

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

June 23, 2008

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on June 23, 2008. Governor John Hoeven, Chairman, called the meeting to order at 1:30 P.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Jeff Weispenning, representing Roger Johnson, Commissioner,
North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

CONSIDERATION OF AGENDA

There being no additional items for the agenda, Governor Hoeven announced the agenda approved as presented.

**CONSIDERATION OF DRAFT MINUTES
OF MARCH 17, 2008 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the March 17, 2008 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Thompson, seconded by Commissioner Berg, and unanimously carried, that the draft minutes of the March 17, 2008 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF APRIL 23, 2008 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the April 23, 2008 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Thompson, seconded by Commissioner Berg, and unanimously carried, that the draft minutes of the April 23, 2008 State Water Commission audio conference call meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF MAY 14, 2008 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the May 14, 2008 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Thompson, seconded by Commissioner Berg, and unanimously carried, that the draft minutes of the May 14, 2008 State Water Commission audio conference call meeting be approved as prepared.

**STATE WATER COMMISSION
BUDGET EXPENDITURES,
2007-2009 BIENNIUM**

In the 2007-2009 biennium, the State Water Commission has two line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending April 30, 2008, reflecting 42 percent of the 2007-2009 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. The total approved for projects is \$52,739,886, leaving a balance of \$45,283,244 available to commit to projects.

**RESOURCES TRUST FUND
AND WATER DEVELOPMENT
TRUST FUND REVENUES,
2007-2009 BIENNIUM**

Oil extraction tax deposits into the Resources Trust Fund total \$31,646,165 and are currently \$14,667,193, or 86.4 percent ahead of the budgeted revenues.

Deposits into the Water Development Trust Fund total \$16,416,485 and are currently \$566,850, or 3.7 percent ahead of budgeted revenues.

**NORTH DAKOTA CLOUD
MODIFICATION PROJECT -
APPROVAL OF \$350,000
(SWC Files ACT/RES & AS/SWC/ARB)**

The North Dakota Cloud Modification project (NDCMP) is an operational summertime cloud seeding program designed to decrease hail damage and increase growing season rainfall. The

counties presently participating in the project include Bowman, McKenzie, Mountrail, Ward, Williams, and part of Slope. Many of these counties have participated in the project for more than 40 years.

Local funds for the project are generated through county tax levies, which are currently capped at seven mills. Counties are expected to commit more than \$972,000 to the project in the 2007-2009 biennium. The biennial costs are expected to total approximately \$1,438,000, or about 10.8 cents per acre per year.

Independent evaluations of the NDCMP indicate a 45 percent reduction in crop-hail damages, 6 percent increase in wheat yields, and up to a 10 percent increase in rainfall. A study conducted by the North Dakota State University in 1998 estimated the total economic benefit-to-cost ratio of the program at greater than 45:1.

In considering the funding needs for North Dakota water projects, the 2007 Legislature identified \$600,000 in the 2007-2009 biennium to partially meet the state's cost share of the NDCMP. The state has provided cost share to participating program counties since 1976.

It was the recommendation of Secretary Frink that the State Water Commission approve funding for the North Dakota Cloud Modification project, not to exceed an allocation of \$350,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission approve funding for the North Dakota Cloud Modification project, not to exceed an allocation of \$350,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**STATE WATER COMMISSION COST
SHARE POLICIES AND PROCEDURES -
APPROVAL OF AMENDMENTS
(SWC Project No. 1753)**

The State Water Commission's rural flood control/flood control cost share policy committee and others met on June 23, 2008. The committee presented the following recommendations

(italicized) for the State Water Commission's consideration:

Bank Stabilization: Bank stabilization projects are intended to stabilize the banks of lakes and of watercourses, as defined in Section 61-01-06 of the North Dakota Century Code, for the purpose of protecting public facilities. Drop structures and outlets are not considered for funding as bank stabilization projects but may be eligible under other cost share program categories. Bank stabilization projects typically consist of a rock or vegetative design and are intended to prevent the loss of land or damage to utilities, roads, buildings, or other facilities adjacent to the lake or watercourse. The State Engineer reserves the right to determine the eligibility of projects and the percentage of cost share up to 50 percent.

The State Water Commission provide cost share not to exceed 50 percent of the eligible items of any cost share application approved as a bank stabilization project on public lands or those lands under easement by federal, state, or political subdivisions.

Rural/Farmstead Ring Dikes:

The State Water Commission provide a 50 percent cost share of the eligible items for ring dikes, not to exceed \$40,000 per ring dike. Cost share reimbursement for landowners who construct the ring dike themselves for the embankment fill will be increased from \$2.00 per cubic yard to \$3.18 per cubic yard; stripping and spreading of topsoil will be increased from \$0.25 per square yard to \$0.40 per square yard; and reimbursement of flap gates will be increased equivalent to that of culverts, which is the cost of the flapgates times 150 percent.

Dam Safety Repair Construction Projects: The intent of dam safety repair construction projects is to return the dam to a state of being safe from the condition of failure, damage, error, accidents, harm or other events that are considered non-desirable.

The State Water Commission provide cost share not to exceed 65 percent of the eligible items of an application approved as a dam safety repair construction project. The cost share percentage of 65 percent is only applicable to those dam safety repairs that do not have any other contributing partners. The local sponsor would be responsible for 35 percent.

On those dam safety repairs of which the North Dakota Game and Fish Department will be a one-third contributing partner, the cost share arrangement will be as follows: State Water Commission (33.33 percent), the North Dakota Game and Fish Department (33.33 percent), and the local sponsor (33.33 percent).

Dam safety repairs that are funded with federal funds will be cost shared at 50 percent of the non-federal costs.

Emergency Action Plans:

The State Water Commission provide cost share up to 80 percent for actual costs incurred, not to exceed \$25,000, for an emergency action plan.

It was the recommendation of Secretary Frink that the State Water Commission approve the proposed amendments to the cost share policies and procedures as recommended.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission approve the proposed amendments to the cost share policies and procedures as recommended.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispfenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**APPROVAL OF ESTABLISHMENT OF
COST SHARE POLICY COMMITTEE
(SWC Project No. 1753)**

Governor Hoeven previously appointed committees to address cost share policy and procedure issues involving flood control, rural flood control, ring dike, and other miscellaneous projects.

It was the recommendation of Secretary Frink that all previously appointed rural flood control, flood control, ring dike, and cost share policy committees be dissolved, and further consolidated and referred to as the "cost share policy committee". The structure of the committee will include the Assistant State Engineer serving as the chair and the State Water Commission members (excluding the Governor and the Commissioner of the Department of Agriculture). Others interested in addressing cost share policy and procedure issues are invited to participate.

It was moved by Commissioner Swenson, seconded by Commissioner Thompson, and unanimously carried, that all previously appointed rural flood control, flood control, ring dike, and cost share policy committees be dissolved, and further consolidated and referred to as the cost share policy committee.

**CYPRESS CREEK DRAIN NO. 2
CONSTRUCTION PROJECT,
(CAVALIER COUNTY) -
CONDITIONAL APPROVAL OF
STATE COST PARTICIPATION (\$45,437)
(SWC Project No. 1439)**

A request from the Cavalier County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to construct Cypress Creek Drain No. 2 to control the floodwaters by providing for the efficient removal of runoff.

The proposed drain is approximately 2.5 miles in length and will be constructed in Section 34, Township 154 North, Range 64 West, and in Sections 3, 2, and 11 of Township 163 North, Range 64 West. The drain will remove high waters from a large wetland in Section 11 and facilitate the movement of floodwaters to the outlet in Section 34 (Cypress Creek). Maintenance work involving the natural watercourse will be completed at the same time the drain is constructed which will reduce sheet flooding and improve the agricultural property throughout the drainage area. Cypress Drain No. 2 will be constructed to a 10-year design standard.

The constructed drain will be built to a width of 10 feet with side slopes of 3:1, and a maximum depth of 6.5 feet. The project involves common excavation for the channel, installation of a drop structure and control end section to regulate spring flows, and the update of 6 obsolete crossing structures.

The District and the U.S. Fish and Wildlife Service will determine an exact outlet elevation of a large wetland. Other project work includes seeding and engineering. The project will be financed with assessment funds, and is anticipated to be completed by the spring of 2009.

The project engineer's cost estimate is \$130,821, of which \$129,821 is determined eligible for conditional state cost participation as a rural flood control project at 35 percent of the eligible costs (\$45,437). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and a positive assessment district vote. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$45,437.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$45,437 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Cypress Creek Drain No. 2 construction project.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$45,437 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Cavalier County Water Resource District for the Cypress Creek Drain No. 2 construction project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and a positive assessment district vote.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispfenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**RENWICK DAM REHABILITATION
CONSTRUCTION PROJECT,
(CAVALIER AND PEMBINA COUNTIES) -
CONDITIONAL APPROVAL OF
ADDITIONAL STATE COST
PARTICIPATION (\$229,670)
(SWC Project No. 849)**

A request from the Pembina County Water Resource District was presented for the State Water Commission's consideration for additional state cost participation in the rehabilitation of Renwick Dam. The Tongue River watershed, located in Cavalier and Pembina counties, consists of a system of dams that reduce agricultural flood damages, urban flood damages, and reduces downstream flood damages to roads, culverts, and bridges. Renwick Dam also offers recreational benefits for the surrounding area.

Renwick Dam was built in the late 1950s with a life span of 50 years. The dam has been classified as a high hazard dam because of the potential loss of life in the event of a failure. The dam, located in Section 10 in Tier 161 North, Range 55 West, will be rehabilitated under a plan designed by the North Dakota Natural Resource Conservation Service, which will bring Renwick Dam into compliance with current state and federal design and safety criteria. The recommended plan consists of constructing a roller compacted concrete spillway through the existing dam.

The project engineer's cost estimate was \$6,276,300, of which \$2,297,040 was determined as the local cost eligible for state cost participation. On July 17, 2007, the State Water Commission approved conditional state cost participation as a flood control dam safety project at 50 percent of the eligible local costs, not to exceed an allocation of \$1,148,520 for the rehabilitation of Renwick Dam. The project will also receive federal funding for the rehabilitation at 65 percent for eligible construction and engineering items.

The project engineer's revised cost estimate, which is attributable to a 20 percent fuel surcharge, is \$7,531,400, of which \$2,756,380 is determined as the local cost eligible for 50 percent state cost participation as a flood control dam safety project (\$1,378,190). The Pembina County Water Resource District requested an additional state cost participation of the unfunded eligible cost of \$229,670 (\$1,378,190 less the previously approved amount of \$1,148,520).

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve an additional allocation not to exceed \$229,670 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) to the Pembina County Water Resource District for the rehabilitation of Renwick Dam. The Commission's affirmative action would increase the total state cost participation to \$1,378,190.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission conditionally approve an additional allocation not to exceed \$229,670 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) to the Pembina County Water Resource District for the rehabilitation of Renwick Dam. This action is contingent upon the availability of funds, and satisfaction of the required permits.

This action increases the total state cost participation to \$1,378,190 for the rehabilitation of Renwick Dam.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SWAN CREEK DIVERSION DITCH
IMPROVEMENT RECONSTRUCTION -
CONDITIONAL APPROVAL OF
ADDITIONAL STATE COST
PARTICIPATION (\$1,057,500)
(SWC Project No. 847)***

On July 17, 2007, the State Water Commission approved a request from the Maple River-Rush River Joint Water Resource District for state cost participation in the Swan Creek diversion ditch improvement reconstruction project as a rural flood control project at 35

percent of the eligible local costs not to exceed an allocation of \$500,000; and a directive that the project type and the cost share percentage be reviewed in the second year of the 2007-2009 biennium.

The existing diversion was constructed by the Soil Conservation Service over 50 years ago. The intent of the proposed construction project is to protect the city of Casselton from agricultural runoff and sheetwater. The project will be designed to FEMA standards. The diversion ditch is located in Sections 34 and 35 in Tier 140 North, Range 52 West, and will be upgraded from a 25-year design to a 100-year design. The design data indicates the length of the ditch at 14,600 feet, a 10-foot bottom width, 5:1 side slopes, a maximum cut of 1.0 feet, and a 0.001 gradient. Construction work consists of excavation, spoil bank leveling, road gravel, culvert removal and new culvert installation, riprap, seeding, material testing, traffic control, 4 rock checks, storm water management, and site entrances.

The project engineer's cost estimate is \$3,250,000, of which \$2,815,000 (exclusive of land rights) was determined eligible for state cost participation. Pursuant to the State Water Commission's directive of July 17, 2007 to review the project type and cost share percentage, a request from the Maple River-Rush River Joint Water Resource District was presented for the State Water

Commission's consideration that the Swan Creek diversion ditch improvement reconstruction project be considered eligible for state cost participation as a flood control project at 50 percent of the eligible costs, and that the land rights (\$300,000) be considered eligible for state cost participation.

Secretary Frink explained that the State Water Commission has a long-standing policy in which legal, land, and administrative expenses are not eligible for state cost participation. Specific action is required by the Commission to make those costs eligible for state cost participation.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a flood control project at 50 percent of the eligible costs (\$1,557,500), inclusive of the land rights, and that a conditional additional allocation, not to exceed \$1,057,500 (includes unfunded eligible costs (\$907,500) and land rights (\$150,000)) be approved from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). The Commission's affirmative action would increase the total state cost participation to \$1,557,500.

It was moved by Commissioner Hanson and seconded by Commissioner Berg that the State Water Commission approve state cost participation as a flood control project at 50 percent of the eligible costs (\$1,557,500), inclusive of the land rights, and that a conditional additional allocation, not to exceed \$1,057,500 (includes unfunded eligible costs (\$907,500) and land rights (\$150,000)) be approved from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple River-Rush River Joint Water Resource District for the Swan Creek diversion ditch improvement construction project. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$1,557,500 for the Swan Creek diversion ditch improvement construction project.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**LOWER SWAN CREEK FOUR-MILE
IMPROVEMENT RECONSTRUCTION
PROJECT (CASS COUNTY) -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$44,100)
(SWC Project No. 847)**

On December 10, 2004, the State Water Commission approved a request from the Maple River Water Resource District for state cost participation in the amount of \$140,000 for the Lower Swan Creek four-mile improvement reconstruction project in Everest, Casselton and Durbin townships in Cass county. An additional

allocation of \$28,000 was approved by the Commission on October 12, 2006.

The proposed project consists of reconstructing the 60-year old constructed ditch (Swan Creek) from Casselton to U.S. Interstate 94. The reconstruction will restore Swan Creek's hydraulic capacity and bank stability. The channel improvement will consist of reconstructing the channel by widening the bottom width and flattening the side slopes. The existing culverts will be removed and replaced. A sediment analysis was provided indicating no sediment removal will occur at the site during the reconstruction.

The project engineer's revised estimated project cost is \$515,691, of which \$475,644 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$212,100). Following litigation, an existing bridge on lower Swan Creek will be replaced, including the installation of 3 culverts and cable concrete over the top of the culverts and on the channel slopes. The estimated cost for the bridge replacement is \$44,100 and all costs are considered eligible for state cost participation. The project is anticipated for completion by the fall of 2008. A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for additional state cost participation of \$44,100 (bridge replacement) for the Lower Swan Creek four-mile improvement reconstruction project in Cass county.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$44,100 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Lower Swan Creek four-mile improvement reconstruction project in Cass county. The Commission's affirmative action would increase the total state cost participation to \$212,100.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$44,100 from

the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Lower Swan Creek four-mile improvement reconstruction project in Cass county. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$212,100 for the Lower Swan Creek four-mile improvement reconstruction project in Cass county.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***LYNCHBURG-BUFFALO DRAIN
IMPROVEMENT RECONSTRUCTION
AND EXTENSION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$500,000)
(SWC Project No. 1951)***

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project for the improvement reconstruction of Lynchburg-Buffalo Drain. This is a rural flood control project

designed to increase the hydraulic capacity through the designated reach by widening the channel bottom and flattening the side slopes.

The Lynchburg-Buffalo Drain is 10 miles in length and consists of an 8-mile main Lynchburg channel and a 2-mile lateral known as the Buffalo channel. The entire 10 miles will be reconstructed with improvements, and a 9-mile extension upstream of the original channel will be constructed. The proposed work is located in south central Cass County. The U.S. Soil Conservation Service originally constructed the main channel and lateral in 1960 and the drain has encountered several spring thaws and floods. The drain has eroded over the years and is in need of a complete channel reconstruction. Following construction of the drain and lateral, the project was turned over to the Maple River Water Resource District without a mechanism for collecting maintenance dollars. The purpose of this project is to vote on the creation of an assessment district.

The proposed project will increase the hydraulic capacity of the original drain to convey a 10-year design flow and will stabilize the channel grade and side slopes. The new channel will have a 10-20 foot channel bottom with the alignment of the channel following the existing channel. The side slopes will be flattened to a 4:1 or 5:1 side slopes. The new design gradient of the channel will be a constant 0.045 percent grade from the outlet into the Maple River upstream to a constructed drop structure. The channel upstream of this drop structure will have a 0.05

percent slope and will have 2 more constructed drop structures to take up the existing steep channel slope. Most of the crossings that are inline with the channel are section line bridges. Unless these bridges are deemed unsafe to the public or are insufficient to convey the flow of the drain, they will not be replaced in this 2008 drain reconstruction project. Riprap and riprap filter blanket will be utilized under the bridges to repair existing erosion as well as prevent any future erosion.

The project engineer's cost estimate is \$5,000,000, of which \$4,264,375 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$1,492,531). Pursuant to the State Water Commission's cost participation policy for rural flood control projects, the funding limitation is \$500,000 per project for the 2007-2009 biennium. The Commission's policy allows conditional approval of a rural flood control drainage project subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) for the Lynchburg-Buffalo drain improvement reconstruction and extension project.

It was moved by Commissioner Hillesland and seconded by Commissioner Berg that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple River Water Resource District for the Lynchburg-Buffalo drain improvement reconstruction and extension project. This action is contingent upon the availability of funds, a positive local assessment vote, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

BOIS DE SIOUX RIVER, CASS AND RICHLAND COUNTIES RETENTION SITES ENGINEERING FEASIBILITY STUDIES - APPROVAL OF STATE COST PARTICIPATION (\$120,000) (SWC Project No. 928)

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project for an engineering feasibility study to identify alternative retention sites on the Bois de Sioux

River. The study will determine the potential benefits of constructing a floodwater retention structure near the North Dakota/South Dakota border, downstream of Lake Traverse. The purpose of the study is to discover the best location based on storage potential, benefits, and downstream impacts.

This site has been discussed as a potential solution to downstream flooding problems, but locations have not been compared and storage potential has not been determined. The engineering work consists of identification of sites, development of site hydrology, downstream modeling and downstream impacts, and a sensitivity analysis. Moore Engineering is the project engineer and will be presenting the study to the public.

The Southeast Cass Water Resource District is also promoting the need for constructing retention sites in Richland County for the protection of the city of Fargo, and Moore Engineering has organized public meetings in Richland county to develop retention site projects for Cass County flood protection.

The project engineer's total cost estimate is \$120,000, all of which is determined eligible for state cost participation as engineering feasibility studies for flood control at 50 percent of the eligible costs (\$60,000).

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as engineering feasibility studies for flood control at 50 percent of the eligible costs, not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for retention sites engineering feasibility studies on the Bois de Sioux River, and in Cass and Richland counties.

It was moved by Commissioner Thompson and seconded by Commissioner Hillesland that the State Water Commission approve state cost participation as engineering feasibility studies for flood control at 50 percent of the eligible costs, not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for retention sites engineering feasibility studies on the Bois de Sioux River, and in Cass and Richland counties. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

MUNICIPAL, RURAL AND INDUSTRIAL (MR&I) WATER SUPPLY PROGRAM - COMMITTEE REPORTS (SWC Project No. 237-03)

The State Water Commission and the Garrison Diversion Conservancy District Municipal, Rural and Industrial (MR&I) Water Supply program committee met by telephone conference on May 15 and June 18, 2008 to discuss

the status and funding of MR&I projects. The committee recommended funding for the following projects, all of which were considered by the State Water Commission under separate actions on June 23, 2008: City of Devils Lake water supply, North Central Rural Water Consortium, City of Parshall water supply, South Central Regional Water System, Southwest Pipeline Project, and Traill Rural Water District Regional Water Supply.

CITY OF DEVILS LAKE WATER SUPPLY PROJECT - APPROVAL OF ADDITIONAL 2007-2009 BIENNIUM STATE FUNDS (\$413,000) (SWC Project No. 416-02)

The city of Devils Lake is developing a new ground water supply in the Spiritwood aquifer located approximately 30 miles to the southeast of the city of Devils Lake, at an estimated cost of \$16 million. The city has completed construction of the transmission pipe-

line, and initiated the well field development and design of the water treatment plant. The new water supply would comply with the Environmental Protection Agency's requirements for arsenic standards. Because of increased costs of the well field development (\$825,750), a request from the city of Devils Lake was presented for the State Water Commission's consideration for a 50 percent grant in the amount of \$413,000.

On December 6, 2002, the State Water Commission approved an allocation not to exceed \$4,074,202 for state cost participation in the extension and raise of the Devils Lake levee system, Stages I-III.

On May 9, 2007, the State Water Commission reduced the state's financial obligation (approved on December 6, 2002) by \$1,440,000 for the Devils Lake levee system, Stages I-III, and reallocated that amount (\$1,440,000) to the Devils Lake water supply project. The Commission also approved an allocation up to \$2,700,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for the Devils Lake water supply project (for a total state cost participation of \$4,140,000 for the Devils Lake water supply project); and a financial obligation of \$2,634,202 for the Devils Lake levee system, Stages I-III.

It was the recommendation of Secretary Frink that the State Water Commission approve a 50 percent grant, not to exceed an additional allocation of \$413,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the city of Devils Lake for their water supply project. The Commission's affirmative action would increase the total state cost participation to \$4,553,000.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve a 50 percent grant, not to exceed an additional allocation of \$413,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the city of Devils Lake for their water supply project. This action is contingent upon the availability of funds, and subject to future revisions.

This action increases the total state cost participation to \$4,553,000 for the city of Devils Lake water supply project.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***NORTH CENTRAL RURAL
WATER CONSORTIUM II -
APPROVAL OF 2007-2009
BIENNIUM STATE FUNDS (\$7,200,000)
(SWC Project No. 237-03)***

The North Central Rural Water Consortium II was formed with the Central Plains Water District and the North Prairie Rural Water District to provide a funding mechanism and cooperative body to more efficiently serve the most

users possible while allowing each system to remain independent. The approach is to utilize existing infrastructure while strengthening and supplementing to serve new users in existing and new areas.

A request from the North Central Rural Water Consortium II was presented for the State Water Commission's consideration for a 70 percent grant for the construction of North Prairie Rural Water District's project to provide service to the communities of Anamoose and Benedict and approximately 250 rural users. The estimated project cost is \$10,286,000, of which a 70 percent grant would amount to \$7,200,000.

It was the recommendation of Secretary Frink that the State Water Commission approve a 70 percent grant, not to exceed an allocation of \$7,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Central Rural Water Consortium II for

construction of North Prairie Rural Water District's project to provide service to the communities of Anamoose and Benedict and approximately 250 rural users. It is the intention that the State of North Dakota be reimbursed \$7,200,000 using future federal Municipal, Rural and Industrial (MR&I) Water Supply program funds authorized under the Dakota Water Resources Act of 2000.

Governor Hoeven referred to the MR&I project requests being considered at this meeting for allocations from the funds appropriated to the State Water Commission. Because of the uncertainty of future federal MR&I program funding, Governor Hoeven expressed concerns relative to allocating state funds to address the needs and concerns associated with the MR&I Water Supply program. Governor Hoeven also alluded to the Red River Valley Water Supply project, and discussed the proposed funding for the project.

Secretary Frink explained that the State Water Commission and the Garrison Diversion Conservancy District approved the concept of using funds appropriated to the State Water Commission for developing the Municipal, Rural and Industrial (MR&I) Water Supply program, with the intent that the State Water Commission would be reimbursed funds from future federal MR&I funds. At its December 7, 2007 meeting, the State Water Commission passed a motion to continue its consideration of future allocations from the funds appropriated to the State Water Commission to address the needs and concerns associated with the MR&I Water Supply program.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission approve a 70 percent grant, not to exceed an allocation of \$7,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Central Rural Water Consortium II, for construction of North Prairie Rural Water District's project to provide service to the communities of Anamoose and Benedict and approximately 250 rural users. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CITY OF PARSHALL
WATER SUPPLY - APPROVAL
OF 2007-2009 BIENNIUM
STATE FUNDS (\$1,750,000)
(SWC Project No. 237-03)**

The city of Parshall has experienced water quality and quantity issues due to the fluctuating water levels of Lake Sakakawea. To address the issues, the city and the Three Affiliated Tribes are developing a joint water supply for

eastern Mountrail county including capacity for off-reservation rural water systems. The proposed project would consist of a new water supply intake location and water treatment plant, at an estimated cost of \$12,000,000. The federal Water Resources Development Act has an authorization of \$8,500,000 for the project; the local non-federal share would amount to \$3,500,000.

A request was presented for the State Water Commission's consideration for a 50 percent grant of the local non-federal share (\$1,750,000) to the city of Parshall for construction of a new water supply intake and water treatment plant.

It was the recommendation of Secretary Frink that the State Water Commission approve a 50 percent grant, not to exceed an allocation of \$1,750,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the city of Parshall for construction of a new water supply intake and water treatment plant.

It was moved by Commissioner Hanson and seconded by Commissioner Thompson that the State Water Commission approve a 50 percent grant, not to exceed an allocation of \$1,750,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the city of Parshall for construction of a new water supply intake and water treatment plant. This action is contingent upon the availability of funds, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTH CENTRAL REGIONAL
WATER DISTRICT, PHASE II -
APPROVAL OF ADDITIONAL
2007-2009 BIENNIUM STATE
FUNDS (\$8,200,000); AND 2008
FEDERAL MR&I WATER SUPPLY
PROGRAM FUNDS (\$1,300,000)
(SWC Project No. 237-03)**

the city of Bismarck, a new water source and treatment plant in northern Burleigh county, and a new water treatment plant using an intake on the Missouri River west of Linton.

A regional water system is proposed to serve rural users and municipalities in the counties of Burleigh, Emmons, Kidder, Logan, and McIntosh. The estimated total project cost is \$85,500,000. The South Central Regional Water District is developing the project with sponsors from the various counties. The water supply includes bulk water from

The South Central Regional Water District, Phase I, is constructing a water supply north of Bismarck using angle wells underneath the riverbed of the Missouri River, and a 2,500 gallons per minute treatment plant with full membrane micro filtration blended with reverse osmosis. Service will continue to the existing 3,550 rural and 10 bulk South Central water users.

On July 17, 2007, the State Water Commission approved a 29 percent grant, not to exceed an allocation of \$4,870,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the South Central Regional Water District for Phase 1 project development. On February 4, 2008, the State Water Commission modified the Phase I allocation (\$4,870,000 approved on July 17, 2007) to a federal fiscal year 2008 MR&I grant allocation of 31 percent, not to exceed \$2,952,000; and an allocation not to exceed \$1,918,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

The South Central Regional Water System is presently developing Phase II, which includes water storage and pipelines to provide service to approximately 900 rural users in Burleigh county. The estimated cost of Phase II is \$18,100,000. A request from the South Central Regional Water System was presented for the State Water Commission's consideration for a 53 percent grant for Phase II (\$9,500,000).

It was the recommendation of Secretary Frink that the State Water Commission approve an additional federal Fiscal Year 2008 MR&I Water Supply program grant allocation not to exceed \$1,300,000, and an additional allocation not to exceed \$8,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for a 53 percent additional federal/state allocation not to exceed a total of \$9,500,000 to the South Central Regional Water System, Phase II. It is the intention that the State of North Dakota be

reimbursed a total of \$10,118,000 (Phase I - \$1,918,000; and Phase II - \$8,200,000) using future federal Municipal, Rural and Industrial (MR&I) Water Supply program funds authorized under the Dakota Water Resources Act of 2000.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve an additional federal Fiscal Year 2008 MR&I grant allocation not to exceed \$1,300,000, and an additional allocation not to exceed \$8,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for a 53 percent additional federal/state allocation not to exceed a total of \$9,500,000, to the South Central Regional Water System, Phase II. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
REGIONAL SERVICE AREA -
APPROVAL OF 2007-2009
BIENNIUM STATE FUNDS (\$3,000,000)
(SWC Project No. 1736/237-03)***

The Southwest Pipeline Project Oliver-Mercer-North Dunn regional service area includes the Beulah interim service area with service to 60 rural users. The city of Zap was added to the system and is presently being supplied with water purchased from the city of Beulah until a

water treatment plant is constructed in the service area. The overall project will serve the communities of Center, Hazen, Stanton, and Zap, and approximately 1,200 rural users. The 2009 project will allow the design of the project's water treatment plant (\$15,700,000) and the 23-mile transmission pipelines to Hazen and Zap (\$5,800,000).

It was recommended by Secretary Frink that the State Water Commission approve a grant allocation not to exceed \$3,000,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) to the Southwest Pipeline Project, Oliver-Mercer-North Dunn regional service area. It is the intention that the State of North Dakota be reimbursed \$3,000,000 using future federal Municipal, Rural and Industrial (MR&I) Water Supply program funds authorized under the Dakota Water Resources Act of 2000.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve a grant allocation not to exceed \$3,000,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) to the Southwest Pipeline Project, Oliver-Mercer-North Dunn regional service area. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***TRAILL RURAL WATER DISTRICT
REGIONAL WATER SUPPLY, PHASE II -
APPROVAL OF ADDITIONAL
2007-2009 BIENNIUM STATE
FUNDS (\$1,519,000)
(SWC Project No. 237-03)***

The Traill Rural Water District conducted a water study for a regional system to meet the water needs of the cities of Hillsboro, Mayville, Galesburg, and Grandin to address the future Environmental Protection Agency's (EPA) water quality regulations. The preliminary

studies have been completed and indicate that the Galesburg aquifer can meet the projected water needs.

The Traill Rural Water District is working with the cities of Hillsboro and Mayville to develop a regional project at an estimated cost of \$21,500,000. Phase I is the development of a new well field for the total regional water supply and transmission pipeline to the existing Traill water treatment plant, and raw water pipeline from the Traill plant to the city of Mayville. The estimated cost of Phase I is \$3,560,000. Previous State Water Commission actions include: December 9, 2005 - a 65 percent grant not to exceed an allocation of \$134,000 from the Garrison Diversion Conservancy District Water Development Research Fund for the water study (\$59,250) and the feasibility study (\$74,750); and on February 4, 2008, a 70 percent federal/state grant allocation of \$2,492,000 (federal Fiscal Year 2008 MR&I Water Supply program grant not to exceed \$984,000, and an allocation not to exceed \$1,508,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020)), to the Traill Rural Water District Regional Water Supply, Phase I.

The Traill Rural Water District is presently developing Phase II, which would include distribution improvements to the system and allow full service to the cities of Galesburg and Grandin. The estimated cost of Phase II is \$2,170,000. A request from the Traill Rural Water District was presented for the State Water Commission's consideration for a 70 percent grant for Phase II (\$1,519,000).

It was the recommendation of Secretary Frink that the State Water Commission approve a 70 percent grant, not to exceed an additional grant allocation of \$1,519,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill Rural Water District regional water supply project, Phase II. It is the intention that the State of North Dakota be reimbursed a total of \$3,027,000 (Phase I - \$1,508,000; and Phase II - \$1,519,000) using future federal Municipal, Rural and Industrial (MR&I) Water Supply program funds authorized under the Dakota Water Resources Act of 2000.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve a 70 percent grant, not to exceed an additional grant allocation of \$1,519,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) to the Traill Rural Water District regional water supply project, Phase II. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT - APPROVAL OF ADDITIONAL 2007-2009 BIENNIUM STATE FUNDS (\$1,300,000); AND 2008 FEDERAL MR&I WATER SUPPLY PROGRAM FUNDS (\$670,000) (SWC Project No. 1736/237-04)

On March 24, 2006, Judge Rosemary Collyer approved the state and federal request to proceed with design and construction activities for three Northwest Area Water Supply (NAWS) projects that would not affect the treatment decision: Minot high service pump station, Berthold pipeline, and the pipeline which would provide service north of

the Minot water treatment plant. The estimated cost of the projects is \$25,480,000.

The design work for NAWS contract 2-2C covers 51 miles of 10"-12" pipeline and a 1 million gallon storage reservoir for the Kenmare/Upper Souris pipeline. The estimated cost for this project is \$8,000,000.

The design work for NAWS contract 2-2D covers the pipeline for the Mohall/All Seasons pipeline. A preliminary route review has been completed at an estimated project cost of \$7,000,000.

The All Seasons Water Users is pursuing a project to provide water service to the city of Upham. Their proposed project involves 3.5 miles where a 4-inch line would parallel with another 4-inch line from the All Seasons water treatment plant to Highway 5. In this same location, the NAWS project has planned construction of a 10-inch line to supply All Seasons and the city of Bottineau from the south, and 9.5 miles of 6-inch line from Highway 5 south to supply the All Season's Reservoir No. 7 to the city of Gardena. The estimated project cost is \$900,000. The State Water Commission considered project support and funding for the NAWS line between the water treatment plant and the reservoir No. 7 under a separate action on June 23, 2008.

On February 4, 2008, the State Water Commission approved federal Fiscal Year 2008 MR&I Water Supply grant funds earmarked in the amount of \$9,840,000 for the NAWS project.

The estimated project costs of the proposed contracts previously listed are \$15,900,000. Proposed funding sources include: \$670,000 - 65 percent MR&I federal Fiscal Year 2008 (additional grant); \$2,370,000 - 65 percent MR&I federal Fiscal Year 2008 (earmarked funds balance); \$6,000,000 - 65 percent city of Minot federal advance; \$1,300,000 - 65 percent state advance; and \$5,560,000 - 35 percent city of Minot cost share. The city of Minot has indicated they could advance funds toward the federal shortfall. A request was presented for the State Water Commission's consideration for an additional allocation of \$1,970,000 to the NAWS project for the proposed contracts.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional federal Fiscal Year 2008 MR&I Water Supply program grant allocation not to exceed \$670,000, and an additional allocation not to exceed \$1,300,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for a total additional federal/state allocation not to exceed \$1,970,000 for the Northwest Area Water Supply Project. It is the intention that the State of North Dakota be reimbursed \$1,300,000 using future federal Municipal, Rural and Industrial (MR&I) Water Supply program funds authorized under the Dakota Water Resources Act of 2000.

It was moved by Commissioner Foley and seconded by Commissioner Hanson that the State Water Commission approve an additional federal Fiscal Year 2008 MR&I Water Supply program grant allocation not to exceed \$670,000, and an additional allocation not to exceed \$1,300,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for a total additional federal/state allocation not to exceed \$1,970,000 for the Northwest Area Water Supply Project. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
STATUS REPORT
(SWC Project No. 237-04**

Michelle Klose, project manager for the Northwest Area Water Supply (NAWS) project, provided the following project status report:

NAWS Environmental Impact Statement: The Bureau of Reclamation released the draft NAWS environmental impact statement (EIS) on December 21, 2007. Public hearings were held on February 4, 5 and 7, 2008 in Bismarck, Minot, and New Town, respectively. The draft EIS and the public comments received are posted on the Bureau of Reclamation's website. The public comments period ended March 26, 2008. The Bureau presented a status report to the NAWS advisory committee on May 29, 2008 indicating their intent to have the environmental impact statement completed by the end of 2008.

Manitoba Lawsuit: The joint state and federal request was presented to the federal court on March 3, 2008 to allow construction to move forward on the entire northern tier. The request identified a priority to address the arsenic issues in Kenmare; the court approved the request on March 18, 2008. The court further ordered that the parties file a joint status report at the end of each construction season.

Design and Construction Contracts:

Contract 4-2A Interim: Contract 4-2A Interim involves a 2400 gallons per minute booster pump station at the HSPS/reservoir site adjacent to the Minot water treatment plant. The project will pump water to the Berthold line and Minot's south hill until contract 4-2A, high service pump station, is completed. On February 4, 2008, the State Water Commission authorized the award of contract 4-2A interim, in the amount of \$246,250 to Construction Engineers, Ltd., Grand Forks, ND, and the notice to proceed was executed on March 7, 2008. The contract completion date is August 15, 2008.

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant, as well as demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under the NAWS 2-2A contract and the existing Minot water distribution system. On April 23, 2008,

the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58 to John T. Jones Construction, Fargo, ND, and the notice to proceed was executed on May 20, 2008. The contract completion date is December 31, 2009.

Contract 2-1D: This contract covers 15 miles of 36-inch pipe between the city of Max and Lake Sakakawea. The State Water Commission authorized the award of contract 2-1D on April 18, 2005 to Molstad Excavating, Grand Forks, ND. An agreement was reached in April, 2008 with the contractor for a one-year warranty on the pipes with tangential welds. The warranty will start once water can be delivered to Minot from Lake Sakakawea. All pipe and vaults have been installed. The contractor indicated they will mobilize to the site on June 23, 2008 to replace pipe segments with tangential welds.

Contract 2-2A: The State Water Commission authorized the award of Contract 2-2A to ERS Constructors, Centennial, CO, on April 19, 2007. Contract 2-2A covers 10 bores, approximately 4 miles of 36" - 24" pipe, and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to North Hill. The bores have been completed; and the pipe from the Minot water treatment plant to the Minot master meter and the piping for the Max railroad bore passed the pressure testing. Approximately 3,500 feet of 30-inch pipe remains to be installed heading north in Minot.

Contract 2-2B: This contract includes approximately 20 miles of 16" - 10" pipe and 3 booster pump stations between Minot at U.S. Highway 52 and the city of Berthold. The State Water Commission authorized the award of contract 2-2B on May 9, 2007 to Northern Improvement Co., Fargo, ND. Construction activities commenced the week of June 25, 2007. The contract completion date was December 15, 2007.

The line between Des Lacs and Burlington was pressure tested and passed the bacTs. The portion of the line near Burlington and Minot will be flushed and disinfected in the summer of 2008, and the booster pump stations have been placed.

Contract 5-2B: The State Water Commission authorized the award of contract 5-2B on July 17, 2007 to Engineering America. Acquisition issues relating to the reservoir site property were resolved, and the Notice to Proceed was issued October 31, 2007. Contract 5-2B covers a 750,000 gallon reservoir and a 500,000 gallon storage reservoir along the contract 2-2B pipeline between Minot and Berthold. The contract completion date was June 1, 2008.

Both tanks have been erected, although there are 11 floor panels on the reservoir near Berthold that need to be replaced prior to pressure testing and disinfecting the tanks. This work is anticipated to be completed by the end of June, 2008.

Design 2-2C and 5-2C: The design work covers 51 miles of 10"-12" pipeline and a 1 million gallon storage reservoir for the Kenmare/Upper Souris pipeline. The majority of the route planning was completed in April, 2008, and reviewed by the Interagency Mitigation Assessment Team on May 13, 2008. Connection points were finalized with Kenmare and Upper Souris in June, 2008; and a 60 percent design review was held on June 5, 2008. Work continues toward a supplemental flow to Kenmare by the end of 2009.

Design 2-2D: The design work will cover the pipeline for the Mohall/All Seasons pipeline. A preliminary route review has been completed; further work will be completed as the design work for the Kenmare/Upper Souris line is finalized.

Other NAWS Activities:

Water Rate Analysis:

A new Specific Authorization in the amount of \$9,500 was executed on February 6, 2008 with Houston Engineering for a water rate analysis to prepare the interim water rate structure for the NAWS project. Development of the component of the water rate is near completion, and the city of Minot and the three regional water systems in the NAWS service area continue to work on the supply and treatment components to incorporate into the NAWS interim rate.

NORTHWEST AREA WATER SUPPLY PROJECT - ALL SEASONS WATER USERS COMBINED PROJECT FOR SERVICE TO CITY OF UPHAM (SWC Project No. 237-04)

The All Seasons Water Users is pursuing a project to provide water service to the city of Upham, which has been approved for federal MR&I funding (\$492,000) and State Water Commission funding (\$128,000). Completion of the design work and advisement of bids is anticipated in August, 2008.

The proposed project involves 3.5 miles where a 4-inch line would parallel with another 4-inch line from All Seasons water treatment plant to Highway 5. In this same location, the Northwest Area Water Supply (NAWS) project has planned construction of a 10-inch line to supply All Seasons and the city of Bottineau from the south. If these projects are pursued separately, there would be three pipelines paralleling each other. The NAWS project has also planned 9.5 miles of 6-inch line from Highway 5 south to supply the All Seasons Reservoir No. 7 in

the city of Gardena. Construction of this NAWS line will improve All Season's water supply to their reservoir and improve service to the rural areas around Bottineau. In the long term, this will be the main transmission pipeline to the region when water is supplied from Lake Sakakawea.

At its meeting on May 29, 2008, the NAWS advisory committee was provided with a presentation of the All Seasons' proposed project. It was the recommendation of the committee that the State Water Commission support project approval and funding for the NAWS line between the water treatment plant and the reservoir No. 7. This work could be incorporated into the All Seasons design and construction of the service to the city of Upham. The estimated project costs are \$900,000.

It was the recommendation of Secretary Frink that the State Water Commission approve NAWS project funding to be used for the project between the All Seasons Water Users water treatment plant and reservoir No. 7, and authorize the secretary to the State Water Commission to execute all contracts required with All Seasons Water Users for completion of the NAWS project.

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission approve NAWS project funding to be used for the project between the All Seasons Water Users water treatment plant and reservoir No. 7, and authorize the secretary to the State Water Commission to execute all contracts required with All Seasons Water Users for completion of the NAWS project.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
CONTRACT AND STATUS REPORT
(SWC Project No. 1736)**

Tim Freije, project manager for the Southwest Pipeline Project, provided the following project status report:

South Fryburg Service Area:

Seeding of the disturbed areas associated with construction of Contract 7-8D, South Fryburg Pocket, was performed by Holland Contracting, Inc. the week of June 2, 2008, at a cost of \$32,116.10 for 131.2 acres seeded.

Medora-Beach Regional Service Area, Phase III:

Bids were opened on March 14, 2008 for contract 7-8E, Fairfield Service Area; contract 8-2, Fairfield Reservoir; and contract 7-8G/7-9B, Grassy Butte Service Area and Killdeer Mountains Area. At its meeting on March 17, 2008, the State Water Commission authorized the award of contracts 7-8E and 7-9B to Abbot, Arne, Schwindt, Inc.; contracts 7-8F and 7-8G to Northern Improvement Co; and 8-2 to Dakota Pump and Control, Inc., with American Structures, Inc. as the reservoir erector. All contract documents were executed and work commenced in late April on contract 7-8F and early May on contract 7-8E. Both pipeline contractors anticipate completion of the pipeline contracts in 2008.

Oliver-Mercer-North Dunn Regional Service Area:

Work on the preliminary engineering report and environmental assessment for the Oliver-Mercer-North Dunn regional service area is underway.

A pilot study is being planned in 2008 to examine the best treatment methods for the water treatment plant to be constructed at the Zap raw water reservoir. This plant will serve the Oliver, Mercer, and north Dunn regional service area. Final design of the treatment plant is dependent upon information from the preliminary engineering report and pilot study.

***SOUTHWEST PIPELINE PROJECT -
REPLACEMENT OF LIME SLAKER AT
DICKINSON WATER TREATMENT PLANT -
APPROVAL OF REM FUNDS (\$98,640)
(SWC Project No. 1736)***

will exceed annually budgeted amounts. Expenditures from this fund are required to be authorized by the State Water Commission.

The Southwest Water Authority collects and maintains a reserve fund for replacement and extraordinary maintenance. This fund exists because over the life of the project there will occur replacement and maintenance items that

These items need to be prefunded.

It is known that there will be maintenance costs each year, and an amount sufficient to cover the expected maintenance with some allowance for the unexpected is included in each year's operating budget. If an extremely unlikely event occurs, but the cost is low, it should be considered an ordinary maintenance since a certain number of unlikely events are bound to happen each year. The reserve fund is intended for use on extremely costly events which are too costly to be included in any year's operating budget.

On August 30, 2005, the State Water Commission approved the replacement of the lime slaker at the Dickinson water treatment plant from the reserve fund for replacement and extraordinary maintenance (REM). The unit that feeds the 8 million gallons per day solids contact basin was replaced in 2006. A request from the Southwest Water Authority was presented for the

State Water Commission's consideration for the expenditure of funds from the REM fund for replacement of the second lime slaker at the Dickinson water treatment plant. The unit that feeds the 4 million gallons per day solids contact basin was included as a line item in the Southwest Water Authority's 2008 budget from the REM fund. Bids were opened on May 20, 2008. Carbon steel and stainless steel were both bid due to the corrosive nature of the lime slaking process. The cost for replacement of the lime slaker is \$98,640,000.

Under the agreement which transferred management, operations and maintenance responsibilities for the Dickinson water treatment plant to the Southwest Water Authority in March, 2000, the Authority makes an initial determination whether a proposed project qualifies for payment from the REM fund and then forwards its determination to the Commission for concurrence. The Authority will obtain approval of the Commission before awarding a contract and determining final completion of the work. The Authority must also notify the city before making any improvements that cost more than \$100,000.

It was the recommendation of Secretary Frink that the State Water Commission authorize the award of contract to Treatment Resources, Inc., for the 304 stainless steel lime slaker for the Dickinson water treatment plant; approve the reimbursement of \$98,640.00 from the reserve fund for replacement and extraordinary maintenance; and, authorize the secretary to the State Water Commission to determine final completion of the work.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission authorize the award of contract to Treatment Resources, Inc., for the 304 stainless steel lime slaker for the Dickinson water treatment plant; approve the reimbursement of \$98,640.00 from the reserve fund for replacement and extraordinary maintenance; and, authorize the secretary to the State Water Commission to determine final completion of the work.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-01)**

The current water surface elevation of Devils Lake and Stump Lake is 1447.0. The combined storage of Devils Lake and Stump Lake is 2.91 million acre-feet

with a total surface area of the lakes at 138,643 surface acres.

The National Weather Service's long range outlooks for raising and lowering Devils Lake and Stump Lake are shown below. Since the lakes have equalized, the outlook forecasts for both lakes are identical:

Long-Range Outlook for the Lakes Raising

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake and Stump Lake	1447.1	1447.2	1448.4

Long-Range Outlook for the Lakes Lowering

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake and Stump Lake	1446.8	1446.4	1446.1

**NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT REPORT
(SWC Project No. 416-07)**

The State of North Dakota pursued an emergency phased outlet project from West Bay to the Sheyenne River. Construction commenced in the fall of 2002,

and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit issued by the North Dakota Department of Health.

The North Dakota Department of Health authorized modifications to the NDPDES water quality discharge permit that would allow a more effective operation of the outlet. The modifications included: 1) allow pumping beyond the original May 1 to November 1 constraint as long as ice-free conditions exist on the Sheyenne River; 2) remove the total suspended solids limit; and 3) adjust the current 300 mg/L instream sulfate level that would allow the outlet to be operated if the instream sulfate level is greater than 260 mg/L as long as the sulfate levels in the Sheyenne River were not increased more than 15 percent up to a maximum level of 450 mg/L. The NDPDES water quality discharge permit has an expiration date of June 30, 2008. The State Water Commission filed an application with the North Dakota Department of Health for a five-year water quality discharge permit for the North Dakota Devils Lake outlet project.

The intake structure for the outlet was submerged in Round Lake on April 16, 2008. Releases from the outlet into the Sheyenne River began on April 21, 2008 and continued until May 5, 2008 when low discharges and higher sulfate concentrations in the Sheyenne River prevented releases. The total volume of water released in April and May was approximately 180 acre-feet. Rainfall increased the flow in the Sheyenne River and lowered the sulfate concentration allowing the outlet to restart on June 12; discharge was suspended on June 15, 2008.

Joe Belford, Devils Lake Downstream Acceptance program manager, provided an update on the efforts of the Devils Lake interagency task force. Jeff Frith was introduced as the Devils Lake basin manager, replacing Michael Connor.

On June 2, 2008, the North Dakota Supreme Court convened concerning the Aasmundstad, et al. v. State, et al. lawsuit; no decision has been released at this time.

***APPROVAL OF EXTENSION OF
DEVILS LAKE OUTLET AWARENESS
PROJECT MANAGER CONTRACT
FROM JULY 1, 2008 THROUGH
JUNE 30, 2009
(SWC Project No. 416-05)***

In 1998, the State Water Commission, the Garrison Diversion Conservancy District, the Devils Lake Basin Joint Water Resource Board, and the Forward Devils Lake Corporation initiated cost sharing in a contract securing the services of the Devils Lake outlet

awareness project manager, which is occupied by Joe Belford. The state has completed construction and operates a permanent outlet on the west end of Devils Lake. Secretary Frink expressed the importance to continue to provide factual information to all downstream interests in North Dakota, Minnesota and Manitoba. The downstream education efforts provide a critical mechanism to dispense information and for people downstream to communicate their concerns.

A request from the Devils Lake Joint Water Resource Board was presented for the State Water Commission's consideration to continue funding for the Devils Lake outlet awareness project manager from July 1, 2008 through June 30, 2009, with a 33 percent state cost participation (\$15,000). Other parties to the previous agreement have indicated their intentions to continue this effort.

It was the recommendation of Secretary Frink that the State Water Commission approve a contract extension from July 1, 2008 through June 30, 2009 for the Devils Lake outlet awareness project manager, with a 33 percent state cost participation not to exceed an allocation of \$15,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve a contract extension from July 1, 2008 through June 30, 2009 for the Devils Lake outlet awareness project manager, with a 33 percent state cost participation not to exceed an allocation of \$15,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**GARRISON DIVERSION
CONSERVANCY DISTRICT
REPORT
(SWC Project No. 237)**

The Dakota Water Resources Act of 2000 authorized the Secretary of the Interior to conduct a comprehensive study of the water quantity and quality needs of the Red River valley in North

Dakota and possible options for meeting those needs. The Act identified two project-related studies which need to be completed: the *Report on Red River Valley Water Needs and Options*, and the *Red River Valley Water Supply Project Environmental Impact Statement (EIS)*. The Bureau of Reclamation completed the *Report on Red River Valley Water Needs and Options*. The State of North Dakota and the Bureau have jointly prepared the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The draft EIS was released in December, 2005, public hearings were held in February and March, 2006, and all studies have been completed. The final EIS was available to the public on December 28, 2007. The Boundary Waters Treaty work group continues to discuss the necessary steps to comply with the Treaty. The Record of Decision is scheduled to be issued 30 to 90 days from the date that the final EIS is available to the public.

A supplemental draft EIS was completed with the comment period ending on April 25, 2007. Additional study efforts included biota plant failure analysis by the United States Geological Survey (USGS), water quality monitoring by the USGS, impact analysis of Missouri River depletions under drought conditions by the Corps of Engineers, and a cumulative impact analysis of ground-water depletions in Minnesota by the USGS.

The status reports provided by the Garrison Diversion Conservancy District relating to the specific efforts of the Red River Valley Water Supply project are attached hereto as **APPENDIX "C"**.

**DROUGHT DISASTER LIVESTOCK
WATER SUPPLY PROJECT
ASSISTANCE PROGRAM -
APPROVAL OF ADDITIONAL 2007-2009
BIENNIUM STATE FUNDS (\$250,000)
(SWC Project No. 1851)**

The Drought Disaster Livestock Water Supply Project Assistance program, established by the North Dakota Legislature in 1991, is a state cost participation program administered by the State Water Commission that provides financial assistance to existing live-

stock producers with water supply problems caused by drought. North Dakota Administrative Code Article 89-11 was adopted by the Commission on June 24, 1991 for program management.

Water supply projects located in counties included in a drought disaster declaration and counties adjacent to those counties included in a drought disaster declaration are considered eligible for state cost participation. Types of projects that may be funded by the program include the construction of new wells, pipelines, and extensions from rural water system connections. North Dakota Century Code chapter 61-34 limits the assistance to individual producers of 50 percent of project costs, not to exceed \$3,500 per project and a total of three projects. The State Water Commission is authorized to provide funds for the program.

Previous State Water Commission actions include: June 24, 1991 - \$250,000; and July 1, 1992 - \$50,000 (program terminated). On July 1, 2001, the program was reinstated following Governor Hoeven's issuance of North Dakota Drought Emergency Proclamation, Executive Order 2002-04; August 15, 2002 - \$200,000; November 3, 2003 - \$150,000; and March 10, 2005 - remaining funds expended (program terminated). On June 28, 2006, the program was reinstated following Governor Hoeven's issuance of North Dakota Emergency Proclamation, Executive Orders 2006-05 and 2006-05.1 on June 26, 2006 and July 12, 2006, respectively; June 28, 2006 - \$200,000; July 20, 2006 - \$200,000; October 12, 2006 - \$250,000; February 15, 2007 - \$550,000; and July 1, 2007 - remaining funds expended (program terminated). The Commission also approved proposed amendments to the North Dakota Administrative Code Article 89-11, Drought Disaster Livestock Water Supply Project Assistance Program, chapter 89-11, on July 20, 2006.

On May 9, 2008, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2008-02, indicating a drought emergency existed statewide in North Dakota. Executive Order 2008-02 ordered the State Water Commission convene to take the necessary measures to reinstate, implement, and fund the Drought Disaster Livestock Water Supply Project Assistance program. On May 14, 2008, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance program and approved the allocation of \$1,000,000 for the program.

Because the drought conditions continue to persist over a large portion of the state, and an urgent need exists for assistance to producers with developing their water supplies, the State Water Commission members were in concurrence that an additional allocation not to exceed \$250,000 be made available for the program. The Commission's affirmative action would increase the total state cost participation to \$1,250,000 since program reactivation on May 14, 2008.

It was moved by Commissioner Swenson and seconded by Commissioner Hillesland that the State Water Commission approve an additional allocation not to exceed \$250,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Drought Disaster Livestock Water Supply Project Assistance program. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Jeff Weispenning representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**2009 STATE WATER
MANAGEMENT PLAN
(SWC Project No. 322)**

The Planning and Education division of the State Water Commission initiated the process of developing an update to the State Water Management Plan last published in 1999. Work on the plan began in late 2007 and is scheduled to be completed by the end of 2008. The plan will be available for the 2009 legislative session.

Water projects can take several years to move from concept, design, and final implementation, therefore, it is essential to become more aware of potential projects as early as possible. The new plan will address the immediate needs expected in the 2009-2011 timeframe as well as potential developments expected or desired in the next 10-15 years. The plan will outline current and future management policies and will help serve as a guide for decision-makers. It is intended to be a realistic vision of water management with emphasis on regional and local projects that are constant with the plan's goals and objectives. Plan components include identifying water development needs and funding requirements for water development projects and programs, water use and water availability, special water management topics, water management challenges and recommendations for the improvement of water management in North Dakota.

Because a comprehensive overview of the state's current and future water needs and issues is essential, survey forms were provided to federal, state, and local entities typically involved in water management. The

information will assist in identifying statewide water development needs, documenting State Water Commission budgetary requirements, and in developing recommendations to improve water management.

The special topics section will address the Missouri River management, dam safety, Red River valley water supply needs, Devils Lake flooding, aquatic nuisance species, tile drainage, and the Pembina roads/dikes.

In addition to the recommendations, the plan will address the State Water Commission's policies, rules and regulations that govern water management and use, and the appropriation of ground/surface waters under the water rights system.

**MISSOURI RIVER REPORT
(SWC Project No. 1392)**

On June 1, 2008, the system storage in the six mainstem reservoirs was 38.6 million acre-feet (MAF), 18.1 MAF below the average system storage for the end of May and 0.3 MAF more than in 2007. The record minimum system storage for the end of May was 36.0 MAF in 2005. The June 1 basic simulation estimates runoff above Sioux City for 2008 to be 21.2 MAF, 84 percent of normal. This results in a forecast that the system will have 38.97 MAF at the end of 2008. The record low end of year system storage was 34.0 MAF in 2007.

Lake Sakakawea was at an elevation of 1810.2 feet msl on June 1, 2008, 2.9 feet higher than in 2007 and 24.3 feet msl below its average end of May elevation. The record minimum end of May elevation was 1808.3 feet msl in 2005. Lake Sakakawea is forecast to peak at 1817.5 feet msl at the end of June. The record minimum end of June elevation for Lake Sakakawea was 1808.9 feet msl in 2006.

The elevation of Lake Oahe was 1584.7 feet msl on June 1, 2008, which is 4.2 feet higher than in 2007 and 20.0 feet lower than its average end of May elevation. Lake Oahe is forecast to peak at 1587.8 feet msl at the end of June, 2008. The record minimum end of June elevation for Lake Oahe was 1576.8 feet msl in 2007.

Fort Peck Lake was at an elevation of 2200.3 feet msl on June 1, 2008, which is 0.5 feet lower than in 2007 and 30.6 feet below its average end of May elevation. The forecast calls for Fort Peck Lake to peak at 2204.5 feet msl by the end of June, 2008.

The Corps of Engineers basic forecast of 21.2 MAF of runoff indicates the navigation season being shortened by 32 days. The actual length of the navigation season will be determined by the amount of water in storage by July 1.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 5:45 P.M.



John Hoeven, Governor
Chairman, State Water Commission

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
State Water Commission

