future opportunities are dependent upon the ability to create partnerships between states, programs, individuals and legislators. A more concentrated effort could direct the focus on how to create those partnerships and how to

- formalize them. Regular contacts between the various entities and legislators including discussions on ways that policymakers can help to improve research and job creation would help them to draft innovation-friendly regulations and policies. Efforts to develop partnerships between states should be pursued to develop a regional approach, rather than depending solely on a state-by-state approach.
- It was noted that attraction and incentives rather than applying stronger, more restrictive laws enhance involvement and investment in energy use and production efforts. Emphasis on such things as conservation, clean technology and green chemistry attract attention and investments.
- Barriers that universities experience with regard to partnerships and collaborations include:
 - Diverse policies, laws and regulations;
 - Parochial attitudes or environments;
 - Lack of trust and security; and
 - Lack of coordinated initiatives or proposals.
- The development and adoption of standardized, inter-institutional agreement (template) would help to lower the barriers and reduce the difficulties that universities experience when trying to collaborate.
- Inclusion of funding requirements that specifically require collaborative research was suggested as a means to encourage collaborative efforts along

with the provision of formal and informal opportunities for the individuals from various locations, entities and programs to meet, share ideas and develop relationships.

Luncheon



www.agree.org).

Session III - Energy Production

The panelists provided an overview of the current, proposed and potential energy initiatives in each jurisdiction.



- and expansion of energy production;
- The role of Manitoba's hydroelectricity resources in the regional grid;
- Wind turbine and landowner issues;
- The prospects for nuclear energy;
- Identification of key policy issues affecting energy in each of the jurisdictions and the region; and
- Suggested ways that legislators can support the initiatives and positively impact the energy future.

Tim Reed, Mayor, Brookings, SD

Barry Vickrey, Dean and Professor, School of Law, University of South Dakota
Barry.Vickrey@usd.edu

Welcome

Mayor **Tim Reed** welcomed the delegates and guests to Brookings. Brookings has been active in creating and supporting an environment and activities that promote growth and prosperity. The community has developed partnerships with business, industry, government, higher education and the public. Mayor Reed wished the delegates success in their efforts on behalf of the citizens of Brookings and the people of the region.

Presentation

Barry Vickrey, Dean and professor, School of Law, University of South Dakota, provided remarks on the subject of "Civility" – (a full transcript of the presentation is available on the Consensus Council website –

Mike Eggl, Senior Vice President, External Relations and Communications, Basin Electric Power Cooperative
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Doug Berven, Senior Director, Corporate Affairs, POET
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Laura McCarten, Regional Vice President, NSP-MN, Xcel Energy
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Joanne Flynn, CGA/Division Manager, Power Planning/Power Supply, Manitoba Hydro
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Overview

This session featured energy executives and experts who shared their perspectives on the current status and future of energy production. This included:

- The current regional energy profiles;
- The options for the integration of advanced and alternative energy production;
- The plans underway or proposed for development

Highlights:

- The coal industry is currently facing a number of challenges, especially as they relate to environmental and regulatory issues. Historically, the country became reliant on coal as a result of its availability and abundant supplies (coal's price has been much more stable than most other energy sources) and policy makers took steps to encourage and promote the use of coal, to the point of actually implementing laws and regulations limiting the use of natural gas during the 1970's and these restrictions were not repealed until the 1980's. During this time, the energy generation facilities were built to utilize the country's supplies of coal almost exclusively (the only plant that can turn coal into synthetic natural gas is in Beulah, ND).
- Recently, post the earthquake and tsunami in Japan, concerns regarding nuclear power, and its increased availability and affordability,

natural gas has become a leading energy source for the future.

- Current environmental policy and regulations in the US have become significant barriers to the development of all types of new generation plans. 45% of the proposed generation projects in the past several years that have been stalled due to regulatory problems were wind projects.
- Ethanol production represents a significant alternative to petroleum. Ethanol currently supplies 10% of the U.S. fuel supply and helps to stabilize the prices of gas. Although not every state grows corn, every state produces some form of biomass. Current U.S. policy limits ethanol to no more than a 10% mix for automobiles, which restricts the further development of ethanol and its role in significantly reducing dependence on oil.
- Nuclear energy currently makes up 20% of the U.S.'s energy production. Although there continue to be environmental and safety issues, nuclear energy offers a number of unique advantages and should be considered in the national energy mix. Nuclear plants in the region are located near Red Wing and Monticello, Minnesota.
- 98 - 99% of the energy Manitoba Hydro produces is clean, near zero-emission hydroelectricity. Large hydroelectric generation is gaining acceptance and recognition as clean and environmentally friendly. It has been accepted/categorized in some states as a renewable

source of energy with regard to state Renewable Portfolio Standards. In 2010, the Legislators' Forum adopted a recommendation recognizing Manitoba's hydroelectricity as a renewable energy source.

- Manitoba's hydro system can act as a sort of storage system for electricity, as it has the ability to create and release power into the grid during times of peak demand.

Post-presentation Questions and Discussion

- Over the years, hydroelectric generation has continued to evolve.
 - Today's hydropower is developed with careful attention to environmental, social and economic impacts.
 - Large hydroelectric generation is not uniformly recognized as renewable energy in the United States, however, Wisconsin has passed legislation recognizing Manitoba's hydroelectricity as a renewable energy source.
 - New Manitoba Hydro projects can only proceed with extensive consultations and collaboration with native First Nations and other stakeholder help to ensure that the effects of projects on local populations are minimized. First Nations people are key, strategic partners in hydro development and benefit directly from equity ownership, skills training for workers and long-term income from operations. Flooding is greatly

minimized in new projects and they are designed to have minimal impact on traditional hunting and fishing areas.

- Electricity imported from Manitoba currently complements the energy mix in the region, and Manitoba has the capacity to increase the amount of hydro that it supplies to the Midwest.
- Reclamation of land that has been used for mining and drilling continues to be a concern. All LF jurisdictions have some laws and regulations regulating mining and land reclamation and producers are motivated to obey them.
 - North Dakota's reclamation laws were based on those of other states.
 - Although South Dakota does not have significant coal or oil resources, it has reclamation laws for granite quarries and open pit mining.
- The ethanol industry has been dealing with a number of challenges including the food vs. fuel debate, the possibility that the current subsidies will be dropped or phased out, and the need to address a substantial amount of misinformation regarding ethanol, its production and costs.
 - Providing accurate information has been a primary strategy in addressing what could be characterized as a misinformation campaign against the industry.
 - If ethanol production ceased, there would be a

41-92% rise in gas prices because of the refining capacity that would have to be added to compensate for the lack of ethanol.

- If the current subsidies are dropped, the overall production of ethanol will be dramatically affected.
- Ethanol is currently capped at 10% of a gasoline blend. The industry is capable of producing much more, but without the blended tax credit and import tariffs, the industry will not grow.
- Ethanol is currently being shipped to the Middle East, where it is mixed with oil and sold back to the U.S.

Session IV - Energy: Infrastructure and Transmission



Panelists provided an overview of recent developments on electricity transmission and infrastructure in the region.

Will Kaul, Vice President, Transmission, Great River Energy wkaul@GREnergy.com
Ron Mazur, Manager, System Planning/Transmission Planning and Design, Manitoba Hydro rwmazur@hydro.mb.ca
Gary Hanson, Chairman, South Dakota Public Utilities Commission
Gary.Hanson@state.sd.us

Overview

The presenters covered a variety of issues and items relating to energy infrastructure and electric transmission:

- Current and developing agreements, projects and plans;
- Cost allocation and recovery (via MISO and FERC);
- Cap X 2020;
- Federal Energy Regulatory Commission (FERC) – Regulations, planning and cooperation;
- Major projects in planning and development;
- Reliability standards;
- MB-U.S. cooperation; and
- Policy issues affecting transmission infrastructure (positively or negatively) in each of the jurisdictions and the region, and suggestions concerning ways that legislators can advance and support transmission and infrastructure issues.

Highlights:

- In the past, infrastructure and transmission projects have been difficult and time consuming due to many factors including costs, competition, regulation and oversight.
- The region has great potential for energy production, but without an adequate and cost-effective means of transmitting the energy from the producer to the consumer, production and development will be limited.
- There have been significant, positive developments over the past several years with the cooperation of business, industry, government, landowners and the public.
- Cap X 2020 is a joint

initiative between 11 energy-transmission owning facilities that serve Minnesota, North and South Dakota and Wisconsin. The initiative has been divided into two phases and project design calls for double-circuit capacity and other components that will take advantage of future growth in demand and supply. The second phase of the project is in the permitting process.

- All transmission initiatives and projects need to incorporate the ability of the structure to be inter-connected or inter-connectable to the Midwest and national energy grids.
- As the processes and regulations are reviewed and potentially revised, there must be a balance between the protection of consumers and the needs/realities of the utilities.

Post-presentation Questions and Discussion

- Typical line loss is estimated at 5 to 6% over several hundred miles. The section of line from ND to MN is 450 miles.
- The proportion of the load determines how much each utility would pay and does not change over time. Those variables are fixed at the beginning.
- Transmission represents a relatively minor overall cost to the consumer – about 7 to 10% of the total cost of the energy used.
- Transmission lines can flow power both ways so there is no need to overbuild. Depending on demand and the supply source, the flow

can be designated to go in one direction or the other.

- “Storage” of electricity is a paper concept and occurs within the grid rather than at any type of physical plant or location.

Reception and Dinner



Representative **Val Rausch**, Speaker of the House, South Dakota valrausch@hotmail.com
Senator **Larry Tidemann** (SD) 605-224-4200

Kevin Kephart, Vice President for Research, SDSU

kevin.kephart@sdstate.edu

Michelle Jones, American Consul/Principal Officer, U.S. Consulate, Winnipeg, MB c/o KirbysonBR@state.gov

Jennifer Kay, Consul and Head, Political-Economic Relations and Public Affairs, Consulate General of Canada, Minneapolis, MN c/o Joel.Wessman@international.gc.ca

Delegates, presenters, sponsors, and guests attended a reception and dinner at the Robertson Reception Hall, Performing Arts Center at South Dakota State University.

Representative **Val Rausch** and Senator **Larry Tidemann** hosted the event and **Kevin Kephart** welcomed the guests on behalf of the University.

Michelle Jones and **Jennifer Kay** presented remarks focusing on the relationship between the United States and Canada. Senator **Gary Hanson** (SD) and Representative **Carol Pitts** (SD) were recognized as retiring members of the Forum’s Steering Committee and presented with tokens of appreciation for their commitment and hard work on behalf of the Legislators’ Forum. The evening concluded with a bus tour of the SDSU campus and an opportunity for the guests to take a relaxing stroll through McCrory Gardens.

Tuesday, June 21, 2011

Topical Breakfast Table



Discussions

During breakfast the delegates and presenters chose one of the topics addressed in the general sessions. Their thoughts, concerns, observations and suggestions relating to the specific topics were identified and compiled for use in developing the Forum’s “Recommendations and Conclusions” later in the day.

Discussion Topics:

- Innovation: Research, Development and Application
- Renewable Energy

Opportunities and Challenges Session V: Informational Updates – Water Issues



and Developments

Legislators were provided with an overview of the current situation relating to water and flooding issues and developments that have occurred since the 2010 Forum.

Lance Yohe, Executive Director, Red River Basin Commission
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Dwight Williamson, Assistant Deputy Minister, Ecological Services Division, Manitoba Water Stewardship, Government of Manitoba
dwight.williamson@gov.mb.ca

Overview

Water issues and flooding have been of major concern in the region for some time, but the region has been extremely hard hit this year. Flooding has and is affecting most of the region. The presenters provided the delegates with an extensive update on water and flooding issues in the region (Red River Valley, Lake Winnipeg, Devils Lake, etc.) and shared information about the plans being developed for flood control and relief.

Post-presentation Questions and Discussion

- Nutrient loading is a major concern for the health of Lake Winnipeg in Manitoba. Of all nutrients reaching the lake from 1994 to 2007, 30% originated in the United States, mostly through the Red River. Going back to the 1970s through 2001, the trend analysis shows a steady, year-after-year, increase of phosphorus coming into Manitoba through the Red River. A recent report from the federal government in Canada has indicated that the phosphorus levels have since plateaued.
- There have been a number of positive measures and activities concerning nutrient flows. The International Joint Commission (IJC) and the Red River Basin Commission have recommended that all jurisdictions reduce their nutrients by 10%. The IJC forwarded this recommendation to the governors and premiers and work has been underway since then. More recently, ambassadors and the federal government representatives in North Dakota and Manitoba have agreed to develop a basin-wide nutrient plan. Expanded talks are underway with officials from Minnesota.
- Salinity has been monitored in the Red River and Lake Winnipeg since the 1960s, and the trend is an increase in the total dissolved solids flowing into the lake. Increased sulphates and nutrients in the Red River negatively impacts drinking water for Manitobans and

impacts the health of Lake Winnipeg. Nutrient run-off is a difficult and complex issue to deal because many different activities contribute phosphorus and nitrogen to downstream water systems. However, even small, individual actions make a difference for decreasing sulfate levels.

- Over 1 million lakes in the basin area have been drained to create a system that moves water to the river more quickly. The retention models being proposed and developed will restrict the water until there is capacity in the river to release it. This is intended to slow erosion and act as a natural nutrient filter, resulting in a positive impact on water quality. A good retention model utilizes the creation of cells on land that can be alternately filled and drained – even farmed. The new Farm Bill is expected to provide money for some of these activities through the wetlands reserve.
- Due to the current wet cycle, some wetlands are beginning to connect to each other. This raises questions about whether or how these areas can be drawn down in the fall.
- Interest in tiling is increasing in the Red River Valley. If tiling is designed and managed properly, it can have some positive effects upon nutrient content and salt level, but it can also contribute to some water quality concerns.
- The addition of organic materials to soil makes it more absorbent; however, there is very little research

- available regarding the benefits of large-scale composting. Some work is being done through the planting of cattails. Cattails have the ability to remove phosphorous and other contaminants naturally.
- Although the region is currently experiencing a wet cycle, history proves that the region is prone to reoccurring periods of drought, too. A focus on flooding without acknowledging and planning for the “dry side” of the cycle is not a wise approach. Water retention may help to solve the flood problems and be a component of supporting future water supply needs.
 - Controlling the flow of water from various dams and retention projects is critical. While the U.S. Army Corps of Engineers controls releases from the lakes and dams, a broader, more comprehensive plan with commensurate authority needs to be developed to coordinate the needs and responses. Jurisdictional dialogues about drought are also critical to the planning and management processes. The Red River Basin Commission will be initiating talks with Governors to begin addressing the differences in water laws, plans, and coordination of efforts.
 - Focusing on water issues from a regional or basin-wide perspective is important. Expanding awareness of how what is done upstream affects those downstream and a healthy respect for water as a resource is critical to the future of each jurisdiction in the region.

Legislators' Forum Recommendations and Conclusions

Innovation: Research, Development and Application

Discussion Points:

- *Implementing tax credits and other incentives in competition with the other jurisdictions may not always be advisable. Ways to cooperate and coordinate this effort should be developed.*
- *A collaborative summit should be convened involving all the technology transfer and research park staff from the region. The goal should not only be to improve relationships and communication, but it could focus on establishing expertise and avoiding duplication of efforts.*
- *A beginning point for a summit would be a comprehensive study of what is already being done – an index or summary of what institutions and organizations currently exist, their purpose (as it relates to research, development and transfer), and an indication of the projects on which they are working.*
- *Another initial step in the collaboration effort would be the development of a letter or memorandum of understanding that could be used as a template for researchers working in collaborative efforts.*
- *Opportunities to join with existing groups and organizations to sponsor joint or piggyback summits should*

be pursued (the Midwestern Higher Education Compact meetings and/or Centralia).

- *The summit idea should be expanded to include researchers and entrepreneurs through chambers of commerce, manufacturing associations and private enterprise.*
- *A standardized connectivity network (the North-South information pipeline - Manitoba to Kansas) should be promoted and supported.*

Innovation: Research, Development and Application

Recommendations:

Incentives – The Legislators Forum recognizes and supports the value of tax credits and other incentives in stimulating an active, positive environment for research, development, and transfer of technologies, and recommends their expanded use in a manner that utilizes a collaborative approach that will foster cooperation, promote economic development and employment growth.

Life Science Alley – The Legislators Forum recognize the Life Science Alley as model of collaboration and cooperation and a vehicle that focuses on innovation and the connection between research centers and business/industry, and recommends that all of the represented jurisdictions become members and active participants.

Regional Innovation Collaboration and

Coordination – The Legislators Forum recognizes the need for

and recommends and supports the development of opportunities to bring stakeholders (universities, research parks, technology transfer offices, chambers of commerce, private enterprise) together in a spirit of sharing and cooperation. These activities should include an annual summit of the research and development and technology transfer offices of universities, research parks, and the private sector. The summit's goal should be:

- To develop trust and professional, collaborative relationships;
- To exchange ideas and information on projects;
- To Identify and encourage best practices and expertise within each jurisdiction;
- To identify barriers and develop approaches to address them;
- To develop a standardized inter-institutional or inter-jurisdictional letter or memorandum of understanding that could be used to formalize partnerships between institutions, organizations, and businesses; and
- To share developments, progress and concerns with Legislators from the participating states and provinces.

The initial summit should be preceded by a preliminary scan/inventory of the current efforts and activities underway in each jurisdiction relating to research, development and technology transfer.

Connectivity – The Legislators Forum recognizes the need for

and benefits of a standardized connectivity network, a North to South information pipeline, and recommends that the participating jurisdictions promote and support the development, implementation and maintenance of the uniform, standardized connection technologies that will make collaboration possible.

Energy: Opportunities and Challenges

Discussion Points:

- *Energy needs and sources should be approached broadly. All sources of energy should be considered and included in the creation of a “portfolio” of solutions and options. Government policies and regulations should provide an opportunity for the development of new clean energy sources. Legislatures can assist in that effort.*
- *Energy and the resources of the Midwest are compelling issues, and the region is at the epicenter of ideas and solutions. A leadership role should be embraced and a region-wide energy strategy should be developed.*
- *Wisconsin has recognized hydro as clean and renewable energy, including hydro greater than 60 MW from Manitoba, for the purposes of its state Renewables Portfolio Standard, and more efforts should be made to have other jurisdictions do the same.*
- *Climate change should be recognized as a real threat and policies and strategies should be developed and implemented to address it.*
- *Clean energy cannot be developed at the expense of*

reliability or cost effectiveness. There are many examples of how these things can work together.

- *The lack of commonality/ uniformity of laws and regulations between different levels of government and jurisdictions represent one of the most difficult challenges.*
- *Any effective energy strategy starts with conservation. Small changes can make a collective big difference. This could include boarder collaboration in reviewing building codes to determine if innovations in various jurisdictions can be adopted elsewhere – a best practices approach.*
- *The efficiency and conservation saves money and provides immediate results. Recently, South Dakota initiated an efficiency check of all state buildings.*
- *Consumer efficiency and conservation may be a difficult task and may require a variety of regulations and expanded oversight.*

Energy: Opportunities and Challenges

Recommendations:

Promotion of Conservation

– The Legislators Forum recognizes conservation as the most immediate and cost effective way to improve efficiency and reduce energy demands, and recommends that all participating jurisdictions adopt methods and programs to promote and support conservation activities.

Broad, Progressive Need-based Energy Policy – The Legislators Forum recognizes

the wisdom of a comprehensive, collaborative, coordinated, and need-based energy policy, and recommends the adoption of a broad energy portfolio that incorporates existing and potential energy sources and emphasizes ongoing efforts to identify and support the development and use of renewable, clean sources of energy. Additionally the Forum recommends an active process for the identification and support for the development and use of renewable, clean sources of energy by all participating jurisdictions, and reiterates its 2010 recognition of Manitoba Hydro as a clean, renewable source of energy.

Permits and Regulations

– The Legislators Forum recognizes the need for and benefits of an ongoing, open regulatory and permitting review process, and recommends that efforts be ongoing to support the development and use of a process that provides for the protection of the consumer and the environment while fostering and promoting uniformity, efficiency, cost effectiveness, practicality, timeliness and reliability. This process should incorporate the full-range of perspectives and stakeholders, including all levels of government, consumers and landowners.

Leadership –The Legislators Forum recognizes the strategic importance and economic potential of energy in the Midwest, and recommends that jurisdictions in the region embrace a leadership role and work together to develop a proactive, regional energy

strategy that recognizes technological developments and incentivizes opportunities for energy production, delivery and use.

Energy: Transmission and Infrastructure

Discussion Points:

- *Information has been presented on reliability, cost, maintenance, and economy of scale. What's the total impact and how can it be addressed from either the production or consumption ends?*
- *Transmission should be a topic of the 2012 Forum.*
- *All new construction should be green – “smart buildings.”*
- *Planning and implementation policies should be based on a “do the least harm” philosophy and respect for existing rights of way.*
- *Planning should be regional – multiple partners will affect multiple jurisdictions – this should be considered with regard to harmonizing the regulation process, also.*
- *Simple approaches like doubling the amount of transmission lines on a pole should be considered.*
- *There have been numerous positive developments over the past few years regarding transmission - building, funding, collaboration and partnerships, etc. The queue to build projects is shorter than it used to be.*

Energy: Transmission and Infrastructure

Recommendations:

Accomplishments and Future Planning – The Legislators Forum recognizes that energy transmission planning efforts

must involve all partners and stakeholders, and recommends a process that focuses on building and maintaining a coordinated, flexible, reliable, cost-effective, integrated smart grid. It must be responsive to the current and anticipated needs of consumers and be fiscally and environmentally responsible.

Efficiency and Technology

– The Legislators Forum recognizes the value of new and developing technologies, and recommends that they be included as an integral component of all planning initiatives and be adapted and adopted to improve energy efficiency.

Regulation – The Legislators Forum recognizes the need for a balanced, open, inclusive, responsive and timely regulation and permitting process, and recommends that the process and related regulations be reviewed and revised (as necessary) on an ongoing basis. The process should support a philosophy of “the least harm” and recognize existing “rights of way.”

Water Issues

- *There must be a basin-wide responsibility for the stewardship of Lake Winnipeg and a basin-wide approach.*
- *The use of organic matter to increase the holding capacity of soils should be explored. Also, the higher the organic matter in the soil, the less nitrogen and phosphorus is needed to grow the crop.*
- *Further discussion on tile drainage should be pursued. The tiling process takes the excess water out of the soil*

profile, but doesn't take out the moisture needed to grow the crop. There are benefits for flood control, crop production and the economy. NDSU is currently doing a study on tile drainage.

- *Most farmers In the Red River Valley are very conscientious about utilizing good farming practices. Cover crops, filter strips and better wetland management all have a place in the overall environment – there's educational and cooperative work to be done here.*
- *Devil's Lake is quickly becoming a basin-wide problem. It is currently about 1 million-acre feet of water from overflow and if that happens, it means a great deal of trouble for the people downstream, (Lake Winnipeg is actually downstream). A long-term management plan must be developed to take the water out of the lake so that storage capacity is maintained and the downstream issues are mitigated. It is, also, a basin-wide responsibility that requires a basin-wide approach. The area is two major rain events from a catastrophic overflow.*
- *The Forum should support a basin-wide approach to water issues – flooding, water quality and water supply. We have a responsibility to Lake Winnipeg, and to help resolve the Devils Lake problem.*
- *The environment historically functions in a cycle – dry and wet. Flooding cannot be addressed without equal attention to drought.*
- *Who has what responsibility and authority regarding the*

basin? There are too many players at all levels and it is very confusing - county water boards? The RRBC? State or national regulators? There is not as much basin-wide management as needed. The RRBC has been around in some form since 1979, and serves as the current forum for us to address those issues, but it has zero authority.

- It may be possible for the RRBC to get authority through the various jurisdictions, but there would have to be an agreement into which all of the parties would enter into.
- There is already a tri-state water commission under U.S. federal law, but that has been inactive since the 1940s.
- How possible would it be for the United States and Canada (federal governments) to work together? Both federal partners and government at the local level need to be “on board.” Perhaps the Forum can help in engaging those groups and helping them begin talking to each other.
- Inviting the federal government to the water issues table can complicate and prolong things. A better idea may be engaging people from the bottom up.
- There’s a similarity between this issue and the transmission issue. People are working on transmission at a global level, why not look at water issues the same way?
- The federal government should be engaged regarding the ways that they are or are not helping and asked for more flexibility.
- A system or model of basin-

wide management that deals with quality, quantity and demand is needed. It should include the various players, with the RRBC, the federal governments, and the local stakeholders.

- Incorporation of the retention option should be stressed, also.
- Basin-wide responsibility and authority should be a principle for all water issues throughout the region.

Water Issues

Recommendations:

Basin-wide Approach – The Legislators Forum recognizes, endorses and recommends the adoption and implementation of the principle of basin-wide responsibilities and authority regarding water issues. Such a basin-wide approach would involve all stakeholders and strive for consensus solutions. It should emphasize simple, practical and fiscally responsible solutions that address water quality and quantity issues.

The Legislators Forum recognizes that no existing entity is tasked with the responsibility or authority for management of the Red River basin, and recommends that the Red River Basin Commission be charged with the responsibility and authority to provide basin-wide planning and implementation. This recommendation carries with it the expectation that the Commission engage local residents, landowners and all levels of government and regulating authorities in the planning and management processes.

Closing Comments

The 12th Annual International Legislators’ Forum

Delegates agreed that energy would be an important topic for discussion at the 2012 Forum. Additionally, they identified a list of potential topics, observations and suggestions for next year’s Forum. The 2012 Legislators’ Forum will be held in Grand Forks, ND on June 20-22.

The Forum was facilitated by the Consensus Council, Inc. 1003 East Interstate Avenue - Suite 7 Bismarck ND 58503-0500 (701) 224-0588

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2011 LEGISLATORS' FORUM

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Achievements of the Legislators’ Forum (LF) 2001-2010

The Legislators’ Forum (2001 through 2010) has discussed, developed agreements and taken action on:

- Securing a Memorandum of Understanding (MOU) from respective legislative leaders in all four jurisdictions to continue the annual meetings.
- Learned about differences in structure and process in the respective states and provinces.
- Learned that the delegates share many of the same issues and values and wish to learn more from each other about best practices for addressing them together.
- Interacted annually with the Canadian Consul General, based in Minneapolis, and the US Consul and Principal Officer in Winnipeg, both of whom have been significant supporters of the LF efforts.
- Through these Consuls, information and agreements reached at the LF meetings have been passed on to the respective federal governments in both countries.
- Sponsored and helped initiate what has become “2Nation Tours,” involving the travel and tourism agencies of all four jurisdictions.
- Broad support of the Conservation Reserve Enhancement Program (CREP), especially in the states because it is aimed at enhancing the Conservation Reserve Program (CRP) in the US.
- Indicated strong support for the establishment of a 600-mile “Greenway” from the source of the Red River and on its tributaries to its termination in Lake Winnipeg. The efforts to develop it have expanded and continue today.
- Supported the Prairie Public Television/Radio “River Watch” program, which was linked to the Greenway and other flood control and mitigation efforts throughout the region and helped to secure multiple years of funding for that program, as well as the Greenway, from the Otto Bremer Foundation.
- Discussed mutual water quality issues and increased understanding of the many water quality problems are shared among the jurisdictions and that it will be essential to work together to address those issues.
- Advanced the discussion about and enhancement of renewable fuels and energy transmission capacity in the region, which was responsible, in significant part, for the work done by the Great Plains Institute (GPI), Powering the Plains (PTP) process and the work of the Midwest Governors Association.
- Encouraged agricultural harmonization legislation and regulation at the national levels in both countries and contacted the US Environmental Protection Agency (EPA) and the Canadian Pest Management Regulatory Agency (PMRA) in support of the work of the Agriculture Harmonization Working Group and broadening, expediting and prioritizing that work.
- Supported pilot projects for pesticide labeling applicable across US and Canadian borders - now applied to 3 pesticides.
- Written letters of support to appropriate agencies in the US and Canadian federal governments to encourage the adoption of a regional inter-jurisdictional action process in case of disease outbreak to ensure the containment and quick eradication of these outbreaks in the region. These included handling food safety and security in an economical and efficient manner by using inter-jurisdictional expertise and scientific technology and brought responsible agency people from all four jurisdictions together between several annual LF meetings to begin their work together in this area.
- Supported an emergency management mutual aid agreement and emergency management experts working together across borders.
- Brought the four Attorneys General and Justice Minister together to provide updates on inter-jurisdictional criminal justice issues, progress on dealing with methamphetamine issues and to sign an agreement to develop an “Amber Alert” system throughout the four jurisdictions to assure quick, coordinated service in the event of child abductions.
- Delegates have supported inter-jurisdictional sharing of best practices in “healthy living.”
- Supported greater rural access to medicine to ensure access to appropriate health care for all citizens in the region.
- Encouraged the public and private sectors in this region to work together to enhance broadband technology and other infrastructure, especially in rural areas.
- Supported a regional effort to enhance rural and community development, beyond simply economic

development and including support for immigration.

- Contacted the Department of Homeland Security, other relevant agencies and states' Congressional offices to request that they do all they can to ensure border crossings for citizens in the US and Canada remain as seamless as possible, expressing the belief that the two countries share so much in terms of history, culture, mutual relations and issues that, "Whatever decisions are made with regard to implementation (of cross-border identification

requirements), there needs to be sufficient time to develop a thorough, comprehensive and accurate cost-benefit analysis of all proposed solutions; sufficient time to implement the regulations; and sufficient time to ensure that all privacy concerns are adequately addressed. Finally, the regulations need to be affordable by states and provinces and their citizens." The delegates share a belief that their input has had a significant impact on achieving the delay and reconsideration of many border-crossing identification regulations.

Legislators' Forum Annual Highlights/Focus

During all annual meetings of the Legislators' Forum, water issues have been a topic of conversation in the context of flooding, drought and water quality. In addition, each year has had a specific focus and at least one highlight issue. Those issues include:

MB 2001—Sponsorship of 2 Nations Tours, a program among the four jurisdictions that continues today.

MN 2002—Memorandum of Understanding among legislative leaders in the four jurisdictions to meet annually and provide substantial support for Conservation Reserve Enhancement Programs (and analogous programs in Canada) in order to address flooding, drought and water quality issues.

SD 2003—Establishment of a regional renewable fuels working group called Powering the Plains (PTP) and beginning efforts to bring emergency management officials from the four jurisdictions together to enhance cooperation and coordination across borders.

ND 2004—Beginning of significant efforts to address methamphetamine and pharmaceutical issues across borders in order to address addiction issues and alternatives to incarceration.

MB 2005—Building on the agreements to address methamphetamine issues across borders, broadened the discussion to include addressing together all inter-jurisdictional criminal justice issues.

MN 2006—Emphasized the importance of basing water related public policy issues on sound science. Supported the efforts of the four jurisdictions' Attorneys General to address methamphetamine and criminal justice issues and their signing of an inter-jurisdictional Amber Alert MOU to enhance mobilization in the case of child abduction.

SD 2007—Provided broad support for the Regional Energy Roadmap that had been developed by the PTP participants, supported the enhancement of broadband technology, especially in rural areas of the four jurisdictions and expressed significant concerns to the US Department of Homeland Security and other relevant US and Canadian entities about the implementation of the Western Hemisphere Travel Initiative (WHTI).

ND 2008—Highlighted issues related to rural community development, health and infrastructure issues, including the need for further enhancement of broadband technology in the region and continued the ongoing discussions of water (LIDAR mapping), energy and cross-border identification issues.

MB 2009—While specifically focusing on Lake Winnipeg, the delegates developed agreements to address regional water quality and quantity issues, regional energy issues and cross-border security, identification and tourism.

MN 2010 – Discussions centered on water issues in the Red River basin and included recommendations and requests from the Red River Basin Commission regarding management, impoundment, retention and diversion. Energy, commerce, border security and the media were also highlighted.



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