

## **MINUTES**

### **North Dakota State Water Commission Bismarck, North Dakota**

**September 30, 2008**

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on September 30, 2008. Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman, called the meeting to order at 1:00 P.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Lt. Governor Dalrymple announced a quorum was present.

#### **STATE WATER COMMISSION MEMBERS PRESENT:**

Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman  
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  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Douglas Vosper, Member from Neche

#### **STATE WATER COMMISSION MEMBER ABSENT:**

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.

#### **INTRODUCTION OF STATE WATER COMMISSION MEMBER - DOUGLAS VOSPER, NECHE, ND**

Douglas Vosper, Neche, ND, was introduced. Mr. Vosper was appointed by Governor John Hoeven to serve as a member of the State Water Commission, replacing Elmer Hillesland, Grand Forks, ND. His term was effective on August 15, 2008 and will expire on June 30, 2013.

**CONSIDERATION OF AGENDA**

nounced the agenda approved as presented.

There being no additional items for the agenda, Lt. Governor Dalrymple an-

**CONSIDERATION OF DRAFT MINUTES OF JUNE 23, 2008 STATE WATER COMMISSION MEETING - APPROVED**

The draft minutes of the June 23, 2008 State Water Commission meeting were approved by the following motion:

*It was moved by Commissioner Olin, seconded by Commissioner Hanson, and unanimously carried, that the draft minutes of the June 23, 2008 State Water Commission meeting be approved as prepared.*

**CONSIDERATION OF DRAFT MINUTES OF JULY 29, 2008 STATE WATER COMMISSION AUDIO CONFERENCE CALL MEETING - APPROVED**

The draft minutes of the July 29, 2008 State Water Commission audio conference call meeting were approved by the following motion:

*It was moved by Commissioner Berg, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the July 29, 2008 State Water Commission audio conference call meeting be approved as prepared.*

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

expenditures. The allocated program expenditures for the period ending July 31, 2008, reflecting 54 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"**

In the 2007-2009 biennium, the State Water Commission has two line items - administrative and support services, and water and atmospheric resources

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 \$78,600,403, leaving a balance of \$31,422,727 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 \$47,254,868 and are currently \$26,018,480, or 122.5 percent ahead of the budgeted revenues.

Deposits into the Water Development Trust Fund total \$16,416,485 and are currently \$586,850, or 3.7 percent ahead of budgeted revenues.

**STATE WATER COMMISSION COST SHARE POLICIES AND PROCEDURES - APPROVAL OF AMENDMENT RELATING TO SNAGGING AND CLEARING PROJECTS (SWC Project No. 1753)**

The State Water Commission's cost share policy committee and others met on September 29, 2008. The committee presented the following recommendation (*italicized*) for the State Water Commission's consideration:

Snagging and Clearing: Snagging and clearing projects consist of the removal and disposal of fallen trees and associated debris encountered within or along the primary channel, sediment that has accumulated in the immediate vicinity, and trees in imminent danger of falling in the channel. These projects are intended to prevent damage to structures such as bridges, and to maintain the hydraulic capacity of the channel during flood flows.

The snagging and clearing of artificial/man-made channels, dredging of watercourses for sediment/silt removal, clearing and grubbing of cattails and other plant vegetation, and the removal of other unwanted materials are not eligible under the Commission's snagging and clearing cost share policy,

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 for snagging and clearing on watercourses as defined in North Dakota Century Code § 61-01-06.*

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

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

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**McDOWELL DAM 2008  
EMERGENCY ACTION PLAN  
(BURLEIGH COUNTY) -  
APPROVAL OF STATE COST  
PARTICIPATION (\$25,000)  
(SWC Project No. 1869)**

A request from the Burleigh County Water Resource District was presented for the State Water Commission's consideration for state cost participation to develop an emergency action plan for McDowell Dam, which was constructed in 1975 by the Natural Resources Conservation Service with the District serving as the local sponsor.

North Dakota Century Code § 61-03-21 requires the operator of a reservoir with a storage capacity greater than 1,000 acre-feet of water to submit an annual operation plan to the North Dakota State Engineer. North Dakota Administrative Code § 89-08-04-01 requires the operation plan to identify the emergency procedures and warning plans, and specify the course of action to be taken when an emergency situation arises.

Houston Engineering is developing the emergency action plan for McDowell Dam with two major components which include the front-end report documents and the breach inundation study. The project engineer's estimated cost is \$36,000, all of which is determined eligible for 80 percent state cost participation (\$25,000). Pursuant to the State Water Commission's cost participation policy, the funding limitation is \$25,000 for emergency action plans.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation for an emergency action plan for McDowell Dam at 80 percent of the eligible costs, not to exceed an allocation of \$25,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

***It was moved by Commissioner Foley and seconded by Commissioner Johnson that the State Water Commission approve state cost participation at 80 percent of the eligible costs, not to exceed an allocation of \$25,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Burleigh County Water Resource District for the McDowell Dam emergency action plan. This action is contingent upon the availability of funds.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**MANDAN FLOOD CONTROL LEVEE  
AREA IMPROVEMENT RECONSTRUCT-  
ION PROJECT - APPROVAL OF STATE  
COST PARTICIPATION (\$125,396)  
(SWC Project No. 620)**

A request from the Lower Heart River Water Resource District was presented for the State Water Commission's consideration for state cost participation for the improvement reconstruction project to the Mandan flood protective works,

which consists of approximately 9 miles of levees in addition to several interior drainage storage areas. The Heart Butte Dam was constructed in 1950 to alleviate much of the Heart River flooding for the reach below the dam but it did not prevent the flooding of low-lying areas near Mandan. In 1958, the Corps of Engineers constructed the Mandan flood protective works to prevent flooding of the lower reaches of the Heart River near Mandan.

The proposed improvements are located in Section 35, Township 139 North, Range 81 West, Morton county, and include the replacement of a shear gate outlet structure with a larger structure as well as the addition of a storm water pump. This structure was originally installed to handle the interior storm water drainage when the land was open and undeveloped. During the past 50 years, the open grassed area has been replaced with streets, buildings, and paved parking areas, which have increased the runoff in the area and brought about the need for a larger storm sewer and pumps to handle the storm water during the spring runoff when the outfall to the river is closed.

The length of the dike in the area where the work is proposed is 600 feet. The structure replacement is approximately 280 feet from the edge of the river to the upper end past the dike wall. The top of the dike elevation will not change at 1636.7 feet msl. The width at the top of the dike will remain at approximately 10 feet. The embankment will be protected with permanent grass cover with riprap on the wet side. The State Engineer executed construction permit No. 2153 on August 5, 2008.

The project engineer's cost estimate is \$259,320, of which \$250,792 is determined eligible for state cost participation as a flood control project at 50 percent of the eligible costs (\$125,396).

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, not to exceed an allocation of \$125,396 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Mandan flood control levee area improvement reconstruction project.

***It was moved by Commissioner Johnson 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, not to exceed an allocation of \$125,396 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Lower Heart Water Resource District for the Mandan flood control levee area improvement reconstruction project. This action is contingent upon the availability of funds.***

In discussion of the motion, Commissioner Swenson offered a substitute amendment to the original motion to increase the state cost participation to \$127,896, which would provide \$5,000 for reimbursement to remove the existing outlet structure. Lt. Governor Dalrymple announced that the substitute amendment to the original motion failed due to a lack of a second.

Lt. Governor Dalrymple called the question on the original motion:

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***SOURIS RIVER GOLF COURSE  
AREA BANK STABILIZATION  
PROJECT - APPROVAL OF STATE  
COST PARTICIPATION (\$136,499)  
(SWC Project No. 1523)***

A request from the Minot Park District was presented for the State Water Commission's consideration for state cost participation for a bank stabilization project along the Souris River within the Souris valley golf course in Minot, ND.

The golf course is publicly owned and provides an important recreational benefit to the region. The proposed project is located in the SW1/4SE1/4 of Section 22, Township 155 North, Range 83 West, Ward county. The sovereign lands permit No. 1442 was approved on August 29, 2008.

The project involves the replacement of existing wood planking which has been in place for many years and has deteriorated. Rock riprap will be placed to protect the toe of the bank along the wall, and some additional riprap protection will be provided along the bank line upstream of the existing plank wall. This bank line borders the fairway and green for hole No. 8.

The project engineer's cost estimate is \$292,116, of which \$272,998 is determined eligible for state cost participation as a bank stabilization project at 50 percent of the eligible costs (\$136,499). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$136,499.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$136,499 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Souris valley golf course bank stabilization project.

***It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$136,499 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Minot Park District for the Souris valley golf course bank stabilization project. This action is contingent upon the availability of funds.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**ORDINARY HIGH WATER MARK  
DELINEATIONS SURVEY FROM  
MONTANA/NORTH DAKOTA  
BORDER ALONG THE MISSOURI  
AND YELLOWSTONE RIVERS -  
APPROVAL OF STATE COST  
PARTICIPATION (\$75,000)  
(SWC Project No. 1625)**

A request from the North Dakota Board of University and School Lands was presented for the State Water Commission's consideration for state cost participation to complete ordinary high water mark delineations from the Montana/North Dakota border along the Missouri and Yellowstone Rivers. North Dakota Century Code §15-08-01, and § 61-33

stipulate the responsibilities for the Board to manage the associated mineral interest under sovereign lands, and the Office of the State Engineer to manage the state's non-mineral interests in sovereign lands.

North Dakota's sovereign lands are those areas, including beds and islands, lying within the ordinary high water mark of navigable lakes and streams. The request from the Board is relative to a survey to delineate the ordinary high water mark along three reaches of the Yellowstone and

Missouri Rivers between the Montana/North Dakota state line and river mile marker No. 1549. The scope of work will include the ordinary high water mark delineations in the designated locations in compliance with North Dakota's ordinary high water mark delineation guidelines, and are to be conducted on a frequency that will properly delineate sovereign land and private property. Markers will be placed at the delineation areas, photographs taken, and survey grade GPS readings obtained.

The survey is estimated to cost \$300,000, all of which is determined eligible for state cost participation at 25 percent of the eligible costs (\$75,000). The survey is anticipated for completion in September, 2009.

Discussion pursued relative to the management of sovereign lands and the delineation of ordinary high water marks. Commissioner Swenson expressed concerns relating to the benefits the State Water Commission is anticipating as a result of the survey.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation at 25 percent of the eligible costs, not to exceed an allocation of \$75,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Dakota Board of University and School Lands to survey the ordinary high water mark delineations from the Montana/North Dakota border along the Missouri and Yellowstone Rivers.

***It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve state cost participation at 25 percent of the eligible costs, not to exceed an allocation of \$75,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Dakota Board of University and School Lands to survey the ordinary high water mark delineations from the Montana/North Dakota border along the Missouri and Yellowstone Rivers. This action is contingent upon the availability of funds.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. Commissioner Swenson voted nay. Recorded votes were 7 ayes; 1 nay. Lt. Governor Dalrymple announced the motion carried.***

**UPPER MAPLE RIVER DAM  
PROJECT DEVELOPMENT/  
PRELIMINARY ENGINEERING -  
APPROVAL OF STATE COST  
PARTICIPATION (\$112,500)  
(SWC Project No. 1878-02)**

A request from the Maple-Steele Joint Water Resource District was presented for the State Water Commission's consideration for state cost participation to complete the project development and preliminary engineering phase for the Upper Maple River Dam project

located in Section 35 of Carpenter township, Steele county. This phase includes a detailed principal and emergency spillway design, embankment design, backwater mapping, landowner meetings, and permitting.

The upper Maple River watershed has experienced frequent and significant flooding and has been studied for retention for several years. Two studies were completed in 2002 and 2005 to identify site locations on the Minnie Lake tributary and adjacent streams in Barnes county. The Upper Maple River Dam site, located below the Sussex Dam, was identified as the preferred site based upon the results of the third study. There is strong local support for the construction of the dam, which is anticipated to be initiated in 2010 at an estimated cost of \$4,000,000.

The project engineer's cost estimate is \$275,000, of which \$225,000 is determined eligible for state cost participation as a flood control study at 50 percent of the eligible costs (\$112,500).

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a flood control study at 50 percent of the eligible costs, not to exceed an allocation of \$112,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple-Steele Joint Water Resource District for the Upper Maple River Dam project development and preliminary engineering.

***It was moved by Commissioner Hanson and seconded by Commissioner Vosper that the State Water Commission approve state cost participation as a flood control study at 50 percent of the eligible costs, not to exceed an allocation of \$112,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple-Steele Joint Water Resource District for the Upper Maple River Dam project development and preliminary engineering. This action is contingent upon the availability of funds.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**SWAN CREEK DIVERSION DITCH  
IMPROVEMENT RECONSTRUCTION -  
APPROVAL OF ADDITIONAL STATE  
COST PARTICIPATION (\$405,667)  
(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 pro-

ject 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.

Pursuant to the State Water Commission's directive of July 17, 2007, the project was reviewed on June 23, 2008 and approved as a flood control project at 50 percent state cost participation to include land rights. At that time, the Commission passed a motion to approve an additional amount of \$1,057,500, which increased the total amount approved for the project to \$1,557,500.

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, 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 revised cost estimate is \$4,249,997, of which \$3,926,333 is determined eligible for state cost participation as a flood control project at 50 percent of the eligible costs (\$1,963,167). The increase in the project costs is a result of inflation, utility and road relocations, and channel excavation due to soil stability issues. A request from the Maple River-Rush River Joint Water Resource District was presented for the State Water Commission's consideration for an additional state cost participation of \$405,667 (eligible costs of \$1,963,167 less \$1,557,500 previously approved) for the Swan Creek diversion ditch improvement reconstruction project.

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, not to exceed an additional allocation of \$405,667 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Swan Creek diversion ditch improvement reconstruction project. The Commission's affirmative action would increase the total state cost participation to \$1,963,167.

***It was moved by Commissioner Johnson 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, not to exceed an additional allocation of \$405,667 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 reconstruction project. This action is contingent upon the availability of funds.***

***This action increases the total state cost participation to \$1,963,167 for the Swan Creek diversion ditch improvement construction project.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, and Vosper voted aye. An abstention of vote was recorded for Lt. Governor Dalrymple representing Governor Hoeven. Lt. Governor Dalrymple announced the motion carried.***

***APPROVAL OF NORTH DAKOTA  
NATURAL RESOURCES TRUST  
ALLOCATION (\$20,789.33) FOR  
FISCAL YEAR 2008  
(SWC Project No. 1826)***

In 1986, the Garrison Diversion project was reformulated by Congress. Two new features of the project were the Municipal, Rural and Industrial (MR&I) Water Supply program and the North Dakota Wetlands Trust. Both features

are wide- spread programs benefiting much of the state. The Dakota Water Resources Act of 2000 changed the name of the North Dakota Wetlands Trust to the North Dakota Natural Resources Trust.

The North Dakota Natural Resources Trust is a program that provides for the preservation, enhancement, restoration, and management of wetlands and associated wildlife habitat in the state. The Natural Resources Trust operates off of the interest from a trust fund that will eventually reach \$13.2 million. Of the \$13.2 million, \$12.0 million is to come from the federal government and \$1.2 million from the State of North Dakota.

In 1993, the Garrison Diversion Conservancy District, the State Water Commission, and the North Dakota Game and Fish Department entered into a memorandum of agreement in which the three entities agreed to share equally the state's commitment in accordance with the terms set out in a February 14, 1991 agreement between the State of North Dakota, the Bureau of Reclamation, and the North Dakota Wetlands Trust. That agreement provides that the state's share shall be based on 0.15 percent of the federal Garrison Diversion Unit (GDU) appropriation. The Fiscal Year 2008 state's commitment is \$63,863.01. The State Water Commission's one-third share is \$20,789.33.

Commissioner Olin disclosed that he currently serves on the North Dakota Natural Resources Trust board of directors, and questioned if a conflict of interest exists relative to this project. Although Lt. Governor Dalrymple ruled that this disclosure would not be considered as a conflict of interest, Commissioner Olin chose to abstain from voting.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation of \$20,789.33 for one-third of the state's Fiscal Year 2008 North Dakota Natural Resources Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

***It was moved by Commissioner Hanson and seconded by Commissioner Johnson that the State Water Commission approve an allocation of \$20,789.33 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for one-third of the state's Fiscal Year 2008 contribution to the North Dakota Natural Resources Trust. This action is contingent upon the availability of funds, and an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.***

***Commissioners Berg, Foley, Hanson, Johnson, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. An abstention of vote was recorded for Commissioner Olin. Lt. Governor Dalrymple announced the motion 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:** A cooperating agency meeting was held on September 25, 2008. The Bureau of Reclamation provided information relative to addressing the public comments received on the NAWS draft environmental impact statement, which was released to the public on December 21, 2007. The draft EIS and the public comments received are posted on the Bureau of Reclamation's website. The State Water Commission staff is responding to the Bureau's requests for information relating to construction cost estimates and water use reflected in the reports from water users.

**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 gallon 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 was August 15, 2008. Following substantial completion, an error in programming caused the pump station to run excessively resulting in damage to the pump and motor components. The walk through will be completed once factory certification for the pumps and motors are provided. The project is near completion.

**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. The pressure testing passed, the punch list was generated on the September 8-10, 2008 walk through, and the project is near completion.

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 24-36 inch 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. All pipe and facilities have been constructed. Repaving the roads is underway, and a walk through is anticipated in early October, 2008. The project is near completion.

Contract 2-2B: This contract includes approximately 20 miles of 10-16 inch 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 walk through was completed on September 24, 2008; the project is near completion.

Contract 5-2B: The State Water Commission authorized the award of contract 5-2B on July 17, 2007 to Engineering America. 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 punch list was generated on the September 9, 2008 walk through; all punch list items have been completed. The project is being closed out.

Contract 2-2C: The design work covers 51 miles of 10-12 inch pipeline for the Kenmare/upper Souris pipeline. The bid opening was August 28, 2008. The State Water Commission will consider authorization for the award of bid under a separate action on September 30, 2008.

Design 5-2C: The design work covers a 1 million gallon storage reservoir for the Kenmare/upper Souris pipeline. The storage reservoir is near the Kenmare airport and the initial response from FAA denied approval based on disruption of air traffic. The design is on hold until a site location can be confirmed.

Design 2-2D: The design work will cover the pipeline for the Mohall/All Seasons pipeline. A preliminary route review with the State Water Commission staff was completed on September 23, 2008. Further work will be completed as the design work for the Kenmare/upper Souris line is finalized.

Design NAWS-All Seasons/Upham: All Seasons provided the preliminary design for review by the State Water Commission staff. The design work for the NAWS portion included 13 miles of 6-10 inch pipeline between the All Seasons water treatment plant and Gardena, ND. The bid opening is scheduled on October 21, 2008. On July 29, 2008, the State Water Commission approved NAWS funding for the project and authorized the secretary to the Commission to execute the necessary contracts with All Seasons Water Users for completion of the project.

**NORTHWEST AREA WATER  
SUPPLY (NAWS) PROJECT -  
AUTHORIZE AWARD OF CONTRACT 2-2C,  
KENMARE-UPPER SOURIS PIPELINE  
TO NORTHERN IMPROVEMENT  
COMPANY, FARGO, ND  
(SWC Project No. 237-04)**

Bids were opened for Northwest Area Water Supply (NAWS) Project contract 2-2C on August 28, 2008. This contract involves 52 miles of 10-12 inch pipe-line from Berthold through Kenmare to tie into the upper Souris treatment plant.

This project was granted approval to proceed with design and construction by Judge Rosemary Collyer on March 18, 2008 while the lawsuit with Manitoba is pending.

There were four bids opened from the following for contract 2-2C: Northern Improvement Company, Fargo, ND; Ryan Development, Inc., Shakopee, MN; S. J. Louis Construction, Inc., Rockville, MN; and Agri Industries. Williston, ND. One bid was not opened due to an incomplete bid bond form. The apparent low total base bid received was \$4,790,953.75 from Northern Improvement Company, Fargo, ND. The project engineer's estimate was \$5,514,822.50. The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening.

Michelle Klose, NAWS project manager, explained that the contract documents allow the State Water Commission to select the most advantageous bid. The contract documents required submission of experience on similar projects. The project engineer reviewed the bids and recommended the award of contract 2-2C to Northern Improvement Company, Fargo, ND. The contract will require approval by the Bureau of Reclamation, and the notice to proceed is dependent on the satisfactory completion of the contract documents by Northern Improvement Company, and the State Water Commission's legal counsel review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project Contract 2-2C, Kenmare-Upper Souris Pipeline, in the amount of \$4,790,953.75, to Northern Improvement Company, Fargo, ND, contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.

***It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project Contract 2-2C, Kenmare-Upper Souris Pipeline, in the amount of \$4,790,953.75, to Northern Improvement Company, Fargo, ND. This***

***action is contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***NORTHWEST AREA WATER  
SUPPLY (NAWS) PROJECT -  
APPROVAL OF AMENDMENT 1  
TO INTERIM SUPPLY WATER SERVICE  
CONTRACT WITH CITY OF MINOT  
(SWC Project No. 237-04)***

An interim supply water service contract was executed between the City of Minot and the State Water Commission in August, 2008. The contract allows the NAWS project to purchase water from the City of Minot for NAWS to deliver water to the cities of Berthold and Minot.

The City of Minot executed the contract with the stipulation that an amendment be included to address Minot's ability to terminate the contract if water service from Lake Sakakawea is not progressing and the continued supply to NAWS would be a detriment to Minot water users.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the Commission to execute Amendment 1 to the Interim Supply Water Service contract with the City of Minot to purchase water from the Minot water treatment plant for NAWS to deliver water to the cities of Berthold and Minot.

***It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission authorize the secretary to the Commission to execute Amendment 1 to the Interim Supply Water Service contract with the City of Minot to purchase water from the Minot water treatment plant for NAWS to deliver water to the cities of Berthold and Minot. SEE APPENDIX "C" (Amendment 1 to the Interim Supply Water Service contract)***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**NORTHWEST AREA WATER  
SUPPLY (NAWS) PROJECT -  
APPROVAL OF 2009 WATER RATES  
FOR CITIES OF MINOT AND BERTHOLD  
(SWC Project No. 237-04)**

The Northwest Area Water Supply (NAWS) Project water service contracts that were executed in 1994 and 1999 stipulate that the water rates for the NAWS project are to be determined by the State Water Commission. The project water rate is based on capital costs, supply and treatment costs, operation and maintenance costs, and reserve for replacement and extraordinary maintenance (REM).

The following proposed NAWS water rates for the cities of Minot and Berthold for 2009 were presented for the State Water Commission's consideration:

<u>Capital Costs:</u>	\$0.00 per thousand gallons
<u>Supply and Treatment Costs:</u>	City of Minot: \$0.00 per thousand gallons City of Berthold: \$1.57 per thousand gallons
<u>Operation and Maintenance Costs:</u>	City of Minot: \$0.13 per thousand gallons City of Berthold: \$0.48 per thousand gallons
<u>Replacement and Extraordinary Maintenance:</u>	\$0.15 per thousand gallons

It was the recommendation of Secretary Frink that the State Water Commission approve the following NAWS water rates for the 2009 calendar year: City of Minot - \$0.28 per thousand gallons; City of Berthold - \$2.20 per thousand gallons.

***It was moved by Commissioner Foley and seconded by Commissioner Hanson that the State Water Commission approve the following Northwest Area Water Supply Project water rates for the 2009 calendar year:***

***City of Minot: \$0.28 per thousand gallons***

***City of Berthold: \$2.20 per thousand gallons***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple 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:**

The contractor has received the final punch list for contract 7-8D, south Fryburg service area. The final inspection is anticipated in October, 2008.

**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 contract 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.

Contract 7-8E consists of 206 miles of pipeline serving 215 users. Two high consumption users, 27 standard users, and 43 pasture taps were added to contract 7-8E after the contract was bid. To date, 84 users of the 215 have been turned over to the Southwest Water Authority as ready for service. The remaining pipe to be installed consists of some service lines and pipeline to be installed on U.S. Forest Service lands. The substantial completion date of contract 7-8E is July 1, 2009. There are two intermediate completion dates of September 1, 2008 to turn over all 62 users south of the Fairfield reservoir for service, and May 1, 2009 to deliver water to contracts 7-8G and 7-9B.

Contract 7-8F, Trotters Pocket, is substantially complete. Eighty-six (86) miles of pipe have been installed to serve 78 users. Three standard users and 21 livestock users were added to contract 7-8F after the contract was bid. The substantial completion date for contract 7-8F is November, 2008.

Contract 7-8G, Gassy Butte service area, consists of 82 miles of pipe serving 88 users. One (1) high consumption user and 5 standard users were added after the contract was bid. No work has taken place on contract 7-8G in 2008. There is approximately 10 miles of the contract on U.S. Forest Service land. The substantial completion date is August 1, 2009.

Work commenced on contract 7-9B, Killdeer Mountain area, in July, 2008. This contract consists of 112 miles of pipeline serving 111 users. Nineteen (19) standard users and 11 pasture taps were added after the contract was bid. There are no U.S. Forest Service lands on this contract. The substantial completion date for contract 7-9B is August 1, 2009.

Foundation work has been completed on contract 8-2, Fairfield reservoir. The reservoir erection began in September, 2008; the substantial completion date is October 1, 2008 and the final completion date is November 15, 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 anticipated to be completed in October, 2008. The service area water treatment plant pilot study is underway at the Dickinson water treatment plant. Data collected from the study will be used in the final design report.

**Intake Capacity:**

The current agreement between the State Water Commission and Basin Electric Power Cooperative permits the Southwest Pipeline Project 10,600 gallons per minute from the intake at Lake Sakakawea. Recent tests have shown the current intake facilities can physically produce 11,600 gallons per minute.

The current allocated flow is 8,978 gallons per minute. The design capacity needed for the Oliver-Mercer-North Dunn regional service area is approximately 3,300 gallons per minute. The projected population growth in cities and rural areas served by the project and the expected energy development would also increase the required capacity. Avenues for additional capacity include negotiations with Basin Electric Power Cooperative for a greater flow rate and construction of a seasonal or permanent auxiliary intake.

**Reports Relating to Future Capacity Needs and Infrastructure Updates:**

Bartlett & West/Boyle Engineering Company recently completed a system improvement study for the raw water main transmission line facilities of the Southwest Pipeline Project. The report explores the options to expand system capacity required by potential growth in southwestern North Dakota. The report also serves as an archive of important technical information significant to the pipeline facilities.

Bartlett & West/Boyle Engineering Company is currently performing an assessment of the condition of the Dickinson water treatment plant and the possibility for expansion of capacity of the plant. The plant is aging and is critical to the operation of the system.

Future reports include assessments of system design criteria, replacement and extraordinary maintenance fund rates, capacity improvements on the potable water system out of Dickinson, and items of remaining construction and the impacts on system capacity.

**RESOLUTION OF APPRECIATION  
TO ALLEN J. BALLIET, STATE  
WATER COMMISSION EMPLOYEE  
(SWC Resolution No. 2008-09-520)**

A resolution of appreciation to Allen J. Balliet was presented for the State Water Commission's consideration. Mr. Balliet has admirably served the State of North Dakota as an employee of the

State Water Commission for 42 years (rod man with survey crew from 1966-1987; chief inspector on concrete and earth moving projects; and chief inspector for the Southwest Pipeline Project and the Northwest Area Water Supply Project from 1990-present). Mr. Balliet announced his retirement from the State Water Commission, effective October 31, 2008.

***It was moved by Commissioner Hanson, seconded by Commissioner Foley, and unanimously carried, that the State Water Commission approve Resolution No. 2008-09-520, Resolution of Appreciation to Allen J. Balliet. SEE APPENDIX "D"***

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

The current water surface elevation of Devils Lake is 1446.49 feet msl and Stump Lake is 1447.0 feet msl. The combined storage of Devils Lake and

Stump Lake is 2.86 million acre-feet with a total surface area of the lakes at 135,600 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	1446.6	1446.7	1446.7

Long-Range Outlook for the Lakes Lowering

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake and Stump Lake	1446.1	1445.8	1445.6

**NORTH DAKOTA DEVILS LAKE  
OUTLET PROJECT REPORT  
(SWC Project No. 416-10)**

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 and the authorized modifications issued by the North Dakota Department of Health. The NDPDES water quality discharge permit had an expiration date of June 30, 2008, which has been extended through June 30, 2013.

The intake structure for the outlet was submerged in Round Lake on April 16, 2008. Releases from the outlet into the Sheyenne River occurred at various intervals during the months of April - September, 2008. The outlet discharged approximately 190 acre-feet of water in August, 2008 and 15.5 acre-feet from September 1-8, 2008. Precipitation on September 23 increased the flows in the Sheyenne River allowing discharge to resume on September 24, 2008.

Joe Belford, Devils Lake Downstream Acceptance program manager, provided an update on the efforts of the Devils Lake interagency task force.

**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 Record of Decision was scheduled to be issued 30 to 90 days from the date that the final EIS was available to the public, however, the U.S. State Department requested that the Bureau of Reclamation delay signing the Record of Decision until discussions with Canada have been concluded.

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 "E"**.

**RED RIVER VALLEY WATER  
SUPPLY PROJECT - APPROVAL  
OF RELEASE OF \$630,000 (FROM  
\$1,800,000 PREVIOUSLY APPROVED)  
FOR DEVELOPMENT OF PREFERRED  
ALTERNATIVE  
(SWC Project No. 1912)**

On March 17, 2008, the State Water Commission approved an allocation not to exceed \$1,800,000 in the 2007-2009 biennium to the Garrison Diversion Conservancy District for the further development of the preferred alternative for the Red River Valley Water Supply project. This action was contingent upon receipt of the Record of Decision from the U.S. Department of the Interior. The Record of Decision was scheduled to be issued 30 to 90 days from the date that the final environmental impact statement (EIS) was made available to the public, however, the U.S. State Department requested that the Bureau of Reclamation delay signing the Record of Decision until discussions with Canada have been concluded. The 2008 work plan for the development of the preferred alternative includes five efforts: right of way, operational plan, permit conditions, pre-final design, and financial planning.

Dave Koland, general manager, for the Garrison Diversion Conservancy District, stated that the District is canvassing the systems in the valley to obtain commitments to enter into water service agreements. The Lake Agassiz Water Authority is also assisting in these efforts and continues to move forward with the financial planning efforts. Mr. Koland explained that the local water systems and Garrison Diversion have invested approximately \$1,400,000 developing the project through 2007.

Mr. Koland explained that the operational plan is an essential effort required to develop the terms of the water service contracts and to establish the design criteria for the pre-final design task. A request from the Garrison Diversion Conservancy District was presented for the State Water Commission's consideration to release up to \$630,000 of the \$1,800,000 previously authorized on March 17, 2008 to fund the operational plan engineering task order while awaiting the issuance of the Record of Decision.

It was the recommendation of Secretary Frink that the State Water Commission approve the release of up to \$630,000 of the \$1,800,000 previously authorized on March 17, 2008 to the Garrison Diversion Conservancy District to fund the operational plan engineering task order for further development of the Red River Valley Water Supply project.

***It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve the release of up to \$630,000 of the \$1,800,000 previously authorized on March 17, 2008 to the Garrison Diversion Conservancy District to fund the operational plan engineering task order for further development of the Red River Valley Water Supply project.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***DROUGHT DISASTER LIVESTOCK  
WATER SUPPLY PROJECT  
ASSISTANCE PROGRAM -  
STATUS REPORT  
(SWC Project No. 1851)***

Secretary Frink provided a status report on the Drought Disaster Livestock Water Supply Project Assistance program, which is a state cost participation program administered by the State Water Commission that provides financial

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

On May 9, 2008, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2008-02, which indicated that a drought emergency existed statewide in North Dakota. Executive Order 2008-02 ordered the State Water Commission convene to take the necessary measures to 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 an allocation of \$1,000,000 for the program; and on June 23, 2008, the Commission allocated an additional \$250,000, for a total state cost participation of \$1,250,000 since program reactivation on May 14, 2008.

Drought conditions persist over a large portion of the state and there is a significant need to provide assistance to producers with developing their water supplies. To date, approximately 516 applications, totaling 592 projects, have been received of which 120 projects did not meet program requirements. As of September 12, 2008, 102 projects were completed for a total of \$253,547, at an average cost of \$2,486 per project.

Commissioner Johnson explained that the purpose of the program is to replace failed livestock water supplies caused by drought. He alluded to several complaints which have been received at the North Dakota Department of Agriculture from producers that relate primarily to the definition of the types of projects that qualify for assistance. Commission Johnson stated that in reviewing the complaints, it appears that the rules governing the program are not being applied consistently from application to application. Commissioner Johnson also strongly recommended that an appeal process be offered to producers when a project does not meet the program criteria.

It was the direction of the State Water Commission that the drought livestock advisory committee reconvene for the purpose of revisiting the program criteria and recommend a course of action relating to an appeal process for those projects that do not meet the program criteria.

**2009-2011 NORTH DAKOTA STATE  
WATER COMMISSION AND OFFICE  
OF THE STATE ENGINEER  
STRATEGIC PLAN  
(SWC Project No. 322)**

The 2009-2011 North Dakota State Water Commission and Office of the State Engineer Strategic Plan was presented to the Commission members for review. The primary purpose of the Plan is to clearly document direction and

expectations that have been set for the agencies. As part of the planning process, the goals were reevaluated to ensure that the standards expected by the constituents are being achieved. Objectives were laid out for many of the key projects and programs to more effectively meet those goals. Tasks and actions were defined for the management and divisions to achieve the desired outcomes. The Plan will ensure that the agencies are better equipped to document the progress in managing North Dakota's water resources.

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

On September 19, 2008, the system storage in the six mainstem reservoirs was 44.7 million acre-feet (MAF), 10.95

MAF below the average system storage for the end of September and 6.7 MAF more than in 2007. The record minimum system storage for the end of September was 35.0 MAF in 2006. The September 1 basic simulation estimates runoff above Sioux City for 2008 to be 26.0 MAF, 103 percent of normal. This results in a forecast that the system will have 43.7 MAF at the end of 2008. The record low end of year system storage was 34.4 MAF in 2006.

Lake Sakakawea was at an elevation of 1825.5 feet msl on September 19, 2008, 11.4 feet higher than in 2007 and 11.7 feet msl below its average end of September elevation. The record minimum end of September elevation was 1810.3 feet msl in 2006. Lake Sakakawea is forecast to peak at 1825.6 feet msl at the end of November. The record minimum end of November elevation for Lake Sakakawea was 1808.9 feet msl in 2006.

The elevation of Lake Oahe was 1592.7 feet msl on September 19, 2008, which is 12.1 feet higher than in 2007 and 8.2 feet lower than its average end of September elevation. Lake Oahe peaked at the end of August, 2008 at 1592.5 feet msl. The elevation is forecast to decrease to 1590.3 feet msl at the end of 2008. The record minimum end of September elevation for Lake Oahe was 1571.4 feet msl in 2006.

Fort Peck Lake was at an elevation of 2209.2 feet msl on September 19, 2008, which is 8.8 feet higher than in 2007 and 22.5 feet below its average end of September elevation. The forecast calls for Fort Peck Lake to remain fairly constant at 2209.1 feet msl and 2209.9 feet msl between September 19 and the end of 2008.

Based on the total system storage on July 1, 2008, the commercial navigation season will be shortened by 30 days. The last days of navigation flow support at Kansas City will be on October 27 and on October 31 at the mouth of the river just north of St. Louis, MO.

The Corps of Engineers released the draft annual operating plan for 2008-2009 in September, 2008. Six public meetings are scheduled; the meeting for North Dakota is scheduled for October 16, 2008 at the Radisson Hotel in Bismarck, ND.

The Missouri River Recovery Implementation Committee (MRRIC) held its first meeting on September 29, 2008 in St. Louis, MO. The committee's membership is comprised of representatives of federal agencies, tribes, states, and stakeholders from throughout the Missouri River basin. The purpose of MRRIC is to develop a comprehensive plan for the restoration for the Missouri River ecosystem. The committee will provide recommendations to federal, tribal, state, local and private entities in the basin on efforts to recover threatened and endangered species and to restore their habitats while sustaining the river's many uses.

**MISSOURI RIVER JOINT WATER BOARD - APPROVAL OF STATE COST PARTICIPATION (\$20,000) (SWC Project No. 322)**

On July 28, 2005, the counties of Burleigh, Dunn, Emmons, Mercer, Morton, Mountrail, Oliver, and Sioux entered into a joint powers agreement which created the Missouri River Joint

Water Board. The purpose of the board is to provide a cooperative and coordinated approach to water and related land management in the Missouri River basin portion of North Dakota. In consideration of how valuable a resource the Missouri River is to North Dakota, an organization of this type is extremely important in keeping North Dakota's interest in the Missouri River in the forefront.

On August 30, 2005, the State Water Commission approved an allocation not to exceed \$20,000 to the Missouri River Joint Water Board to retain a water resource consultant and secretary-treasurer, develop an action plan and bylaws, and assist with operating costs to get the board properly functioning.

A request from the Missouri River Joint Water Board was presented for the State Water Commission's consideration for a 50 percent state cost participation of the eligible costs in the amount of \$20,000 in the 2007-2009 biennium.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$20,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Missouri River Joint Water Board.

***It was moved by Commissioner Berg and seconded by Commissioner Johnson that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$20,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Missouri River Joint Water Board. This action is contingent upon the availability of funds.***

***Commissioners Berg, Foley, Hanson, Johnson, Olin, Swenson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple 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 assisted in identifying statewide water development needs, documenting the State Water Commission's budgetary requirements, and develop recommendations to improve water management.

The special topics section addresses the Missouri River management, dam safety, Red River valley water supply needs, Devils Lake flooding, aquatic nuisance species, sovereign land management, and drought management planning.

In addition to the recommendations, the plan addresses 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.

**RESOLUTION OF APPRECIATION  
TO ELMER HILLESLAND, STATE  
WATER COMMISSION MEMBER  
(SWC Resolution No. 2008-09-519)**

as a member of the State Water Commission since March 1, 1993 during the administrations of Governor Edward Schafer and Governor John Hoeven. Mr. Hillesland elected to resign from his membership on the State Water Commission, effective July 30, 2008.

The State Water Commission considered a resolution of appreciation to Elmer Hillesland, Grand Forks, ND, who provided the benefit of his expertise and experience to the State of North Dakota

***It was moved by Commissioner Johnson, seconded by Commissioner Hanson, and unanimously carried, that the State Water Commission approve Resolution No. 2008-09-519, Resolution of Appreciation to Elmer Hillesland, State Water Commission member. SEE APPENDIX "F"***

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the meeting at 4:25 P.M.



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Jack Dalrymple, Lt. Governor  
Representing John Hoeven, Governor  
Chairman, State Water Commission

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



