



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TTY 800-366-6888 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

**North Dakota State Water Commission
Fargo, North Dakota
June 23, 2009**

AGENDA

8:00 AM - 10:00 AM:

State Water Commission working session (Community Room at the Downtown Library, 102 3rd Street North, Fargo). Discussion will include 2009-2011 biennium budget/water funding for projects, cost share policy, and the Fargo flood control project.

10:00 AM - 12:00 Noon:

Tour of flood damages in the Fargo/West Fargo area and the Fargo flood control project

**** Tour will originate at the Fargo City Hall, 200 3rd Street North. Please call Sharon Locken at 701-328-4940, or e-mail to slocken@nd.gov prior to June 19 to register for the tour. ****

1:30 PM - 5:00 PM:

State Water Commission Meeting (City Commission Room at City Hall, 200 3rd Street North, Fargo)

- A. Roll Call - Consideration of Agenda
- B. Welcome - Tim Mahoney, Deputy Mayor, City of Fargo
- C. Consideration of Draft Minutes of Following SWC Meetings:
 - 1) **March 23, 2009 State Water Commission Meeting** **
 - 2) **April 28, 2009 SWC Audio Conference Call Meeting** **
 - 3) **June 5, 2009 SWC Audio Conference Call Meeting** **
- D. State Water Commission Financial Updates:
 - 1) Agency Program Expenditures
 - 2) 2007-2009 Biennium Resources Trust Fund and Water Development Trust Fund Revenues
 - 3) Water Project Funding for 2009-2011 Biennium
 - 4) **Project/Program Obligations Carryover - 2009-2011 Biennium** **
- E. **Fargo South Flood Control Project** **
- F. **North Dakota Cloud Modification Project** **
- G. Consideration of Following Requests for State Cost Participation:
 - 1) **Cost Share Policy Criteria Reconsideration** **
 - 2) **Will and Carlson Contract** **
 - 3) **North Dakota Water Magazine** **
 - 4) **North Dakota Irrigation Association** **

AGENDA - Page 2

- G. Consideration of Following Requests for State Cost Participation: (Continued)
 - 5) **Red River Valley Water Supply Project** **
 - 6) **Red River Basin Mapping Initiative** **
 - 7) **Long-Term Red River Flood Control Solutions Study** **
 - 8) **Red River Basin Commission** **
 - 9) **Red River Basin Flood Control Coordinator** **
 - 10) **Upper Sheyenne River Joint Board** **
 - 11) **Buffalo Coulee Snag and Clear Project - Traill County** **
 - 12) **McGregor Dam Emergency Action Plan** **
 - 13) **Mott Dam Emergency Action Plan** **
 - 14) **Red River Basin NRCS Ring Dike Program** **
 - 15) **Red River Basin Non-NRCS Rural/Farmstead Ring Dike Program** **
 - 16) **Sheyenne River Watershed Flood Water Detention Study** **

- H. Consideration of State Grant Participation for Water Supply Projects:
 - 1) **Burke, Divide, Williams Water Supply Project** **
 - 2) **Ray and Tioga Water Supply Project** **
 - 3) **City of Stanley Water Pipeline Project** **
 - 4) **City of Wildrose Water Supply Project** **
 - 5) **McKenzie Rural Water System II** **

- I. Southwest Pipeline Project:
 - 1) Project Report
 - 2) **Contract 2-8A, Pipeline to City of Hazen** **

- J. Northwest Area Water Supply (NAWS) Project:
 - 1) Project Report
 - 2) **Contract 2-2D, Mohall-All Seasons Pipeline** **

- K. Devils Lake:
 - 1) Hydrologic Report
 - 2) North Dakota Devils Lake Outlet Project Report
 - 3) **Devils Lake Outlet Awareness Project Manager** **
 - 4) **Devils Lake Basin Joint Water Resource Manager** **

- L. Garrison Diversion Conservancy District:
 - 1) Red River Valley Water Supply Project Report
 - 2) Upper Missouri Water Supply Options Report

- M. Missouri River Report

- N. 2009 Spring Flood Report

- O. Release of Easement and Dedication - Schmidt-Holle Dam in Morton County** **

- P. Other Business

- Q. Adjournment

MINUTES

North Dakota State Water Commission Fargo, North Dakota

June 23, 2009

The North Dakota State Water Commission held a meeting at the City Hall, Fargo, North Dakota, on June 23, 2009. 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.

Timothy Mahoney, Deputy Mayor, welcomed the State Water Commission to Fargo. Prior to this meeting, the Commission members and others held a working session which included discussion of the 2009-2011 biennium budget/water funding for projects, cost share policy, and the Fargo South Flood Control project. Following the working session, the Commission members and others had an opportunity to tour the flood damages in the Fargo/West Fargo area and the Fargo South Flood Control project.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
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
Robert Thompson, Member from Page
Douglas Vosper, Member from Nече

STATE WATER COMMISSION MEMBER ABSENT:

Doug Goehring, Commissioner, North Dakota Department of Agriculture, Bismarck

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 75 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

funding for the McKenzie County System II.

Secretary Frink stated that the agenda would also include consideration of state

CONSIDERATION OF DRAFT MINUTES OF MARCH 23, 2009 STATE WATER COMMISSION MEETING - APPROVED

The draft minutes of the March 23, 2009 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Swenson, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the March 23, 2009 State Water Commission meeting be approved as prepared.

CONSIDERATION OF DRAFT MINUTES OF APRIL 28, 2009 STATE WATER COMMISSION AUDIO CONFERENCE CALL MEETING - APPROVED

The draft minutes of the April 28, 2009 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Swenson, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the April 28, 2009 State Water Commission audio conference call meeting be approved as prepared.

CONSIDERATION OF DRAFT MINUTES OF JUNE 5, 2009 STATE WATER COMMISSION AUDIO CONFERENCE CALL MEETING - APPROVED

The draft minutes of the June 5, 2009, State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Swenson, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the June 5, 2009 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, 2009, reflecting 92 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 \$77,167,225, leaving a balance of \$32,855,905 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 \$70,616,889 and are currently \$36,399,067, or 106.4 percent ahead of the budgeted revenues with one payment remaining.

Deposits into the Water Development Trust Fund total \$27,672,929 and are currently \$3,986,341, or 12.6 percent below budgeted revenues.

**WATER PROJECT FUNDING,
2009-2011 BIENNIUM**

Commission staff memorandum, dated June 17, 2009, attached hereto as **APPENDIX "C"**, provides information relating to the proposed water projects funding for the 2009-2011 biennium.

relating to the proposed water projects funding for the 2009-2011 biennium.

**APPROVAL OF 2007-2009 BIENNIUM
UNEXPENDED OBLIGATIONS CARRIED
FORWARD TO 2009-2011 BIENNIUM
(SWC Project No. 1753)**

Secretary Frink stated that commonly water projects require several years to implement due to regulatory issues, funding needs, and contracting, bidding and construction delays. Contracts for projects and programs that were previously obligated for cost share from the contract fund were presented for the State Water Commission's consideration for continuation in the 2009-2011 biennium with the exception of the following projects: construction of Square Butte Dam No. 6, and the Southeast Cass and Maple River Water Resource District's rural farmstead ring dike programs. The carry over for Baldhill Dam will be reduced from \$231,807 to \$100,000.

Secretary Frink stated that commonly water projects require several years to implement due to regulatory issues, funding needs, and contracting, bidding and construction delays. Contracts for

It was the recommendation of Secretary Frink that the State Water Commission carry forward its unexpended cost share obligations from the contract fund for the incomplete projects to the 2009-2011 biennium, with the exception of those identified projects.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the 2007-2009 biennium programs and general projects unexpended obligation amounts (which includes all previous bienniums carry over) be carried forward to the 2009-2011

biennium (July 1, 2009 through June 30, 2011), with the exception of the construction of Square Butte Dam No. 6, and the Southeast Cass and Maple River Water Resource Districts' rural farmstead ring dike programs. The carry over for Baldhill Dam will be reduced from \$231,807 to \$100,000. This action is contingent upon the availability of funds.

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

It was moved by Commissioner Swenson and seconded by Commissioner Berg that the State Water Commission request the project/program sponsor provide a written progress report and future intentions for completion for those projects, grants, and contract fund unexpended obligations which are not expended within three years following the State Water Commission's date of approval for state cost participation.

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

FARGO SOUTH FLOOD CONTROL PROJECT - APPROVAL OF TOTAL PROJECT ALLOCATION (\$75,000,000); OF WHICH \$45,000,000 SHALL BE ALLOCATED IN 2009-2011 BIENNIUM (SWC Project No. 1928)

\$2,584,750 for the Fargo Ridgewood project, and earmarked an additional \$14,065,250 for the South Side Flood Control project. The 2009 revised cost estimate for the Fargo South Flood Control project is \$161,000,000, of which the local/state's share is \$75,000,000.

The city of Fargo initially requested state cost participation for their South Side Flood Control project in 2001. The cost share amount was increased each biennium as the scope of the project changed. During the 2007-2009 biennium, the State Water Commission approved

The 2009 North Dakota Legislature included in House Bill 1020, the State Water Commission's appropriation bill for the 2009-2011 biennium, an earmark of \$75,000,000 for the Fargo South Flood Control project, with an allocation of \$45,000,000 for the 2009-2011 biennium, and legislative intent that includes \$30,000,000 for the 2011-2013 biennium. Secretary Frink explained

that the earmark (\$75,000,000) does not include the \$2,584,750 previously committed to the Fargo Ridgewood project, but it does include the allocated amount of \$14,065,250 in the 2007-2009 biennium to the South Side Flood Control project. Secretary Frink recommended that in order to be consistent with House Bill 1020, the earmarked funds of \$14,065,250 for the South Side Flood Control project not be carried forward to the 2009-2011 biennium, and that the State Water Commission approve an allocation of \$45,000,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium, to the city of Fargo for their South Side Flood Control project.

Governor Hoeven stressed the importance of advancing this project as expeditiously as possible, provide assurance that all funds are in place, and that "we, as a state, are making every effort to assist our citizens."

Pat Zavoral, Fargo city administrator, reported that the U.S. Army Corps of Engineers is expected to identify its preferred option for local flood control by September, 2009, with an environmental impact statement (EIS) expected by the end of 2010, and the designs and construction bids in 2011. The proposed cost share for the project includes \$11,000,000 of federal funds, and state/local funds in the amount of \$75,000,000. Mr. Zavoral explained that "it is anticipated that the South Side Flood Control project will be considered toward the state and local share of the comprehensive flood protection for Fargo-Moorhead, which is currently under study."

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission approve a total allocation not to exceed \$75,000,000, of which an allocation not to exceed \$45,000,000 shall be provided from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Fargo for the Fargo South Flood Control project. This action is contingent upon the availability of funds.

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

***NORTH DAKOTA CLOUD
MODIFICATION PROJECT -
APPROVAL OF \$225,000
(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 \$1,020,000 to the project in the 2009-2011 biennium. The biennial costs are expected to total approximately \$1,580,000, or about 11.8 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 estimated the direct benefit to agricultural crops in the range of \$12-19.7 million annually, with gross economic benefits estimated to average \$37-60 million annually.

In considering the funding needs for North Dakota water projects, the 2009 Legislature identified \$700,000 in the 2009-2011 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 \$225,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

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 \$225,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, 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 RELATING TO COST
SHARE PERCENTAGE INCREASE
(SWC Project No. 1753)**

members necessary to bind the Commission.

On March 23, 2009, the State Water Commission considered a recommendation to increase the cost share percentages and eliminate the engineering services. The motion failed due to the required affirmative votes of five

It was the recommendation of Secretary Frink that the State Water Commission reconsider the recommendation that the cost share policy, procedures, and general requirements guidelines be modified to allow for a cost share percentage increase of 10 percent on construction items, and eliminate cost share assistance on engineering items as follows:

Cost share percentage increase of 10 percent on construction items and eliminate cost share assistance on engineering items:

Cost share policy, procedures, and general requirements guidelines be modified to allow for a cost share percentage Increase of 10 percent on construction items, and to eliminate cost share assistance on any and all engineering items to include but not limited to surveying, soil testing, archeological, cultural, and geotechnical exploration, and contract administration, effective July 1, 2009.

The following cost share percentages would be increased as follows:

- 1) drains, channels, diversion projects - 45 percent of eligible construction items
- 2) rural/farmstead ring dikes - 60 percent of eligible construction items limited to a maximum of \$40,000 per ring dike
- 3) water supply projects - 60 percent of eligible construction items
- 4) flood control projects - 60 percent of eligible construction items
- 5) dam safety repair projects - 65 percent of eligible construction items
- 6) recreation projects - 40 percent of eligible construction projects
- 7) irrigation projects - 50 percent of eligible construction projects

Commissioner Thompson encouraged the cost share policy committee to further review issues relating to water supply and flood control projects, and recommended that the cost share percentage be increased to 65 percent for all costs, excluding administrative costs, associated with flood control projects. Governor Hoeven directed that the issues relating to water supply and flood control be referred to the cost share policy committee.

It was moved by Commissioner Swenson and seconded by Commissioner Foley that the State Water Commission approve modifications to the cost share policy, procedures, and general requirements guidelines to allow for a cost share percentage increase of 10 percent on construction items, and eliminate cost

share assistance on any and all engineering items to include but not limited to surveying, soil testing, archeological, cultural, and geotechnical exploration, and contract administration, effective July 1, 2009.

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

**APPROVAL OF REQUEST FROM
GARRISON CONSERVANCY DISTRICT
FOR CONTINUATION OF CONTRACT
WITH WILL AND CARLSON; AND
COST SHARE OF \$70,000 FROM
JULY 1, 2009 THROUGH JUNE 30, 2011
(SWC Project No. 237)**

A request was presented from the Garrison Diversion Conservancy District to continue participation in support of the Will and Carlson consulting contract in the amount of \$70,000 for services relating to the appropriation under the Garrison Diversion Unit.

The State Water Commission initially entered into a cost share agreement for the services of Peter Carlson in 1991. Since that time, Mr. Carlson has provided services for the State of North Dakota in Washington, DC relating to the Dakota Water Resources Act, Missouri River issues, Devils Lake, the Northwest Area Water Supply (NAWS) Project, agriculture irrigation, and hydro power generation. Considerable efforts are still needed to obtain funding through the Dakota Water Resources Act.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$70,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to continue the Will and Carlson consulting contract from July 1, 2009 through June 30, 2011. These funds are to be cost shared 50 percent with the Garrison Diversion Conservancy District.

It was moved by Commissioner Vosper and seconded by Commissioner Hanson that the State Water Commission approve an allocation not to exceed \$70,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to continue the Will and Carlson consulting contract from July 1, 2009 through June 30, 2011. These funds are to be cost shared 50 percent with the Garrison Diversion Conservancy District. This action is contingent upon the availability of funds.

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

**NORTH DAKOTA WATER MAGAZINE -
APPROVAL OF ALLOCATION (\$36,000)
FROM JULY 1, 2009 TO JUNE 30, 2011
(SWC File AOC/WEF)**

A request from the North Dakota Water Education Foundation was presented for the State Water Commission's consideration to continue its participation in the *North Dakota Water* magazine from July 1, 2009 through June 30, 2011.

The State Water Commission has contributed to this effort since 1994 to support the magazine and its own pages, the "Oxbow" and the "Water Primer" sections, and to assist in the mailing distribution of the magazine. Secretary Frink said that with the Commission's support, the *North Dakota Water* magazine will provide continued communication among people interested in North Dakota's water resources.

It was the recommendation of Secretary Frink that the State Water Commission approve funding to the North Dakota Water Education Foundation not to exceed an allocation of \$36,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to assist in the publication of the *North Dakota Water* magazine from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve funding to the North Dakota Water Education Foundation not to exceed an allocation of \$36,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to assist in the publication of the North Dakota Water magazine from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

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

**NORTH DAKOTA IRRIGATION
ASSOCIATION - APPROVAL OF
\$100,000 IN 2009-2011 BIENNIUM
FOR STRATEGIC PLAN INITIATIVES
FOR IRRIGATION DEVELOPMENT IN
NORTH DAKOTA
(SWC File AOC/IRR)**

A request from the North Dakota Irrigation Association was presented for the State Water Commission's consideration for state cost participation in the amount of \$100,000 from July 1, 2009 through June 30, 2011 to pursue the initiatives outlined in the Strategic Plan for Irrigation Development in North Dakota.

The North Dakota Irrigation Association's Strategic Plan identified six components necessary for the development of irrigation and diversification of the state's economic base. These components include marketing, funding and financing, projects, research, affordable energy, and communications and coordination. These elements provide the basis for substantially increasing the irrigated acreage and economic output in North Dakota.

It was the recommendation of Secretary Frink that the State Water Commission support the efforts of the North Dakota Irrigation Association with an allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), in pursuance of the activities outlined in the Strategic Plan for Irrigation Development in North Dakota.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission support the efforts of the North Dakota Irrigation Association and approve an allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), from July 1, 2009 through June 30, 2011, in pursuance of the activities outlined in the Strategic Plan for Irrigation Development in North Dakota. This action is contingent upon the availability of funds.

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

**RED RIVER VALLEY WATER
SUPPLY PROJECT - APPROVAL
OF ADDITIONAL STATE COST
PARTICIPATION (\$3,000,000) 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 continued 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 Interior and/or authorization by Congress before state funds were committed. The State Water Commission modified this position by allocating \$1,000,000 (September 30, 2008 - \$630,000, and March 23, 2009 - \$370,000) to the project after it became clear that neither the Record of Decision nor congressional authorization would occur in the near future.

A report to congress was transmitted by the Secretary of the Interior selecting the GDU import to the Sheyenne River alternative as the proposed project to meet the water needs of the Red River valley. The Secretary

of the Interior has also determined that the proposed treatment would comply with the Boundary Waters Treaty of 1909. Since the proposed project uses Missouri River water, congressional authorization is required before construction can begin on the project. The Garrison Diversion Conservancy District board of directors and the Lake Agassiz Water Authority board of directors have unanimously voted to continue development of the project as described in the 2009 work plan while the congressional delegation is gaining authorization.

The 2009 work plan for the development of the preferred alternative contains six major planning efforts as follows: operational plan, right-of-way acquisition services, landowner payments for right-of-way options, permitting and environmental services, prefinal design, and financial planning. The work plan task orders total \$4,245,000.

Dave Koland, general manager for the Garrison Diversion Conservancy District, 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 prefinal design task order. Mr. Koland explained that the District has issued task orders to complete the 2009 work plan and anticipates that the \$1,000,000 that was authorized by the Commission will be expended by the end of the 2007-2009 biennium. A request from the Garrison Diversion Conservancy District was presented for the State Water Commission's consideration for additional funding of \$3,000,000 in the 2009-2011 biennium for continued development of the preferred alternative for the Red River Valley Water Supply project to support the 2009 work plan identified tasks.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed an additional \$3,000,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H. B. 1020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project.

It was moved by Commissioner Thompson and seconded by Commissioner Olin that the State Water Commission approve an allocation not to exceed an additional \$3,000,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H. B. 1020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project to support the 2009 work plan identified tasks. This action is contingent upon the availability of funds.

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

**INTERNATIONAL WATER INSTITUTE -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$300,000) FOR
RED RIVER BASIN MAPPING INITIATIVE
(SWC Project No. 322)**

The 2007 North Dakota Legislature provided in Senate Bill 2020, the State Water Commission's appropriation bill for the 2007-2009 biennium, \$400,000 to be dedicated to the International Water Institute for their Red River basin

mapping initiative (RRBMI). This legislative mandate was approved by the State Water Commission on October 24, 2007.

The purpose of the initiative is to collect and publicly disseminate high resolution elevation data for the entire United States portion of the Red River of the North drainage basin. The estimated project cost was \$5,000,000, of which 50 percent of the funding will be provided from the federal government with the balance to be provided by several local and state entities. The initiative is anticipated for completion by 2011.

North Dakota's total contribution is \$600,000; Minnesota legislation also provides \$600,000 for this effort. House Bill 1020, the State Water Commission's appropriation bill for the 2009-2011 biennium, provides an additional \$300,000 (\$200,000 to collect and publicly disseminate high resolution elevation data, and satisfy North Dakota's financial commitment of \$600,000; and \$100,000 for the operation and maintenance of the collected elevation data), to the International Water Institute for their Red River basin mapping initiative. A request from the International Water Institute was presented for the State Water Commission's consideration to provide an additional \$300,000 to support their Red River basin mapping initiative.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed an additional \$300,000 (\$200,000 to collect and publicly disseminate high resolution elevation data, and satisfy North Dakota's financial commitment of \$600,000; and \$100,000 for the operation and maintenance of the collected elevation data) from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the International Water Institute for their Red River basin mapping initiative.

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve an allocation not to exceed an additional \$300,000 (\$200,000 to collect and publicly disseminate high resolution elevation data, and

satisfy North Dakota's financial commitment of \$600,000; and \$100,000 for the operation and maintenance of the collected elevation data) from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the International Water Institute for their Red River basin mapping initiative. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN COMMISSION -
LONG-TERM RED RIVER FLOOD
CONTROL SOLUTIONS STUDY -
APPROVAL OF STATE COST
PARTICIPATION (\$500,000)
(SWC File No. AOC/RRBC)**

Flooding has been a major issue affecting the lives and property of the Red River basin since statehood. The widespread, devastating flood experienced in 2009 illustrates the need to accelerate efforts to provide flood protection in that region of North Dakota.

Recognizing this need, the 2009 North Dakota Legislature provided in House Bill 1020, the State Water Commission's appropriation bill, that \$500,000 be dedicated to evaluating, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River valley. Minnesota legislation also provides \$500,000 for this effort, directing the money to the Red River Basin Commission, with the caveat that North Dakota also provide a like amount. The three-phase work plan will be coordinated by the Red River Basin Commission. A request from the Red River Basin Commission was presented for the State Water Commission's consideration to provide \$500,000 to support the development of the Long-Term Red River Flood Control Solutions study.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium, to the Red River Basin Commission to support the development of the Long-Term Red River Flood Control Solutions study.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve an allocation not to exceed \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Red River Basin Commission to support the development of the Long-Term Red River Flood Control Solutions study. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN COMMISSION -
APPROVAL OF ALLOCATION
(\$200,000) FROM JULY 1, 2009
THROUGH JUNE 30, 2011
(SWC File AOC/RRBC)**

The Red River Basin Commission (RRBC) was formed in 2001 to serve as a grassroots effort to address land and water issues in a basinwide context. The RRBC was originally known as the Red River Basin Board, and is a result of the amalgamation of the Board, The International Coalition, and the Red River Water Resource Council. The organization is comprised of a 41-member board of directors representing a broad cross-section of local and state/provincial governments and other interests. The State Engineer, appointed by Governor Hoeven, is a member of the board.

The states of North Dakota and Minnesota, the Province of Manitoba, and the local governments in the three major jurisdictions have participated in funding the activities of the Red River Basin Board/Commission for several years. Contributions of \$100,000 per year are requested of each of the six primary sponsors to fund the Red River Basin Commission's operating costs.

A request from the Red River Basin Commission was presented for the State Water Commission's consideration to provide an allocation not to exceed \$200,000 from July 1, 2009 through June 30, 2011 to support the following areas of Commission activity: 1) efforts relating to the Natural Resource Framework Plan (NRFP); 2) water supply issues in the basin through the implementation of some of the recommendations of the drought scoping document from the last biennium; 3) work related to building consensus between the jurisdiction on water quality issues; 4) continued development and use of the basin Mike 11 mainstem model; 5) land conservation efforts that will link to flood damage reduction strategies; and 6) efforts related to opportunities for jurisdictional dialogue and efforts as needed and directed by the board.

The Red River Basin Commission will also continue to address other efforts relating to basin drought issues, water quality issues, mainstem modeling and tributary goals, land use conservation efforts, and jurisdictional dialogue and efforts as needed and directed by the Board.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to support the Red River Basin Commission's efforts from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission approve an allocation of \$200,000 from the funds appropriated to the State Water

Commission in the 2009-2011 biennium (H.B. 1020), to support the efforts of the Red River Basin Commission from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN FLOOD CONTROL
COORDINATOR - APPROVAL OF STATE
COST PARTICIPATION (\$36,000) FROM
JULY 1, 2009 THROUGH JUNE 30, 2011
(SWC Project No. 1705)**

A request was presented for the State Water Commission's consideration for state cost participation for the Red River Basin flood control coordinator. The position was filled in January, 2003 through the hiring of a private contractor

by the Red River Joint Water Resource Board and the expenses are being shared by the Board, the State Water Commission, and the Garrison Diversion Conservancy District. The Red River Basin flood control coordinator is presently held by Thomas Fischer.

The annual salary of the Red River Basin flood control coordinator is \$50,000 plus annual expenses of up to \$10,000, with the State Water Commission and the Garrison Diversion Conservancy District each providing 30 percent of the cost up to \$18,000 (\$15,000 of salary and \$3,000 of expenses) annually. The Red River Joint Water Resource District request before the State Water Commission is for state cost participation of \$36,000 (\$30,000 of salary and \$6,000 of expenses) from July 1, 2009 through June 30, 2011 for the Red River Basin flood control coordinator.

It was the recommendation of Secretary Frink that the State Water Commission approve a 30 percent state cost participation not to exceed an allocation of \$36,000 from July 1, 2009 through June 30, 2011 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to support the Red River Basin flood control coordinator.

It was moved by Commissioner Olin and seconded by Commissioner Vosper that the State Water Commission approve a 30 percent state cost participation not to exceed an allocation of \$36,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to support the Red River Basin flood control coordinator from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

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

***UPPER SHEYENNE RIVER JOINT
WATER RESOURCE BOARD -
APPROVAL OF STATE COST
PARTICIPATION (\$12,000) FROM
JULY 1, 2009 TO JUNE 30, 2011
(SWC Project No. 322)***

The Upper Sheyenne River Joint Water Resource Board includes representation from 12 of the basin's counties including Barnes, Benson, Eddy, Foster, Griggs, McHenry, Nelson, Pierce, Sheridan, Steele, Stutsman, and Wells. The diverse membership provides a broad-

based understanding of the needs of the basin in order to carry out its mandate "to bring the watershed above Baldhill Dam (Lake Ashtabula) into a partnership in order to review issues and create solutions through local, county, state, and federal cooperation."

The board played an important role in the restoration of the Warwick Dam in Eddy county and Ueland Dam in Griggs county, a cost share partner in a water quality analysis project of the Sheyenne River, assisting to raise awareness and support among the member counties for the Red River Valley Water Supply project, and completed its water management plan. The board performs an important role in coordinating water project development and water quality improvements in the Sheyenne River.

A request from the Upper Sheyenne River Joint Water Resource Board was presented for the State Water Commission's consideration for a 50 percent state cost participation in the amount of \$12,000 in the 2009-2011 biennium (July 1, 2009 through June 30, 2011). Funds would be used for administrative expenses, travel, and transportation to meetings; support the services of the part-time chairman and secretary of the board; continue the board's efforts to encourage water management that recognizes hydrologic boundaries; continue efforts to coordinate the restoration and enhancement of existing dams and promote the construction of viable new flood storage reservoirs; and work to facilitate data collection and improve water quality in the basin.

The State Water Commission has a lengthy history of supporting and encouraging the management of water along watershed lines through groups such as the Red River, Missouri River, and Devils Lake Joint Boards which corresponds to the State Water Commission's goal of "managing water resources for the future welfare and prosperity of the people of North Dakota." Boards organized along watershed boundaries play an important role in coordinating water management that reflects the needs of multiple counties.

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 \$12,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Foley and seconded by Commissioner Swenson that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$12,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

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

***BUFFALO COULEE SNAGGING
AND CLEARING PROJECT
(TRAILL COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$49,000)
(SWC Project No. 1413)***

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear Buffalo Coulee. An assessment district has been created to finance the project.

The project will consist of snagging and clearing the channel from the outlet into the Red River in Grand Forks county and will proceed upstream into Traill county to the point where the assessment funding is exhausted. Throughout this reach, the Buffalo coulee channel is bordered with extensive tree growth stands.

The proposed snagging and clearing work will include the removal of all fallen trees, standing trees in eminent danger of falling into the channel, driftwood snags, loose stumps and trunks, standing stumps which are encountered within the channel, and those that are lodged/leaning on the immediate bank slopes between upstream and downstream limits. All snagged material will be properly disposed. The district intends to hire a contractor to complete this project during the winter of 2009/2010.

The project engineer's cost estimate is \$100,000, of which \$98,000 is determined as eligible for state cost participation as a snagging and clearing project at 50 percent of the eligible costs (\$49,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$49,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$49,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill County Water Resource District for the Buffalo Coulee snagging and clearing project.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$49,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill County Water Resource District for the Buffalo Coulee snagging and clearing project. This action is contingent upon the availability of funds.

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

**MCGREGOR DAM EMERGENCY
ACTION PLAN (WILLIAMS COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$25,000)
(SWC Project No. 528)**

A request from the Williams County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the development of an emergency action plan (EAP) for McGregor Dam.

The dam was constructed in 1967 with a maximum pool of 102 acres, length of 900 feet, width of 10 feet, and a maximum height of 43 feet. The dam is located in Section 22, Township 159 North, Range 95 West in Williams county. It is a rolled earthen dam owned by the North Dakota Game and Fish Department.

North Dakota Century Code section 61-03-21 and North Dakota Administrative Code section 89-08-04-01 requires the operator of a reservoir, with a storage capacity greater than 1,000 acre-feet of water, to submit an annual operations plan to the Office of the State Engineer which includes the emergency procedures and warning plans.

McGregor Dam is classified as a High Hazard Class V Dam and will be developed in accordance with the basic guidelines described for a Class V Dam in Chapter 10 of the North Dakota Dam Design Handbook (North Dakota State Engineer, June, 1985). Houston Engineering is developing the EAP for McGregor Dam with two major components: the preparation of the front-end report document and the breach inundation study. The project engineer's cost estimate is \$39,500, of which all costs are determined as eligible for state cost participation as an emergency action plan at 80 percent of the eligible costs (\$31,600), limited to the cost share policy amount of \$25,000. The request before the State Water Commission is for an 80 percent state cost participation, limited to \$25,000.

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

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

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

***MOTT DAM EMERGENCY ACTION
PLAN (HETTINGER COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$25,000)
(SWC Project No. 249)***

A request from the Hettinger County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the development of an emergency action plan (EAP) for Mott Dam. The dam is located on an unnamed tributary of the Cannonball River in Section 35, Township 134 North, Range 93 West in Hettinger county. The dam was constructed in 1969 by the Hettinger County Water Resource District and the Soil Conservation Service to reduce the damages caused by flooding. The embankment height of Mott Dam is 39 feet above the streambed and the maximum pool storage is 2,811 acre-feet of water. The drainage basin encompasses 3.22 square miles, all of which contributes to runoff.

North Dakota Century Code section 61-03-21 and North Dakota Administrative Code section 89-08-04-01 requires the operator of a reservoir, with a storage capacity greater than 1,000 acre-feet of water, to submit an annual operations plan to the Office of the State Engineer which includes the emergency procedures and warning plans.

Mott Dam is classified as a High Hazard Class IV Dam and is to be developed in accordance with the basic guidelines described for a Class IV Dam in Chapter 10 of the North Dakota Dam Design Handbook (North Dakota State Engineer, June, 1985). Houston Engineering is developing the EAP for Mott Dam with two major components: the preparation of the front-end report document and the breach inundation study. The project engineer's cost estimate is \$38,800, of which all costs are determined as eligible for state cost participation as an emergency action plan at 80 percent of the eligible costs (\$31,040), limited to the cost share policy amount of \$25,000. The request before the State Water Commission is for an 80 percent state cost participation, limited to \$25,000.

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

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

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

**RED RIVER BASIN NATURAL
RESOURCE CONSERVATION
SERVICE RING DIKE PROGRAM -
APPROVAL OF STATE COST
PARTICIPATION (\$200,000)
(SWC Project No. 1638)**

A new funding source supporting ring dike development in the Red River of the North basin has become available through the Natural Resource Conservation Service (NRCS). The program is specific to the Red River basin, including the Devils Lake

watershed, and is designed to provide a 75 percent cost share assistance to agricultural producers in North Dakota (\$1,000,000) and Minnesota (\$2,000,000). The program criteria is being finalized; the application deadline is July 15, 2009 and the federal funds must be committed by September 30, 2009.

The NRCS criteria for dike construction will apply, and the program may support 25-year or 100-year flood frequency protection. The State Water Commission has offered a ring dike cost participation program for several years and the criteria specifies that the area must be protected for a high water mark greater than the 1997 or 100-year flood frequency criteria.

Secretary Frink explained that the State Water Commission could provide financial support to assist agricultural producers using the Commission's current procedure of providing money (50 percent of the non-federal cost) through the local water resource districts who would then contract with the producer. State funds could also upgrade a project to a 100-year protection should the NRCS fund only a 25-year flood frequency protection.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to provide a 50 percent cost share assistance to agricultural producers, contracting through the water resource districts, for projects approved under the Natural Resource Conservation Service ring dike development program.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to provide a 50 percent cost share assistance to agricultural producers, contracting through the water resource districts, for projects approved under the Natural Resource Conservation Service ring dike development program. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN NON-NATURAL
RESOURCE CONSERVATION
SERVICE RURAL/FARMSTEAD
RING DIKE PROGRAM -
APPROVAL OF STATE COST
PARTICIPATION (\$400,000)
(SWC Project No. 1638)**

Recent floods have caused extensive damage in the Red River basin and property owners have recognized the need and desire to have their homes and outbuildings protected from future floods. It is anticipated that ring dikes will be constructed in the Red River basin under the newly-funded Natural

Resource Conservation Service (NRCS) program for agricultural producers only and under the State Water Commission's non-NRCS rural/farmstead ring dike program.

Under the State Water Commission's program (non-NRCS funded), rural/farmstead ring dikes will be constructed to criteria developed by the Commission. A dike permit will be required if the imprint of the dike consists of a volume of 50 acre-feet or more of water. The proposed ring dikes do not require engineering services, although a survey may be necessary to set elevations. Reimbursement is limited to 50 percent of the actual eligible costs, limited to a maximum of \$40,000 per ring dike. Administration and legal expenses are ineligible for cost share assistance.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$400,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the water resource districts within the Red River basin to support the non-Natural Resource Conservation Service rural/farmstead ring dike program.

The Commission's ring dike program construction criteria was discussed at length. Concerns were strongly voiced from representatives of the water resource districts of the importance that the Commission staff provide a commitment to the district/landowner of available funds for reimbursement prior to the ring dike construction.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve an allocation not to exceed \$400,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the water resource districts within the Red River basin to support the non-Natural Resource Conservation Service rural/farmstead ring dike program. This action is contingent upon the availability of funds; and, prior to the construction of a ring dike, the State Water Commission staff shall provide a commitment to the district/landowner of the availability of funds for reimbursement in accordance with the Commission's ring dike program construction criteria.

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

Commissioner Thompson questioned the status of the cost share requests which were deferred at the March 23, 2009 State Water Commission meeting due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. Secretary Frink responded that he is recommending the continued deferment on rural flood control projects funding at this time, and that primary flood control projects and dam safety needs become priority. Because of the discussion, Governor Hoeven appointed a subcommittee (Secretary Frink, Commission members Harley Swenson, Robert Thompson, and Maurice Foley, and Jeff Volk representing Moore Engineering) to address the issue of deferring rural flood control and agricultural drainage projects.

***SHEYENNE RIVER WATERSHED
FLOOD WATER DETENTION STUDY -
APPROVAL OF STATE COST
PARTICIPATION (\$75,000)
(SWC Project No. 1509)***

A request from the Sheyenne River Joint Water Resource District was presented for the State Water Commission's consideration for state cost participation for their Sheyenne River Watershed Flood Water Detention

study. Flooding throughout the Sheyenne River watershed has resulted in repeated damages at numerous locations in the basin. The purpose of the study is to determine the potential of constructing flood water detention structures throughout the watershed.

The study will consist of general information; preliminary meetings; review of the existing FIS HEC-RAS computer model; subwatershed delineation and analysis of the Sheyenne River watershed above, below, and upstream of Baldhill Dam; identification of flood water storage potential between Lisbon and Valley City and between Kindred and Lisbon; identification of the storage potential on the three largest tributaries downstream of Baldhill Dam; a benefit analysis of the Baldhill Creek detention site, downstream benefit analysis of the mainstem and tributary sites identified from the Sheyenne River mainstem and tributary site analyses; completion of a study report; and public meetings to include study modifications.

The estimated total cost of the Sheyenne River Watershed Flood Water Detention study is \$150,000, of which all costs are determined as eligible for state cost participation as an engineering feasibility study at 50 percent of the eligible costs (\$75,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$75,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as an engineering feasibility study at 50 percent of the eligible costs not to exceed an alloca-

tion of \$75,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Sheyenne River Joint Water Resource District to support their Sheyenne River Watershed Flood Water Detention study.

It was moved by Commissioner Thompson and seconded by Commissioner Vosper that the State Water Commission approve state cost participation as an engineering feasibility study at 50 percent of the eligible costs not to exceed an allocation of \$75,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Sheyenne River Joint Water Resource District to support their Sheyenne River Watershed Flood Water Detention study. This action is contingent upon the availability of funds.

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

**2009 HOUSE BILL 1305 -
APPROVAL OF STATE GRANTS
FOR WATER PROJECTS (\$2,792,000)
FOR BURKE, DIVIDE, WILLIAMS WATER
SUPPLY PROJECT; RAY AND TIOGA
WATER SUPPLY PROJECT; CITY OF
STANLEY WATER PIPELINE
PROJECT; AND CITY OF WILDROSE
WATER SUPPLY PROJECT
(SWC Project No. 237-03)**

The 2009 North Dakota Legislature enacted House Bill 1305 that provides an appropriation (\$2,792,000) from the permanent oil trust fund in the state treasury to the State Water Commission for water project grants, which was declared an emergency measure, effective May 5, 2009. The enacted legislation is as follows:

HOUSE BILL 1305

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$2,792,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing a grant of up to \$864,000 to assist in the local cost share of the Ray and Tioga water supply project, providing a grant of up to \$985,000 to assist in the local cost share of the Burke, Divide, and Williams water district water supply project, providing a grant of up to \$593,000 to assist in the local cost share of the Wildrose water supply project, and providing a grant of up to \$350,000 to assist in the repayment of outstanding bonds associated with the Stanley water pipeline construction project, for the period beginning with the effective date of this Act and ending June 30, 2011.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation of \$2,792,000 from the permanent oil tax trust fund in the state treasury, enacted by the 2009 North Dakota Legislature in House Bill 1305 to the State Water Commission, to provide water project grants for the following projects:

1)	Ray and Tioga Water Supply Association	\$ 864,000
2)	Burke, Divide, Williams Water District	\$ 985,000
3)	City of Wildrose	\$ 593,000
4)	City of Stanley	<u>\$ 350,000</u>

House Bill 1305 - total water project grants \$2,792,000

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission approve an allocation of \$2,792,000 from the permanent oil tax trust fund in the state treasury, enacted by the 2009 North Dakota Legislature in House Bill 1305 to the State Water Commission, to provide water project grants for the projects specified in the above recommendation. This action is contingent upon the availability of funds from the permanent oil tax trust fund in the state treasury, and is subject to future revisions.

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

**McKENZIE COUNTY RURAL WATER
SYSTEM II - APPROVAL OF 2009-2011
BIENNIUM STATE FUNDS (\$1,500,000)
(SWC Project No. 237-03)**

McKenzie county is experiencing tremendous growth countywide as a result of expanded energy-related ventures. While growth in the energy industry has brought great opportunity to the area,

there have also been significant challenges in meeting the water needs of the region. In an effort to address the issue, the need for rural water in the area has become apparent. The McKenzie County Commission and the McKenzie County Water Resource District are developing three projects to bring and expand rural water service to portions of eastern, central, and western McKenzie county.

McKenzie County Rural Water System I currently serves approximately 120 users and has an additional 65 users planned for addition to the system including some users originally planned to be served from System II. Due to hydraulic design considerations, it was determined to serve these users of System I to reduce line pressures and pipe pressure classifications and to reduce the costs. The proposed System I would expand existing facilities and install new pipelines to serve the users.

A feasibility study was completed for eastern McKenzie Rural Water System II with the preferred alternative to obtain a bulk water supply from the northwest segment of the Three Affiliated Tribes Fort Berthold Rural Water System. Serving eastern McKenzie County would require upsizing the Fort Berthold pipeline capacity at an estimated cost of \$474,272. On November 3, 2003, the State Water Commission approved a 70 percent grant, not to exceed an expenditure of \$360,000 from the Water Development Research Fund (Garrison Diversion Conservancy District), to the McKenzie County Water Resource District for obtaining the System II water supply from the northwest segment of the Three Affiliated Tribes Fort Berthold Rural Water. McKenzie Rural Water System has entered into a purchase agreement with the Three Affiliated Tribes's Fort Berthold Rural Water System to provide water to eastern McKenzie county through System II of the McKenzie Rural Water System.

McKenzie Rural Water System is proposing to construct System II on a parallel tract with the Four Bears water treatment facility expansion to provide service to the region. Congressional approval was obtained to secure a 75 percent grant of \$4,855,000 for the distribution portion of System II. Construction consists of 225 miles of distribution pipeline, a storage tank, and pumping stations to serve 170 rural users in addition to commercial (ranching) and industrial (oil) interests. The estimated cost is \$2,000,000 to the McKenzie Rural Water System II for the water supply capacity required from the Fort Berthold water treatment facility expansion. A request from the McKenzie Rural Water System was presented for the State Water Commission's consideration for a 75 percent for System II in the amount of \$1,500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve a 75 percent grant, not to exceed an allocation of \$1,500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the McKenzie Rural Water System II for the water supply capacity required from the Four Bears water treatment facility expansion.

It was moved by Commissioner Hanson and seconded by Commissioner Swenson that the State Water Commission approve a 75 percent grant, not to exceed an allocation of \$1,500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the McKenzie Rural Water System II for the water supply capacity required from the Four Bears water treatment facility expansion. This action is contingent upon the availability of funds, satisfaction of the federal Municipal, Rural and Industrial (MR&I) Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, 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)**

The following Southwest Pipeline Project status report was provided:

Contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area:

All of the pipelines and services have been installed on contract 7-8E, and 159 of the 213 rural users have been turned over to the Southwest Water Authority as ready for service.

Precision Landscaping has completed seeding contract 7-8F, Trotters Pocket; currently working on contract 7-8F, in the Fairfield service area.

Contract 7-9B, Medora-Beach Regional Service Area, Phase III, Killdeer Mountains Service Area:

Work commenced on contract 7-9B, Killdeer Mountains service area, in July, 2008, and is essentially 40 percent complete with 51 of the 106 miles of pipeline and 16 of the 108 services installed. The substantial completion date for contract 7-9B is August 1, 2009.

Contract 7-8G, Medora-Beach Regional Service Area, Phase III, Grassy Butte Service Area:

Work commenced on contract 7-8G, Gassy Butte service area, on October 29, 2008. The contract is approximately 70 percent complete with 74 of the 82 miles of pipeline and 56 of the 85 services installed. The substantial completion date is August 1, 2009.

Contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield reservoir:

The State Water Commission authorized the award of contract 8-2, Fairfield reservoir, on March 17, 2008 to Dakota Pump and Control, Inc., with American Structures, Inc. as the reservoir erector. The Fairfield reservoir was put into service in May, 2009.

Oliver-Mercer-North Dunn Regional Service Area:

Contract 2-8A, Main Transmission Pipeline from Oliver-Mercer-North Dunn water treatment plant to Hazen, is being advertised with a June 25, 2009 bid opening.

Contract 3-1C, Oliver-Mercer-North Dunn water treatment plant membrane equipment procurement is anticipated to be advertised in July, 2009.

Contract 3-1D, Oliver-Mercer-North Dunn water treatment plant building and equipment installation, will commence when the submittals are received for contract 3-1C.

The Oliver-Mercer-North Dunn environmental assessment was submitted for public comment on April 24, 2009, with finalization by June 15, 2009, followed by a 30-day period in which no funds can be committed.

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
SERVICE AREA, MAIN TRANS-
MISSION PIPELINE FROM OLIVER-
MERCER-NORTH DUNN WATER
TREATMENT PLANT TO HAZEN
MAIN TRANSMISSION LINE -
AUTHORIZE AWARD OF CONTRACT 2-8A
(SWC Project No. 1736)***

Southwest Pipeline Project contract 2-8A includes furnishing and installing approximately 23 miles of 18 inch to 10 inch gasketed joint PVC pipe; 2 pressure reducing valve vaults; road crossings; connections to the existing pipeline; connection to the city of Hazen's distribution system; meter vault; and other related appurtenances. The pipeline will deliver water from the water

treatment plant to the city of Zap, the Beulah interim service area (63 rural users), and the city of Hazen when the water treatment plant comes on line. The pipeline will eventually feed approximately half of Mercer county, all of Oliver county, and a small portion of Dunn county when subsequent transmission and distribution lines are installed on future contracts.

Bids will be opened for contract 2-8A on June 25, 2009. The engineer's estimate is \$4,512,935, which is \$800,000 below the estimate in the preliminary engineering report based on recent bid contracts. The total estimated project cost is \$5,700,000. The project will be funded with a combination of the remaining 2007-2009 biennium State Water Commission's allocation for the Southwest Pipeline Project and the Fiscal Year 2009 federal Municipal, Rural and Industrial (MR&I) Water Supply program funding.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 2-8A based on the lowest responsive and responsible bid upon review of the bids received June 25, 2009, a legal review of the contract documents by the state, and concurrence of the Bureau of Reclamation or completion of the environmental assessment process.

The Commission members expressed concerns relating to the pre-authorization of the award of contract before the bids have been opened. The Commission members agreed to the pre-authorization if the lowest responsive and responsible bid does not exceed the engineer's estimate of \$4,512,935. If the lowest responsive and responsible bid is in excess of the project engineer's estimate, the State Water Commission would revisit the issue.

It was moved by Commissioner Swenson and seconded by Commissioner Vosper that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 2-8A based on the lowest responsive and responsible bid upon review of the bids received June 25, 2009. This action is contingent that the lowest responsive and responsible bid shall not exceed the engineer's estimate of \$4,512,935, a legal review of the contract documents by the state, and concurrence of the Bureau of Reclamation or completion of the environmental assessment process.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, 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)**

The following Northwest Area Water Supply (NAWS) project status report was provided:

Manitoba and Missouri Lawsuit: The administrative record showing the information that the Bureau of Reclamation used to develop their Record of Decision for the environmental impact statement (EIS) was filed with the federal court on May 26, 2009. The U.S. Department of Justice also filed their answers to the Manitoba and Missouri complaints on May 26, 2009. The next filing is scheduled for August 13, 2009, at which time the federal and state will jointly file a request to either dismiss or provide a summary judgment on the lawsuit.

Design and Construction Contracts:

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 January 8, 2010.

Houston Engineering denied a \$500,000 claim submitted by the contractor. A mediation session was held on May 4, 2009 with a possible second mediation session planned in July, 2009.

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. A walk through was completed on October 29, 2008 and the final punch list was generated and completed. Final payment will be made after receipt of all lien waivers and landowner release forms.

Contract 2-2C: The contract work covers 52 miles of 10-12 inch pipeline for the Kenmare/upper Souris pipeline. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. As of June 5, 2009, approximately 12 miles of pipeline have been installed.

Contract 2-2D: The contract work includes 62 miles of pipeline for the Mohall/All Seasons pipeline. The bid opening is scheduled for July 14, 2009.

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir for the Kenmare/upper Souris pipeline. The bid opening was held on March 19, 2009; contract award is pending submittal of the proper insurance forms.

Contract 2008-1: The NAWS portion includes 13 miles of 6 and 10 inch pipeline between the All Seasons water treatment plant and Gardena, ND. The NAWS-All Seasons-Upham project under bid schedule 1 of contract 2008-1 was opened 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. The contract was awarded to Swanberg Construction, Grand Forks, ND; the engineering related work for this project is estimated at \$112,500. Two (2) miles of the 10 inch pipeline have been installed, the tie-in to the water treatment plant on the north end has been completed, and a boring crew is working on the railroad, coulee, and road crossings.

Berthold Pipeline Operation Status: In April, 2009, 1.8 million gallons of water flowed through the metered turnouts along the NAWS Berthold pipeline. Berthold's usage was 935,500 gallons of water. Minot's water usage for service to south hill was 604,000 gallons of water, service to North Prairie was 88,000 gallons of water at the turnout near Burlington, and 21,000 gallons of water at the Ward County 10A turnout.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
MOHALL-SHERWOOD-ALL
SEASONS PIPELINE -
AUTHORIZE AWARD OF CONTRACT 2-2D
(SWC Project No. 237-04)**

Northwest Area Water Supply (NAWS) project contract 2-2D includes 62 miles of pipeline and turnouts for Mohall, Sherwood, Upper Souris Water District, and All Seasons Water Users District.

Bids will be opened for contract 2-2D on July 14, 2009. The engineer's estimate is \$6,558,000. The project will be funded with a combination of approved Fiscal Year 2009 federal Municipal, Rural and Industrial (MR&I) Water Supply program funding, 2007-2009 biennium State Water Commission's allocation for the Northwest Area Water Supply project, and the city of Minot's 35 percent cost share. The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening, and allows the Commission to select the most advantageous bid. The contract will require approval by the Bureau of Reclamation, and the award of the contract and notice to proceed are dependent on the satisfactory completion of the contract documents, 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 2-2D based on the lowest responsive and responsible bid upon review of the bids received July 14, 2009.

The Commission members reiterated their concerns relating to the pre-authorization of the award of contract before the bids have been opened. The Commission members agreed to the pre-authorization of the award of the contract if the lowest responsive and responsible bid does not exceed the engineer's estimate of \$6,558,000. In the event that the lowest responsive and responsible bid is in excess of the engineer's estimate, the State Water Commission would revisit the issue.

It was moved by Commissioner Foley and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply project contract 2-2D based on the lowest responsive and responsible bid upon review of the bids received July 14, 2009. This action is contingent that the lowest responsive and responsible bid shall not exceed the engineer's estimate of \$6,558,000, a legal review of the contract documents by the state, and written concurrence of the Bureau of Reclamation that the contract prerequisites have been satisfied.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, 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)**

Lake has risen 3.18 feet and Stump Lake has risen 2.99 feet. The combined storage of Devils Lake and Stump Lake for June 1, 2009 was 3.45 million acre-feet of water with a total surface area of both lakes at 167,000 acres. State Water Commission staff memorandum, dated June 2, 2009, and attached hereto as **APPENDIX "D"**, provides additional information relating to the Devils Lake hydrology.

On June 1, 2009, the water surface elevation of Devils Lake was 1450.47 feet msl and Stump Lake was 1450.17 feet msl. Since March 23, 2009, Devils

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

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 was extended through June 30, 2013.

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,

The outlet pumps were started on May 21, 2009, with releases into the Sheyenne River beginning on May 22, 2009. Unlike in 2008 when the operations began on April 21, flood conditions on the Sheyenne River prevented any releases until the river flows were lower.

In May, 2009, the flow and water quality conditions allowed the outlet to operate at a maximum capacity of 100 cubic feet per second, which removed approximately 800 acre-feet of water from Devils Lake. The outlet will continue to operate provided the flow and water quality constraints are met.

Joe Belford, Devils Lake Downstream Acceptance program manager, provided an update on the efforts of the Devils Lake interagency task force. The State Water Commission members and others will participate in a tour on June 24, 2009 of the Devils Lake flooding.

**DEVILS LAKE OUTLET AWARE-
NESS PROJECT MANAGER -
APPROVAL OF CONTRACT FROM
JULY 1, 2009 THROUGH JUNE 30, 2011
(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, 2009 through June 30, 2011, with a 33 percent state cost participation (\$42,000). 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 33 percent state cost participation not to exceed an allocation of \$42,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Water Resource Board to support the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve a 33 percent state cost participation not to exceed an allocation of \$42,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Water Resource District to support the services of the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

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

**DEVILS LAKE BASIN JOINT WATER
RESOURCE BOARD MANAGER -
APPROVAL OF CONTRACT FROM
JULY 1, 2009 THROUGH JUNE 30, 2011
(SWC Project No. 416-01)**

Since 1998, the State Water Commission has promoted watershed management along the watershed lines in the Devils Lake Basin. The Joint Board has shown a commitment to this concept demonstrated through their support of

the state outlet, management of the extended storage acreage program and the Sweetwater-Morrison storage program, Graham's Island road raise, long-term water

quality sampling and analysis in the basin coulees, and completion of the 2009 update of the Devils Lake basin water management plan.

The State Water Commission has supported watershed management along the watershed lines through the cost share of a managerial position for the Board, which is an essential position in ensuring that the goals and objectives of the Board are carried out in a timely and professional manner. A request from the Devils Lake Basin Joint Water Resource Board was presented for the State Water Commission's consideration for a 50 percent state cost participation in the amount of \$60,000 for the 2009-2011 biennium. The remaining funds would be provided by the Devils Lake Basin Joint Water Resource District.

It was the recommendation of Secretary Frink that the State Water Commission approve a 50 percent state cost participation not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Water Resource Board to support the services of the Devils Lake Basin Joint Water Resource board manager from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve a 50 percent state cost participation not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Water Resource Board to support the services of the Devils Lake Basin Joint Water Resource board manager from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, 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: 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 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.

Status reports for April-June, 2009, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, relating to the specific efforts of the Red River Valley Water Supply project, which are attached hereto as **APPENDIX "E"**.

**UPPER MISSOURI WATER
AUTHORITY ECONOMIC STUDY
(SWC Project No. 237-03)**

On March 23, 2009, the State Water Commission passed a motion approving a 65 percent grant, not to exceed an allocation of \$65,000 from the Water Development Research Fund (Garrison Diversion Conservancy District) to conduct a long-range water supply study for Burke, Divide, McKenzie, and Williams counties.

The Garrison Diversion Conservancy District administered an economic analysis of two options for providing a water supply within the Williston area. The systems, referred to as the Upper Missouri Water Authority, involved in the options study included the BDW Rural Water District, city of Crosby, Ray and Tioga Water Supply Association, city of Williston, McKenzie County Water Resource District, and the city of Watford City.

The study focused on the cost-benefit analysis associated with implementing a regional water supply for the Upper Missouri water utilities. The regional option would use surplus water from the city of Williston and transmit it to various utilities in lieu of building local facilities. The study results indicated the capital costs associated with the regional option are more than double compared to the local option, while the operation and maintenance costs for the regional option are about half of the local option operation and maintenance costs. The study results also indicate that implementing a regional transmission system to access water from the city of Williston is economically feasible to building local options for all of the utilities considered except BDW/Crosby and McKenzie County System II.

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

On June 3, 2009, the system storage in the six mainstem reservoirs was 55.0 million acre-feet (MAF), 1.3 MAF below the average system storage for the end of May and 16.2 MAF more than in 2008. The record minimum system storage for the end of May was 36.1 MAF in 2005, and the maximum system storage for the end of May was 67.6 MAF in 1997. The Corps of Engineers predicted runoff above Sioux City for 2009 is 31.1 MAF, 125 percent of normal. This results in a forecast that the system will have 51.6 MAF at the end of 2009. The record low end of year system storage was 34.0 MAF in 2007, and the maximum end of year storage was 60.95 MAF in 1975.

Lake Sakakawea was at an elevation of 1835.0 feet msl on June 3, 2009, 25.0 feet higher than in 2008 and 4.8 feet below its average end of May elevation. The record minimum end of May elevation was 1808.8 feet msl in 2005, and the maximum end of May elevation was 1853.7 in 1997. Lake Sakakawea is forecast to peak at 1837.5 feet msl, which is the base of the annual flood control pool, at the end of July, 2009. Inflow into Lake Sakakawea has been above average since the beginning of 2009. The peak inflow was 1.42 MAF in April, 131 percent above normal.

The elevation of Lake Oahe was 1613.7 feet msl on June 3, 2009, which is 28.7 feet higher than in 2008 and 9.3 feet higher than its average May elevation. The record minimum end of May elevation for Lake Oahe was 1575.8 feet msl in 2005, and the maximum end of May elevation was 1618.5 feet msl in 1996. Lake Oahe is forecast to peak at 1613.6 feet msl at the end of May, 2009.

Fort Peck Lake was at an elevation of 2217.9 feet msl on June 3, 2009, which is 16.9 feet higher than in 2008 and 12.3 feet below its average daily end of May elevation. The basic forecast calls for Fort Peck to peak at 2220.3 feet msl at the end of June, 2009.

The Corps of Engineers basic forecast, 31.1 MAF of runoff, shows the navigation season as not being shortened. The actual length of the navigation season and service level will be determined by the amount of water in storage on July 1, 2009. The navigation flows are currently at minimum service. With a forecasted system of 56.5 MAF on July 1, navigation will be increased to 500 cubic feet per second under target navigation flows.

**2009 SPRING FLOOD REPORT
(SWC Project No. 1431-08)**

The 2009 spring flood summary and hydrologic conditions experienced state-wide were discussed, which are summarized in a State Water Commission staff memorandum dated June 12, 2009, and attached hereto as **APPENDIX "F"**.

**APPROVAL OF RELEASE OF DAM
EASEMENTS AND DEDICATION FOR
SCHMIDT-HOLLE DAM, MORTON COUNTY
(SWC Project No. 1292)**

In 1935, easements for land to construct a dam in Morton county were given to the State of North Dakota in the following described premises:

Holle Easement - Northwest Quarter (NW1/4) of Section 29, Township 140 North, Range 85 West, Morton County.

Moltzon Easement - West Half of the Northeast Quarter (W1/2NE1/4) of Section 29, Township 140 North, Range 85 West, Morton County.

A letter was received in the Office of the State Engineer on June 16, 2009 from the law firm of Bair, Bair & Garrity, LLP, Mandan, N.D., representing Allyn Lennie, David Holle, and Neal Holle, New Salem, N.D. affirming ownership of the land where the easements are in effect and requesting that the State Water Commission release the easements for the Schmidt-Holle Dam project.

The dam suffered serious damage in the spring of 2009 and the landowners have expressed an interest to repair the dam at their expense. The dam no longer serves a public use, and the Morton County Water Resource District does not intend to rebuild the structure. The State Water Commission's dam safety section has not inspected the site at this time.

Because the State of North Dakota has no future interest in reconstructing the dam on the property covered by the easements, it was the recommendation of Secretary Frink that the State Water Commission approve the Release of Dam Easements and Dedication, pursuant to North Dakota Century Code section 61-02-14.1, for the easements as previously described for the Schmidt-Holle Dam in Morton county.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve the Release of Dam Easements and Dedication, pursuant to North Dakota Century Code section 61-02-14.1, for the easements as previously described for the Schmidt-Holle Dam in Morton county.

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

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 5:35 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