

North Dakota State Water Commission

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**Meeting To Be Held At
State Office Building
Lower Level Conference Room
Bismarck, North Dakota**

**October 26, 2010
1:30 P.M., CDT**

AGENDA

- A. Roll Call
- B. Consideration of *Agenda* - Information pertaining to the agenda items is available on the State Water Commission's website at <http://www.swc.nd.gov> (select 'News and Information')
- C. **Consideration of Draft Minutes of September 1, 2010 SWC Meeting** **
- D. State Water Commission Financial Updates:
 - 1) Agency Program Budget Expenditures
 - 2) 2009-2011 Biennium Resources Trust Fund and Water Development Trust Fund Revenues
- E. Consideration of Following Requests for Cost Share:
 - 1) Cost Share Policy Committee Report
 - 2) **Christine Dam - Cass County** **
 - 3) **Hickson Dam - Cass County** **
 - 4) **Fort Berthold Reservation Feasibility Irrigation Study** **
- F. Fargo Moorhead Metropolitan Area Flood Risk Management (Feasibility Study) Update
- G. City of Linton 2009 Flood Recovery Funding Request
- H. Canadian Discussions on Devils Lake, Northwest Area Water Supply Project, and International Boundary Roadway Dike in Pembina County Report

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- I. Devils Lake:
 - 1) Hydrologic Report
 - 2) Devils Lake Outlet Report
 - 3) ***Sheyenne River Crossings - Eddy County*** **
 - 4) Debris Removal Report
 - 5) ***Devils Lake Outlet Expansion, East End Outlet, and Tolna Coulee Control Structures*** **

- J. Northwest Area Water Supply Project Report

- K. International Boundary Roadway Dike Report - Pembina County

- L. Southwest Pipeline Project:
 - 1) Project Report
 - 2) ***City of Center - Water Service Contract*** **

- M. State Grants for Water Supply Projects:
 - 1) ***West Area Water Supply*** **

- N. Garrison Diversion Conservancy District

- O. Missouri River Report

- P. Other Business

- Q. Adjournment

**** BOLD, ITALICIZED ITEMS REQUIRE SWC ACTION**

To provide telephone accessibility to the State Water Commission meeting for those people who are deaf, hard of hearing, deaf and/or blind, and speech disabled, please contact Relay North Dakota, and reference ... TTY-Relay ND ... 1-800-366-6888, or 711.

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

October 26, 2010

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on October 26, 2010. Governor John Hoeven, Chairman, called the meeting to order at 1:30 P.M., and requested Todd Sando, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Doug Goehring, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
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:

Larry Hanson, Member from Williston

OTHERS PRESENT:

Todd Sando, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF DRAFT MINUTES
OF SEPTEMBER 1, 2010 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the September 1, 2010 State Water Commission meeting were approved, as amended, with the inclusion of the following language on

page 25, paragraph 5 relating to the Devils Lake debris removal: The Commission staff will begin the process of contacting landowners at or below elevation 1452 feet msl in November, 2010 to make them aware of the existing law and provide alternatives for structural removal.

It was moved by Commissioner Swenson, seconded by Commissioner Berg, and unanimously carried, that the draft minutes of the September 1, 2010 State Water Commission meeting be approved as amended.

**STATE WATER COMMISSION
BUDGET EXPENDITURES,
2009-2011 BIENNIUM**

In the 2009-2011 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 August 31, 2010, reflecting 58 percent of the 2009-2011 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget amounts. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the general fund project dollars. The total amount allocated for projects is \$195,430,886 leaving a balance of \$2,396,513 available to commit to projects.

**RESOURCES TRUST FUND
AND WATER DEVELOPMENT
TRUST FUND REVENUES,
2009-2011 BIENNIUM**

Oil extraction tax deposits into the Resources Trust Fund total \$73,288,296 and are currently \$13,788,058, or 23.2 percent above budgeted revenues.

Deposits into the Water Development Trust Fund total \$9,367,589 in the 2009-2011 biennium and are currently \$505,679, or 5.1 percent below the budgeted revenues. The next scheduled payment into the Water Development Trust Fund is in April, 2011.

STATE WATER COMMISSION COST SHARE POLICY, PROCEDURE, AND GENERAL REQUIREMENTS - APPROVALS RELATING TO FLOODWATER RETENTION PROJECTS, AND STUDIES, REPORTS, ANALYSIS, SURVEYS, MODELS, ASSESSMENTS, MAPPING (SWC Project No. 1753)

The State Water Commission's cost share policy committee and others met on October 26, 2010. Items of discussion and recommendations included: 1) the applicability of a cost share policy in regards to downstream structures affected by the Devils Lake outlet; recommendation: review concerns/cost share requests as received and not develop a policy; 2) City of

Linton flood recovery economic development efforts (consideration of cost share request for home buyouts, acquisition of property, and the relocation of homes); recommendation: submit, when applicable, construction of flood control projects that are funded under the cost share program (the State Water Commission does not fund property acquisitions, economic development, and relocation); 3) title change for the Red River Basin Individual Rural/Farmstead Ring Dike program; recommendation: rename to Individual Rural/Farmstead Ring Dike program; and 4) word revisions to Cost Share Policy, Procedure, and General Requirements; "The eligibility of certain items for cost share may be addressed on an individual basis and presented to the State Water Commission for consideration. ~~if deemed warranted by the Commission personnel.~~

It was the recommendation of Secretary Sando that the State Water Commission approve the following cost share policy committee's proposed modifications to the cost share policy, procedure, and general requirements, Projects Eligible for Cost Share, Section III, Flood Control Projects, and Section VII, Studies, Reports, Analyses, Surveys, Models, Assessments, Mapping Projects, effective October 26, 2010:

Projects Eligible for Cost Share:

III. Flood Control. The State Water Commission will provide cost share for up to 60 percent of the eligible items of any cost-sharing application approved for flood control projects. The nature of these projects is to protect communities from flooding and may include the repair of dams that provide a flood control benefit. These projects are commonly associated with dams, dikes, levees, diversion channels, water retention structures/methods, dam repairs, drop structures, and miscellaneous flood control programs.

The State Water Commission will provide cost share for up to up to 65 percent for the construction of floodwater retention projects of all costs (for both federal and non-federal projects) except for sponsor-administrative expenses.

The State Water Commission will provide cost share on approved floodwater retention studies, reports, analyses, surveys, models, assessments, and mapping projects up to 50 percent of the eligible costs. All State Water Commission funding provided for a study shall be applied to the construction project, and the construction project shall be adjusted accordingly. Incurred costs that are determined legitimate costs will be allowable for cost share.

VII.B. Mapping Projects. The State Water Commission will provide cost share up to 50 percent for projects with a purpose to gather data and/or accomplish a specific task such as, but not limited to, flood insurance studies and mapping projects, LiDAR acquisition, and flood imagery attainment that is valuable to managing water resources.

VII.C. Emergency Action Plan (EAP). The State Water Commission will provide cost share up to 80 percent, limited to \$25,000, for an emergency action plan (EAP) of each dam classified as a high or medium/significant hazard dam. Reimbursement per actual costs incurred. *The cost of a dam break model is only eligible for reimbursement as a high hazard.*

VII.D. FEMA Flood Control/Reduction Levee System Certification Analyses and Reports. The State Water Commission will provide cost share up to 60 percent for eligible services for FEMA 44 CFR 665.10 flood control/reduction levee system certification analysis. Federally mandated, the analysis is required for FEMA to accredit the levee system for flood insurance mapping purposes. The analysis will result in a comprehensive report to be submitted to FEMA and the State Water Commission. The cost share policy is dependent upon federal funding availability and services, and is subject to change.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the cost share policy, procedure, and general requirements (Projects Eligible for Cost Share: Section III. Flood Control Projects; and Section VIIB, C, and D, Studies, Reports, Analyses, Surveys, Models, Assessments, Mapping Projects) be modified as recommended, effective October 26, 2010.

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

**CITY OF LINTON 2009 FLOOD
RECOVERY EFFORTS -
COST SHARE POLICY
COMMITTEE REPORT**

The State Water Commission's cost share policy committee and others discussed the City of Linton's flood recovery efforts at its October 26, 2010 meeting. The 2009 flood damaged

approximately 20 percent of the city, with the majority of damage occurring in the southwest corner of the city commonly referred to as "Old Town". The city was identified as one of the cities with the highest damage per capita in North Dakota. Ten (10) vacant homes are in FEMA acquisition, and 9 additional homes currently occupied are also in FEMA acquisition. One of the concerns is that if potential funding was approved by FEMA for home acquisitions, it would not appropriately cover the owner's expense for either relocation or rebuilding.

The Phase I request consists of: 1) acquire and clear 2 residential properties located along U.S. Highway 83 at an estimated cost of \$75,000; 2) acquire and clear 2 vacant residential properties that are located out of the floodplain at an estimated cost of \$40,000, which will be utilized for home relocations and/or construction of apartment complexes; and 3) fund the 15 percent local cost share now being paid by each property owner participating in the FEMA Acquisition Program, at an estimated cost of \$270,000. Phase II involves: 1) acquire and clear approximately 40 acres of land in the floodway within the city limits at an estimated cost of \$135,000. Phase III would implement recommendations from the U.S. Army Corps of Engineers Section 22 study.

The State Water Commission's cost share policy, guidelines, and general requirements does not provide funding for property acquisitions, economic development, and relocation. The general consensus of the cost share policy committee was that the City of Linton may submit a request for state cost participation for the construction of a flood control project, when applicable, which is funded under the Commission's cost share program.

On October 26, 2010, the State Water Commission members concurred with the cost share policy committee recommendation. Governor Hoeven also suggested other sources of possible funding which could assist in the city's long-term flood recovery efforts.

**CHRISTINE DAM 2010 RECREATION
IMPROVEMENT PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$184,950)
(SWC Project No. 646)**

A request from the City of Fargo was presented for the State Water Commission's consideration for state cost participation for their project to modify Christine Dam. The city owns the dam and is working with the Minnesota

Department of Natural Resources on the design to provide improved safety for boaters and fish migration characteristics. The proposed improvements are similar to those previously completed at Midtown, 32nd Avenue, and 12th Avenue North Dams.

Christine Dam is located on the Red River of the North approximately 38 river miles south of the City of Fargo. The dam was constructed in the early 1930s for water supply purposes. The proposed retrofit will occur in the NE1/4 of Section 18, Township 136 North, Range 48 West in Cass County. The sovereign lands and construction permits are pending.

The proposed modifications to the dam involve constructing rock arch rapids on the downstream side of the dam. This will eliminate the hazardous conditions boaters are experiencing due to recirculation of the current at the downstream face of the dam. The rock arch rapids will also allow for passage of fish over the dam, which is not possible except during flood events.

The project engineer's cost estimate is \$1,012,375, of which \$462,375 is determined eligible for state cost participation as a recreation project at 40 percent of the eligible costs (\$184,950), leaving the City of Fargo responsible for the remaining amount of \$277,425. Miscellaneous funding contributions in the amount of \$550,000 will be funded by the U.S. Fish and Wildlife Service, National Fish and Wildlife Foundation, Minnesota Department of Natural Resources, North Dakota Game and Fish Department, Buffalo-Red River Watershed District, and the Southeast Cass Water Resource District. The request before the State Water Commission is for a 40 percent state cost participation in the amount of \$184,950.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a recreation project at 40 percent of the eligible costs, not to exceed an allocation of \$184,950 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Christine Dam 2010 safety improvements project.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve conditional state cost participation as a recreation project at 40 percent of the eligible costs, not to exceed an allocation of \$184,950 from the funds appropriated to the State Water Commission in the 2009-2011 bien-

nium (H.B. 1020), to the City of Fargo to support the Christine Dam 2010 safety improvements project. This action is contingent upon the availability of funds, and satisfaction of the permit requirements.

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

**HICKSON DAM 2010 RECREATION
IMPROVEMENT PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$44,280)
(SWC Project No. 646)**

A request from the City of Fargo was presented for the State Water Commission's consideration for state cost participation for their project to modify Hickson Dam. The city owns the dam and is working with the Minnesota

Department of Natural Resources on the design to provide improved safety for boaters and fish migration characteristics. The proposed improvements are similar to those previously completed at Midtown, 32nd Avenue, and 12th Avenue North Dams.

Hickson Dam is located on the Red River of the North approximately 23 river miles south of the City of Fargo. The dam was constructed in the early 1930s for water supply purposes. The proposed retrofit will occur in the NW1/4 of Section 19, Township 137 North, Range 48 West in Cass County. The sovereign lands and construction permits are pending.

The proposed modifications to the dam involve constructing rock arch rapids on the downstream side of the dam. This will eliminate the hazardous conditions boaters are experiencing due to recirculation of the current at the downstream face of the dam. The rock arch rapids will also allow for passage of fish over the dam, which is not possible except during flood events.

The project engineer's cost estimate is \$660,700, of which \$110,700 is determined as eligible for state cost participation as a recreation project at 40 percent of the eligible costs (\$44,280), leaving the City of Fargo responsible for the remaining amount of \$110,700. Miscellaneous funding contributions in the amount of \$550,000 will be funded by the U.S. Fish and Wildlife Service, National Fish and Wildlife Foundation, Minnesota Department of Natural Resources, North Dakota Game and Fish Department, Buffalo-Red River Watershed District, and the Southeast Cass Water Resource District. The request before the State Water Commission is for a 40 percent state cost participation in the amount of \$44,280.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a recreation project at 40 percent of the eligible costs, not to exceed an allocation of \$44,280 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Hickson Dam 2010 safety improvements project.

It was moved by Commissioner Goehring and seconded by Commissioner Thompson that the State Water Commission approve conditional state cost participation as a recreation project at 40 percent of the eligible costs, not to exceed an allocation of \$44,280 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Fargo to support the Hickson Dam 2010 safety improvements project. This action is contingent upon the availability of funds, and satisfaction of the permit requirements.

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

**FORT BERTHOLD INDIAN
RESERVATION IRRIGATION PILOT
STUDY - APPROVAL OF STATE
COST PARTICIPATION (\$37,500)
(SWC PROJECT NO. 281)**

A request from the Three Affiliated Tribes was presented for the State Water Commission's consideration for state cost participation for a pilot irrigation study for the Fort Berthold Indian reservation. On March 23, 2009, the

State Water Commission approved an allocation of \$80,000 to explore the feasibility of developing an irrigation project on the reservation. The study was completed in August, 2010, and has shown a high potential for irrigation in approximately 90,000 to 95,000 acres of the reservation. The study also provides preliminary infrastructure costs and project returns to be economically feasible.

Phase I of this process would focus on a smaller and controlled area for a more in-depth review, costs, and infrastructure planning, which would entail about 30,000 acres. By initiating and completing a pilot-level study for a portion of the Phase I area, which would involve an area of approximately 7,000-9,000 acres, would allow the necessary contacts with area landowners to gauge their interest in the project and do additional refinements of the costs and repayment capabilities of the area.

As with the feasibility study, funding for the pilot study will assist the Three Affiliated Tribes identify part of their irrigable lands, which would be useful in seeking federal development funds to put water to a beneficial use from the upper reaches of the Missouri River.

The total estimated cost of the pilot study is \$75,000, of which 25 percent would be funded by the Three Affiliated Tribes. The request before the State Water Commission is for a 75 percent state cost participation in the amount of \$56,250. Under the State Water Commission's cost share

policy, guidelines, and general requirements, the Commission will provide cost share up to 50 percent of the eligible items approved for irrigation projects.

Although the Commission members were in support of the pilot study, concerns were voiced relative to the March 23, 2009 approval of 100 percent of the eligible costs (\$80,000) for an irrigation project which was contrary to the Commission's cost share policy of providing 50 percent.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation as an irrigation project at 50 percent of the eligible costs, not to exceed an allocation of \$37,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium, to the Three Affiliated Tribes to support Phase I of the pilot irrigation study.

It was moved by Commissioner Goehring and seconded by Commissioner Vosper that the State Water Commission approve state cost participation as an irrigation project at 50 percent of the eligible costs, not to exceed an allocation of \$37,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium, to the Three Affiliated Tribes to support Phase I of the pilot irrigation study. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Goehring, 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.

**FARGO MOORHEAD METROPOLITAN
AREA FLOOD RISK MANAGEMENT
PROJECT REPORT
(SWC Project No. 1928)**

At its October 26, 2010 meeting, the State Water Commission members requested an update on the Fargo Moorhead Metropolitan Area Flood Risk Management project at the Commission's regular meetings. In response, technical information was presented and discussed by the project representatives, which is outlined in **APPENDIX "C"** and attached hereto.

**CANADIAN DISCUSSIONS ON
MANITOBA DIKE NEAR PEMBINA,
DEVILS LAKE FLOODING, AND
NORTHWEST AREA WATER SUPPLY
PROJECT
(SWC Project Nos. 1401, 416, and 237)**

On October 7 and 8, 2010, discussions were held in Washington, DC between the United States and Canada on issues between the countries including the Manitoba dike near Pembina, Devils Lake flooding, and the Northwest Area Water Supply project. The news release from U.S. Senator Byron Dorgan and Manitoba Premier Greg Selinger, dated October 8, 2010 is attached hereto as **APPENDIX "D"**.

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-10)**

As of October 2, 2010, the water surface elevation for Devils Lake was 1451.39 feet msl and Stump Lake was 1451.80 feet msl. The update report on

October 26, showed the water surface elevation for Devils Lake was 1451.25 feet msl. The total volume and area for the lakes on October 6, 2010 was 3,610,000 acre-feet and 176,000 acres. The 2010 peak occurred on June 27, 2010 with a reading for Devils Lake of 1452.05 feet msl and 1452.08 feet msl on Stump Lake. The decrease in volume and area from the peak to October 6, 2010 was 119,000 acre-feet and 6,600 acres. The increase in elevation from October 6, 2009 for Devils Lake was 1.34 feet and for Stump Lake 1.22 feet. The volume and area increase since October 6, 2010 was 225,000 acre-feet and 3,000 acres.

The effect of evaporation and outlet pumping for the years of 2008 to 2010 was indicated by the decrease in volume of both lakes from the time period of July 1 to October 2. For 2008, the decrease in volume was 46,000 acre-feet (540 acre-feet from pumping); for 2009, the decrease was 104,000 acre-feet (18,100 acre-feet from pumping); and for 2010, the decrease was also 104,000 acre-feet with 42,200 acre-feet from pumping.

The National Weather Service provided the following long-range probabilistic forecast for Devils Lake and Stump Lake. The estimated values are valid for the time period of September 28, 2010 through January 3, 2011:

**Chances of Devils Lake and Stump Lake
Rising Above the Given Lake Levels**

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake (ft- msl)	1451.4	1451.4	1452.0

**Chances of Devils Lake and Stump Lake
Falling Below the Given Lake Levels**

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake (ft- msl)	1451.4	1451.1	1450.9

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

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

and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit and the authorized modifications issued by the North Dakota Department of Health. The NDPDES water quality discharge permit had an expiration date of June 30, 2008, which was extended through June 30, 2013.

On June 24, 2009, the North Dakota Department of Health rescinded the water quality discharge permit and changed the water quality constraint to 450 mg/L at Bremen instead of 15 percent above the baseline. This allowed for 100 cubic feet per second of discharge until July 6, 2009 and then the discharge varied from 35 to 50 cubic feet per second. On July 15, 2009, the Department implemented an emergency rule for a segment of the Sheyenne River changing the sulfate standard from 450 mg/L to 750 mg/L. The outlet discharge was increased to 100 cubic feet per second since that time with some minor interruptions for maintenance.

On August 18, 2009, the State Water Commission approved an allocation not to exceed \$16,500,000 for the expansion of the Devils Lake outlet to 250 cubic feet per second (cfs) using the Round Lake alternative.

The upgrading of the state outlet to 250 cubic feet per second was completed in June, 2010. The existing pumps were operated for 5 days in May as well as for most of June while the expansion project was being completed. The pumping at full capacity was started on June 26, 2010 and has continued since that time. The outlet was operated since May 21, 2010 with only minor interruptions for power outages and maintenance. There were a total of 126 days of releases through September 30, 2010, at a daily average of 181 cfs and a total volume of 45,217 acre-feet of water. Using the average surface area of Devils Lake and Stump Lake through September of 177,000 acres (elevation of 2561.5 feet msl), the total volume of water released corresponds to 3.1 inches off the lake.

The Sheyenne River below Baldhill Dam has had sulfate concentrations below the 450 mg/L constraint placed by the North Dakota Department of Health. From sampling on September 30, 2010, the sulfate concentrations were tested to be 353 mg/L. USGS modeling of sulfate concentrations in Lake Ashtabula indicate that the outlet will be able to be operated until freeze-up without exceeding the 450 mg/L standards this winter.

The final North Dakota Department of Health's ruling on the Sheyenne River sulfate standards was approved by EPA on September 16, 2010. The standards to be followed are the same as the "emergency standards" followed since 2009.

**NORTH DAKOTA DEVILS LAKE OUTLET -
CROSSINGS ON SHEYENNE RIVER
DOWNSTREAM OF OUTLET
(SWC Project No. 416-07)**

On October 26, 2010, the State Water Commission was informed of the inability of two river crossings located on the Sheyenne River downstream of the Devils Lake outlet to handle higher flows. The crossings are located in Eddy County in Section 19, Township 150, Range 64 (Crossing 1), and in Section 35, Township 150, Range 62 (Crossing 2). Both crossings were overtopped during the summer 2009 flows. Crossing 1 could handle 300 cubic feet per second (cfs) and was overtopped at 350 cfs. The Warwick gage indicated 140 cfs at Crossing 2 and was also overtopped during the 2009 summer. The estimated cost for upgrading both crossings is \$875,000.

Since the required increased capacity at the crossings is to allow the Devils Lake outlet to operate, the state has a significant responsibility. Because the State Water Commission's cost share policy does not currently recognize this issue, the Commission members deferred the funding request and directed the cost share policy committee to address the issue, and that the Commission staff develop an inventory of other possible crossings impacted.

On October 26, 2010, the cost share policy committee considered the applicability of a cost share policy in regards to downstream structures affected by the Devils Lake outlet. The recommendation from the cost share policy committee was to review concerns/cost share requests as received and to not develop a policy.

Due to inclement weather and the inability of representatives from the Eddy County Water Resource Board to attend this meeting to discuss options for upgrading the two Sheyenne River crossings, the Commission members concurred to defer the funding request.

**DEVILS LAKE DEBRIS REMOVAL
(SWC Project No. 1882-04)**

Devils Lake has been rising since 1993 and, over the last decade, has continually achieved record elevations. Because of this rise, many structures have been inundated or are very near to the water's edge.

North Dakota Century Code §61-03-21.3 states that *"If the state engineer finds that buildings, structures, boat docks, debris, or other manmade objects, except a fence or corral, situated in, on the bed of, or adjacent to waters that have been determined to be navigable by a court are, or are imminently likely to be, a menace to life or property or public health or safety, the state engineer shall issue an order to the person responsible for the object. The order must specify the nature and extent of the conditions, the action necessary to alleviate, avert,*

or minimize the danger, and a date by which that action must be taken. If the state engineer determines that an object covered by flood insurance is imminently likely to be a menace to life or property or public health or safety, the date specified in the order for action to be taken may not precede the date on which the person is eligible to receive flood insurance proceeds. If a building, structure, boat dock, debris, or other manmade object, except a fence or corral, is partially or completely submerged due to the expansion of navigable waters, the person responsible is the person who owns or had control of the property on which the object is located or the person who owned or had control of the property immediately before it became submerged by water."

In the late 1990s, this law was used to ensure that landowners removed structures that would have presented a potential hazard. FEMA granted exceptions to the National Flood Insurance Program which allowed landowners to receive payment before the water reached the structures and allowed for their removal. The North Dakota Department of Health, working with FEMA, delayed payment until landowners dealt with the structures in an appropriate manner.

Through a combination of 2010 aerial photography and LiDAR elevation data, approximately 275 structures are estimated to be at or below elevation 1452 feet msl, 286 structures could be inundated at 1453 feet msl, and 155 structures at 1454 feet msl. Total estimated cost for structural removal and demolition is \$2,200,000.

As directed during the September 1, 2010 meeting, the Commission staff is working to obtain local input on the debris issue. On October 5, 2010, an informational meeting for county commissioners from the four affected counties was held in Devils Lake to make program information available to local decision makers. One fact that was brought to light at the meeting was some of the inundated land in the Devils Lake basin has returned to the counties due to property tax delinquency. While county commissioners indicated they had concerns that the program would present an undue burden to landowners already impacted by years of flooding and lost income, they recognized that the State Water Commission's course of action is by statute. Some present indicated their intent to see the existing law repealed or changed during the next legislative session.

The Commission staff intends to contact the landowners at or below elevation 1452 feet msl during October and November, 2010 to make them aware of the existing law and provide them with alternatives for structural removal. Because of the logistical difficulty of reaching many of the structures during open-water conditions, landowners will be advised that they may wait until sufficient ice thickness has been achieved to allow safe access. All structures at or below elevation 1452 feet msl must be removed prior to break up next spring. In addition, owners of structures at elevations 1453 and 1454 feet msl will be also be notified of the law with the intent they will have sufficient time to remove the structures before they become inundated and less accessible.

**APPROVAL OF STATE FUNDS
FOR DEVILS LAKE OUTLET
EXPANSION (\$1,500,000);
EAST END OUTLET (\$2,200,000);
AND TOLNA COULEE GEOTECH-
NICAL INVESTIGATION (\$500,000)
(SWC Project No. 416-10)**

In order to increase the removal of water from Devils Lake, the following projects were presented for the State Water Commission's consideration:

Devils Lake Outlet Expansion:

An increase of 100 cubic feet per second (cfs) to the existing 250 cfs capacity of the west end outlet should be considered. Additional pumps, pipe, power and new or modification of structures may be required. It is proposed to have an additional Specific Authorization (SA) with Bartlett and West Engineers, Inc. for engineering services for the expansion. Such services would include final design, including sub-consultant fees, testing, surveying and other work required prior to the construction phase. It is estimated that the engineering cost will be \$1,500,000.

East End Outlet:

An east end outlet channel with gravity flow should also be considered. This outlet would take East Devils Lake water to the Sheyenne River. The U.S. Geological Survey's modeling indicates that a 250 cfs outlet from East Devils Lake, combined with the west end outlet, would meet a 750 mg/l standard on the entire Sheyenne River. It is planned for the constructed channel to have a design capacity of 250 cfs. Inlet, outlet, and gravel filter structures would be needed, as well as other structures may also be required.

Engineering services will be required for this project. Due to the nature of the proposed work, Request for Proposals (RFP) will be advertised. The engineering services included in the RFP may include, but are not necessarily limited to, the final design, survey, testing, and sub-consultant fees. It does not include any construction engineering, resident observer costs, staking, or contract administration. The estimated cost of the "design phase" of the project is \$2,200,000. Either of the above outlets would require modification of water quality standards below Baldhill Dam to be effective.

Tolna Coulee Control Structures:

The U.S. Army Corps of Engineers is currently in the process of developing a project information report (PIR) for control structures on Tolna Coulee. The State Water Commission staff has been working with the Corps of Engineers through the PIR process to move forward with design of a control structure. Any control structure on Tolna Coulee will require a geotechnical investigation, which will

need to be done during the winter since the drilling will be in wet areas. If the State Water Commission conducts the geotechnical work, it will be available for the design of a control structure if the State Water Commission or the Corps of Engineers performs that work. The estimated cost of the geotechnical investigation for the project is \$500,000.

It was the recommendation of Secretary Sando that the State Water Commission approve 100 percent of the estimated engineering design cost of \$1,500,000 for the west end Devils Lake outlet upgrade, the engineering design cost of \$2,200,000 for the Devils Lake east end outlet, and \$500,000 for the geotechnical investigation of Tolna Coulee from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

It was moved by Commissioner Foley and seconded by Commissioner Goehring that the State Water Commission approve 100 percent of the estimated engineering design cost of \$1,500,000 for the west end Devils Lake outlet upgrade, the engineering design cost of \$2,200,000 for the Devils Lake east end outlet, and \$500,000 for the geotechnical investigation of Tolna Coulee 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, Goehring, 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:

Supplemental Environmental Impact Statement (EIS): On August 12, 2010, the Bureau of Reclamation published in the Federal Register a notice of intent to prepare a supplemental EIS. The supplemental EIS addresses Judge Rosemary Collyer's order of March, 2010. Public scoping meetings were held September 13-16, 2010 in Bottineau, Minot, New Town, and Bismarck.

Manitoba and Missouri Lawsuit:

On March 5, 2010, U.S. District Judge Rosemary Collyer issued a decision to continue the injunction on the NAWS project. Judge Collyer had previously allowed construction of the pipeline, but not the treatment facilities. Judge Collyer asked the Bureau of Reclamation to further address two issues, the cumulative impacts of water withdrawal on the water levels of Lake Sakakawea and the Missouri River, and the consequences of biota transfer into the Hudson Bay basin including Canada.

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On October 25, 2010, Judge Rosemary Collyer issued a decision to allow construction on the Minot treatment plant, however, she held the design work on the intake structure at Lake Sakakawea under the injunction.

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. 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, N.D. Payments have been made according to the settlement agreement. The automatic transfer switch for the generator has been completed. The punch list items are all that remains on this project.

Contract 2-2C: The contract work covers 52 miles of pipeline for the Kenmare-Upper Souris segment. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. Water service to Kenmare was started on December 7, 2009, and water service to the Upper Souris Water District at the Donnybrook turnout started on December 22, 2009. The seeding for portions of the contract were completed. Contract close out is anticipated following final seeding.

Contract 2-2D: The contract work covers 62 miles of pipeline for the Mohall/Sherwood/All Seasons segment. Bids were opened for contract 2-2D on July 14, 2009. The State Water Commission authorized the secretary to the Commission to award contract 2-2D to American Infrastructure from Colorado on August 18, 2009. The substantial completion date is October 15, 2010, with final completion on November 15, 2010.

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir near Kenmare. The concrete pedestal was completed, and the tank was lifted into place on November 18, 2009. The substantial completion was July 1, 2010, with final completion in August 1, 2010.

Contract 2008-1: The NAWS portion of the All Seasons contract includes 13 miles of pipeline between the All Seasons water treatment plant and Gardena, N.D. The contract was awarded to Swanberg Construction, Grand Forks, N.D.; the engineering related work for this project is estimated at \$112,500. The NAWS portion of this line has been in service since September of 2009. Seeding was completed in June, 2010, and contract closeout is expected.

Contract 2-2E: This contract covers connections of the community of Burlington and the West River Water and Sewer District to the NAWS pipeline. The contract was awarded to Steen Construction & Associates, Inc., Stanley, N.D., on November 13, 2009, in the amount of \$471,782. Water service to the West River

Water District started on June 22, 2010, and to Burlington on August 11, 2010.

Contract 2-3A Design: This project has 16 miles of 24-inch pipe connecting the Air Force Base to Minot. The 90 percent design review was completed in August, 2010. The bid opening could be scheduled in the fall of 2010.

Contract 2-3B Design: This project has 13 miles of pipe north of the Air Force Base connecting to the Upper Souris Water District which serves the city of Glenburn. The 90 percent design review was completed in August, 2010. This project is planned for a fall, 2010 bid opening.

Design on Contract 7-1A: On March 18, 2010, the federal court approved additional design work on the Minot water treatment plant with the piping and filters. The 30 percent design review will be completed in September, 2010. The plans and specifications should be ready for advertisement in November, 2010. Construction on this project cannot proceed without the federal court approval.

Operation and Maintenance Update:

In September, 2010, the NAWS project delivered an average of 33,024 gallons of water per day to Berthold; 107,716 gallons to Kenmare; 29,771 gallons to Upper Souris at Donnybrook; 109,887 gallons to Burlington and West River Water District; and Minot delivered 20,153 gallons of water per day to North Prairie Water District turnouts on the NAWS line.

***INTERNATIONAL BOUNDARY ROADWAY
DIKE (PEMBINA COUNTY) REPORT
(SWC Project No. 1401)***

On August 20, 2010, the North Dakota State Water Commission was served with a Third Party Claim by the Municipalities of

Rhineland and Stanley seeking contribution and indemnity from the third parties for their alleged actions (along with those of the plaintiffs) in increasing the flow of water in the Pembina River, which caused or contributed to the damages claimed by the plaintiffs. Other third party claims include the construction of dikes along the Pembina River to limit or prevent breakout flows that would naturally occur resulting in increased flow of water northward; third parties created or acquiesced to the creation of embankments in Pembina County that block the eastward movement of surface water and divert flows northward; and, that Pembina County constructed County Road 55 to prevent or limit water overflowing in the Pembina River from moving southward. The Third Party Claim also alleges that the actions of the third parties have increased water flows and caused or contributed to the flooding and resulting damage complained of by the plaintiffs.

The State Water Commission is required to serve and file a "statement of defence" within 40 days. Because the court is located in Winnipeg, a Canadian solicitor must be retained. On September 1, 2010, the

State Water Commission approved an allocation not to exceed \$30,000 and the secretary to the Commission was authorized to execute the required documents to retain the Canadian law firm of Aikins, MacAulay & Thorvaldson. Colin MacArthur and Jon Martens, solicitors with the Canadian law firm are representing the State Water Commission (as well as Pembina County, Cavalier County Water Resource District, and several individuals) in preliminary motions.

A Notice of Motion and associated filings were submitted to the Federal Court - Trial Division on October 12, 2010, which will be heard on December 17, 2010 in Federal Court in Manitoba.

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

The following Southwest Pipeline Project status report was provided:

Oliver-Mercer-North Dunn Regional Service Area:

Contract 2-8A, main transmission pipeline from Oliver-Mercer-North Dunn water treatment plant to Hazen, consists of 23 miles of pipeline and related appurtenances. The pipeline will provide water service from the Oliver-Mercer-North Dunn water treatment plant to the city of Hazen, city of Zap, Beulah interim service area, and provide transmission flow for most of Oliver and Mercer counties.

Bids were opened on contract 2-8A on June 25, 2009. The bids were reviewed and the contract was awarded to Dave Titus Excavating, Inc., Bismarck, ND, in the amount of \$3,178,510. All pipe has been installed, pressure tested, and chlorinated. The substantial completion date was June 1, 2010.

Contract 2-8B, main transmission line from Hazen to Stanton and Beulah to Center elevated tank. Bids were opened for contract 2-8B on May 12, 2010. The bids were reviewed and the contract awarded to Kamphuis Pipeline Co., Grand Rapids, MI, in the amount of \$3,888,095. A preconstruction conference was held on this contract and easement work is near completion.

Contract 3-1C, Oliver-Mercer-North Dunn water treatment plant membrane equipment procurement. Bids were opened for contract 3-1C on November 20, 2009. The State Water Commission authorized the award of the contract on December 11, 2009, to Wigen Water Technologies, Inc., Chaska, MN, in the amount of \$2,251,250. The contract includes furnishing the membrane filtration and membrane softening systems along with the design phase and construction phase engineering services.

The design phase of the project has been completed. The membrane equipment will be delivered during construction of the plant and installed by the building contractor with supervision by Wigen and Toray Industries, Inc., the membrane supplier. A letter of acceptance from the North Dakota Department of Health was received granting removal credit of 4-log for Giardia, 4-log for Cryptosporidium, and 0.5-log for viruses for membranes. A pilot test was run at the water treatment plant with good results.

Contract 3-1D, Oliver-Mercer-North Dunn water treatment plant building and membrane equipment installation. Bids were opened for contract 3-1D on August 19, 2010. The State Water Commission authorized the award of General, Mechanical, and Electrical construction contracts on September 1, 2010 to PKG Contracting, Inc., Fargo, N.D. (\$7,236,900), Cofell's Plumbing and Heating, Inc., Bismarck, N.D. (\$600,000), and Edling Electric, Inc., Bismarck, N.D. (\$1,209,360), respectively. The contract documents were executed on October 1, 2010, and a preconstruction conference was held on October 19, 2010. It is anticipated that the earthwork will commence during early October, 2010.

Contract 3-1E, Oliver-Mercer-North Dunn water treatment plant concentrate disposal facility. The purpose of this facility will be to dispose of reverse osmosis concentrate from the softening process. It will include a pipeline from the treatment plant back to the lake and a discharge facility in the lake. A permit from the Corps of Engineers is in process to allow access for survey and cultural resource work.

Contract 5-15A, Zap potable reservoir. Contract 5-15A was bid on May 19, 2010. The State Water Commission authorized the award of contract 5-15A on June 1, 2010 to Maguire Iron, Inc., Sioux Falls, S.D., in the amount of \$1,175,000. Construction commenced in October, 2010.

Oliver-Mercer-North Dunn regional service area contracts under design: Contracts under design for the Oliver-Mercer-North Dunn regional service area include: Contract 2-8C, main transmission line from Center elevated tank to Center; Contract 5-16, Center elevated tank; Contract 2-8E, main transmission line from Oliver-Mercer-North Dunn regional service area water treatment plant to Killdeer Mountains area; Contract 7-9C, first Zap service area rural distribution line; and Contract 4-3A/4-4A, Jung Lake and Ray Christensen pump stations upgrades.

Also being considered is the purchase of a generator for the Jung Lake pump station, and replacement of pumps in the high service pump station in Dickinson to reach ultimate capacity.

Oil Industry Water Use:

Contract 4-1D, Dodge water depot contract, was awarded to Mike's Excavation, Dickinson, N.D. The contract was completed in early August, 2010. This site will have capacity of 1,000 gallons per minute. Through October 4, 2010, 6,721,000 gallons of water had been sold, representing 9 percent of the water available in that time.

As part of the design process for contract 2-8E, incremental costs will be determined to increase the capacity of the pipeline to serve the oil industry. Industry representatives have expressed a need for a water depot north of the city of Killdeer. Additional costs to deliver water to that point in the quantities needed to benefit oil exploration and production will also need to be taken into account before considering additional funding sources.

Little Missouri River Washout:

A specific authorization was executed directing Bartlett & West to develop a solution to the Little Missouri River erosion near the Badlands Ministries Bible Camp and the Harold Hugelin ranch south of Medora. Conversations are being held with the U.S. Army Corps of Engineers, which has primacy of Section 404 of the Clean Water Act regulation, and the U.S. Forest Service, which owns some of the affected property.

SOUTHWEST PIPELINE PROJECT - APPROVAL OF WATER SERVICE CONTRACT 1736-37, CITY OF CENTER (SWC Project No. 1736)

The City of Center has requested a water service contract from the State Water Commission and the Southwest Water Authority for the delivery of potable treated water from the Southwest Pipeline Project.

The contract specifies a maximum flow rate of 150 gallons per minute total for all connections and a minimum annual water purchase of 100,000 gallons per year for the entire term of the contract.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute Southwest Pipeline Project Water Service Contract 1736-37 with the City of Center.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute Southwest Pipeline Project Water Service Contract 1736-37 with the City of Center. SEE APPENDIX "E"

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

***WEST AREA WATER SUPPLY -
APPROVAL OF 2009-2011 BIENNIUM
STATE GRANT FUNDS (\$1,500,000)
(SWC Project No. 237-03)***

Northwestern North Dakota is rapidly changing, experiencing considerable new economic development opportunities, and facing urgent challenges in water supply. The regional water stake-

holders of the City of Williston, Williams Rural Water District, McKenzie County Water Resource District, and R&T Water Supply Association have been collaborating on a regional water development plan. Although the initial efforts concentrated on expanding the domestic needs of the area, the efforts are now focused on simultaneously meeting the industrial regional water needs to fully develop the oil-bearing shale formations.

The collaborative efforts have resulted in the development of a regional water supply plan centered on the Missouri River and the Williston regional water treatment facility as the source for the regional water demands. Water transmission lines throughout McKenzie, Williams, Divide and Mountrail counties will deliver large volumes of water into current and future oil exploration areas to meet the industrial water needs while at the same time delivering a high quality and dependable water supply to the communities of Williston, Watford City, Alexander, Trenton, Ray, Tioga, Stanley, Wildrose, Crosby, Fortuna, Noonan, Columbus, and Grenora, and rural water systems in Williams, McKenzie, and portions of Mountrail, Burke, and Divide counties.

While the current oil activity provides a tremendous opportunity to address the short and long-term water needs of the region, there is also considerable risk. The total estimated cost for all of the projects related to a regional water supply plan is \$150,000,000. This cost is more than the residents can afford should the oil activity suddenly come to a stop as has happened in the past. The local sponsors are requesting support on potential project financing options that will allow the regional system to rapidly move forward with the implementation of a water supply plan to fully realize the economic development opportunity without jeopardizing the financial future of their water utilities.

The State Water Commission considered a request through the McKenzie County Water Resource District for state grant funding of \$1,500,000 for conducting a water plan to develop a project schedule, pre-final design, legal process of organizational structure, project and financial management, Environmental Assessment for NEPA compliance, pipeline routing, LiDAR aerial surveying, property title search, easement preparation, and partial easement acquisition. Funding would support bidding of the first phases of this project in mid-2011.

It was the recommendation of Secretary Sando that the State Water Commission approve a state 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 West Area Water Supply stakeholders, through the McKenzie County Water Resource District, to support the development of a regional water supply plan in northwestern North Dakota (West Area Water Supply project).

It was moved by Commissioner Olin and seconded by Commissioner Goehring that the State Water Commission approve a state 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 West Area Water Supply stakeholders, through the McKenzie County Water Resource District, to support the development of a regional water supply plan in northwestern North Dakota as previously outlined (West Area Water Supply project). This action is contingent upon the availability of funds, subject to future revisions, funding shall be a grant towards eligible costs, and the funds shall be considered as an advance of any future grant.

Commissioners Berg, Foley, Goehring, 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 final EIS was available to the public on December 28, 2007. The U.S. State Department requested that the Bureau of Reclamation delay executing the Record of Decision until discussions with Canada have been concluded.

The September, 2010 status report relating to the specific efforts of the Red River Valley Water Supply project, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, which is attached hereto as **APPENDIX "F"**.

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

The Missouri River report was provided, which is detailed in the staff memorandum, dated October 13, 2010, and attached hereto as **APPENDIX "G"**.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 4:30 P.M.



John Hoeven, Governor
Chairman, State Water Commission

Todd Sando
North Dakota State Engineer,
and Chief Engineer-Secretary
to the State Water Commission

STATE WATER COMMISSION
 ALLOCATED PROGRAM EXPENDITURES
 FOR THE PERIOD ENDED AUGUST 31, 2010
 BIENNIUM COMPLETE: 58%

PROGRAM	SALARIES/ BENEFITS	OPERATING EXPENSES	GRANTS & CONTRACTS	13-Oct-10 PROGRAM TOTALS
ADMINISTRATION				
Allocated	1,812,056	1,212,732		3,024,788
Expended	1,046,554	524,470		1,571,024
	58%	43%		52%
			Funding Source:	
			General Fund:	1,491,836
			Federal Fund:	79,188
			Special Fund:	0
PLANNING AND EDUCATION				
Allocated	1,192,175	208,511	99,000	1,499,686
Expended	672,083	93,745	54,406	820,233
Percent	56%	45%	55%	55%
			Funding Source:	
			General Fund:	637,197
			Federal Fund:	123,156
			Special Fund:	59,879
WATER APPROPRIATION				
Allocated	3,633,879	483,162	1,078,935	5,195,976
Expended	2,034,306	239,229	354,755	2,628,290
Percent	56%	50%	33%	51%
			Funding Source:	
			General Fund:	2,273,443
			Federal Fund:	0
			Special Fund:	354,846
WATER DEVELOPMENT				
Allocated	5,041,486	4,837,457	225,000	10,103,943
Expended	2,795,692	2,385,686	291,606	5,472,984
Percent	55%	49%	130%	54%
			Funding Source:	
			General Fund:	2,582,861
			Federal Fund:	1,557,769
			Special Fund:	1,332,355
STATEWIDE WATER PROJECTS				
Allocated			203,185,070	203,185,070
Expended			47,239,466	47,239,466
Percent			23%	23%
			Funding Source:	
			General Fund:	0
			Federal Fund:	43,068
			Special Fund:	47,196,398
ATMOSPHERIC RESOURCE				
Allocated	854,950	712,830	4,694,692	6,262,472
Expended	532,469	231,702	1,051,763	1,815,934
Percent	62%	33%	22%	29%
			Funding Source:	
			General Fund:	482,423
			Federal Fund:	0
			Special Fund:	1,333,511
SOUTHWEST PIPELINE				
Allocated	400,496	1,665,314	37,556,956	39,622,770
Expended	235,950	1,482,687	4,204,155	5,922,792
Percent	59%	89%	11%	15%
			Funding Source:	
			General Fund:	0
			Federal Fund:	1,944,469
			Special Fund:	3,978,323
NORTHWEST AREA WATER SUPPLY				
Allocated	530,956	6,229,700	50,289,114	57,049,772
Expended	243,333	2,470,649	14,437,329	17,151,310
Percent	45%	40%	29%	30%
			Funding Source:	
			General Fund:	0
			Federal Fund:	8,771,639
			Special Fund:	8,379,671
PROGRAM TOTALS				
Allocated	13,466,002	15,349,705	297,128,769	325,944,477
Expended	7,560,396	7,428,189	67,633,478	82,622,033
Percent	56%	48%	23%	25%
FUNDING SOURCE:	ALLOCATION	EXPENDITURES	REVENUE	
GENERAL FUND	14,124,223	7,467,761	GENERAL FUND	149,254
FEDERAL FUND	67,070,358	12,519,290	FEDERAL FUND	12,681,363
SPECIAL FUND	244,749,896	62,634,963	SPECIAL FUND	70,090,979
TOTAL	325,944,477	82,622,033	TOTAL:	82,921,606

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STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 BIENNIUM

	<i>Aug-10</i>				
	BUDGET	SWC/SE APPROVED	OBLIGATIONS EXPENDITURES	REMAINING UNOBLIGATED	REMAINING UNPAID
CITY FLOOD CONTROL					
FARGO/RIDGEWOOD	2,084,750	2,084,750	2,033,809	0	50,941
FARGO	45,000,000	45,000,000	0	0	45,000,000
FARGO/MOOREHEAD STUDY	300,000	300,000	0	0	300,000
GRAFTON	7,175,000	7,175,000	0	0	7,175,000
WATER SUPPLY					
PERMANENT OIL TRUST FUND	36,795,457	36,795,457	8,455,681	0	28,339,776
	2,442,000	2,442,000	548,486	0	1,893,514
IRRIGATION DEVELOPMENT					
	1,605,370	1,605,370	108,188	0	1,497,182
GENERAL WATER MANAGEMENT					
OBLIGATED	21,252,006	21,252,006	5,093,478	0	16,158,528
UNOBLIGATED	2,396,513			2,396,513	0
MISSOURI RIVER MANAGEMENT					
	372,000	372,000	0	0	372,000
FLOOD CONTROL					
BALDHILL DAM	92,832	92,832	6,138	0	86,694
RENWICK DAM	1,478,190	1,478,190	0	0	1,478,190
UPPER MAPLE RIVER DAM	112,500	112,500	0	0	112,500
RED RIVER WATER SUPPLY					
	3,200,000	3,200,000	2,740,785	0	459,215
DEVILS LAKE					
BASIN DEVELOPMENT	102,000	102,000	18,133	0	83,867
DIKE	25,350,000	25,350,000	2,630,000	0	22,720,000
OUTLET	16,661,325	16,661,325	12,612,209	0	4,049,116
OUTLET OPERATIONS	4,900,000	4,900,000	1,301,772	0	3,598,228
DL USGS MODEL STUDY	16,000	16,000	0	0	16,000
CITY OF MINNEWAUKAN	15,000	15,000	15,000	0	0
NELSON COUNTY	636,064	636,064	8,492	0	627,572
WEATHER MODIFICATIONS					
	225,000	225,000	0	0	225,000
SOUTHWEST PIPELINE PROJECT					
	14,782,474	14,782,474	3,908,350	0	10,874,124
NORTHWEST AREA WATER SUPPLY					
	10,832,918	10,832,918	1,536,498	0	9,296,420
TOTALS					
	197,827,399	195,430,886	41,017,020	2,396,513	154,413,866

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Aug-10 Balance
City Flood Control:							
SWC	1927	5000	Fargo/Ridgewood Flood Control Project	6/22/2005	2,084,750	2,033,809	50,941
SWC	1928	5000	Fargo Flood Control Project	6/23/2009	45,000,000	0	45,000,000
SWC	583	5000	Fargo/Moorhead Study	3/29/2010	300,000	0	300,000
SWC	1771	5000	Grafton Flood Control Project	3/11/2010	7,175,000	0	7,175,000
Subtotal City Flood Control					54,559,750	2,033,809	52,525,941
Water Supply Advances:							
SWC	2373-04	5000	Lakota WS (Tri-Co WD)	7/17/2007	211,435	0	211,435
	2373-09	5000	South Central RWD (Phase II)	6/23/2008	2,350,000	22,572	2,327,428
	2373-13	5000	All Seasons Rural Water - (Upham)	7/17/2007	128,000	43,976	84,024
	2373-15	5000	North Central Rural Water Consortium (S. Benson Co)	12/7/2007	916,000	294,645	621,355
	2373-15	5000	North Central Rural Water Consortium (Anamoose/Bei)	6/23/2008	3,295,000	316,717	2,978,283
	2373-27	5000	Trails Regional Rural Water (Phase I)	1/25/2008	3,199,000	3,009,685	189,315
	2373-16	5000	Trails Regional Rural Water (Phase II)	6/23/2008	2,305,748	1,673,888	631,860
	2373-24	5000	Trails Regional Rural Water (Phase III)	8/18/2009	1,300,000	254,078	1,045,922
Water Supply Grants:							
	2373-19	5000	City of Washburn Water Supply	4/28/2009	1,500,000	1,042,352	457,648
	2373-17	5000	City of Parshall	6/23/2008	1,920,274	558,957	1,361,317
	2373-18	5000	Ray & Tioga Water Supply Association	12/17/2008	4,200,000	1,238,811	2,961,189
	2373-25	5000	McKenzie Phase II	6/23/2009	1,500,000	0	1,500,000
	2373-28	5000	McKenzie Phase IV	3/11/2010	3,500,000	0	3,500,000
	2373-26	5000	Valley City Water Treatment Plant	8/18/2009	9,200,000	0	9,200,000
	2373-29	5000	City of Willrose - Crosby Water Supply	7/28/2010	1,270,000	0	1,270,000
Subtotal Water Supply					36,795,457	8,455,681	28,339,776
HB No. 1305 Permanent Oil Trust Fund							
	2373-21	5000	Burke, Divide, Williams Water District	6/23/2009	985,000	366,976	618,024
	2373-22	5000	Ray & Tioga Water Supply Association	6/23/2009	864,000	112,634	751,366
	2373-23	5000	City of Willrose	6/23/2009	593,000	68,876	524,124
Subtotal Permanent Oil Trust Fund					2,442,000	548,486	1,893,514
Irrigation Development:							
SWC	1389	5000	BND AgPace Program	10/23/2001	194,439	58,188	136,251
SWC	AOC/IRA	5000	ND Irrigation Association	7/20/2009	100,000	50,000	50,000
SWC	1968	5000	2009-11 McClusky Canal Mile Marker 7.5 Irrigation Pr	6/1/2010	1,310,931	0	1,310,931
Subtotal Irrigation Development					1,605,370	108,188	1,497,182
General Water Management							
Hydrologic Investigations:							
					880,000		
SWC	862	3000	Arletta Herman	4/7/2008	1,976	1,976	0
	1400/7	3000	Houston Engineering Water Permit Application Review	4/2/2009	1,325	800	525
	1400/8	3000	Houston Engineering Water Permit Application Review	6/2/2009	7,500	7,473	27
	1400/9	3000	Houston Engineering Water Permit Application Review	1/1/2010	6,759	6,759	0
	1690	3000	Mary Lou McDaniel	5/6/2009	3,017	3,017	1
	1703	3000	Neil Flaten	4/7/2008	3,578	3,578	(0)
	1707	3000	Neil Flaten	4/7/2008	2,734	2,734	0
	1714	3000	David Robbins	5/7/2009	1,143	1,143	0
	1761	3000	Gloria Roth	5/6/2009	866	866	(0)
	1761	3000	Fran Dobits	4/7/2008	1,416	1,416	0
	1393	3000	US Geological Survey, US Dept. Of Interior StreamSta	7/16/2009	39,008	17,340	21,668
	1395A	3000	US Geological Survey, US Dept. Of Interior Stream Gr	11/12/2009	381,980	286,485	95,495
	1395	3000	US Geological Survey, US Dept. Of Interior Water Qu	10/21/2009	13,205	0	13,205
	1395D	3000	US Geological Survey, US Dept. Of Interior Eaton Irrig	10/1/2009	15,300	15,300	0
Hydrologic Investigations Obligations Subtotal					69,322	47,101	22,221
Remaining Hydrologic Investigations Authority					810,679		
Hydrologic Investigations Authority Less Payments							
General Projects Obligated					18,898,047	3,264,764	15,633,283
General Projects Completed					1,473,959	1,473,959	0
Subtotal General Water Management					21,252,006	5,093,478	16,158,528

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC By No	Dept		Initial Approved Date	Total Approved	Total Payments	Aug-10 Balance
Missour River Management:						
SWC 1943	5000	Missouri River Siltation Assessment Study	10/12/2006	30,000	0	30,000
SWC 1963	5000	Beaver Bay Embankment Feasibility Study	8/10/2009	342,000	0	342,000
Subtotal				372,000	0	372,000
Flood Control:						
SWC 300	5000	Baldhill Dam Flood Pool Raise	4/30/1998	92,832	6,138	86,694
SWC 849	5000	Renwick Dam Rehabilitation	5/17/2010	1,478,190	0	1,478,190
SWC 1878-02	5000	Upper Maple River Dam Project Dev & Preliminary Eng	9/29/2008	112,500	0	112,500
Subtotal Flood Control				1,683,522	6,138	1,677,384
Red River Water Supply:						
SWC 1912	5000	2007-09 (GDCCD'S) Red River Valley Water Supply Pro	3/17/2008	3,000,000	2,740,785	259,215
SWC 1912	5000	2009-11 (GDCCD's) RRVWSP Value Engineering Study	6/1/2010	200,000	0	200,000
Subtotal				3,200,000	2,740,785	459,215
Devils Lake Basin Development:						
SWC 416-01	5000	2009-11 Devils Lake Basin Joint Water Resource Man:	6/23/2009	60,000	0	60,000
SWC 416-02	5000	City of Devils Lake Levee System Extension & Raise	12/6/2002	25,350,000	2,630,000	22,720,000
SWC 416-05	2000	2009-11 Devils Lake Outlet Awareness Manager	6/23/2009	42,000	18,133	23,867
SWC 416-07	5000	Devils Lake Outlet	2/20/2002	16,661,325	12,612,209	4,049,116
SWC 416-10	4700	Devils Lake Outlet Operations	8/18/2009	4,900,000	1,301,772	3,598,228
SE 416-11	5000	USGS/US Dept of Interior UnTRIM model on water-qu:	8/13/2010	16,000	0	16,000
SWC 416-14	5000	City of Minnewaukan Flood Risk Reduction Analysis St	6/3/2010	15,000	15,000	0
SWC 1932**	5000	Michigan Spillway Rural Flood Assessment Drain	8/30/2005	508,492	8,492	500,000
SWC 1932**	5000	Nelson Co. Emergency Pumping Peterson to Dry Run	5/23/2010	112,219	0	112,219
SWC 1131*	5000	Nelson County Central Hamlin Rural Flood Control	9/17/2009	8,940	0	8,940
SWC 1131	5000	Nelson County Channel Maintenance & Misc	9/17/2009	6,413	0	6,413
Devils Lake Subtotal				47,680,389	16,585,607	31,094,782
SWC	7600	Weather Modification	7/1/2009	225,000	0	225,000
SWC 1736	8000	Southwest Pipeline Project	7/1/2009	14,782,474	3,908,350	10,874,124
SWC 2374	9000	Northwest Area Water Supply	7/1/2009	10,832,918	1,536,498	9,296,420
TOTAL				195,430,886	41,017,020	154,413,866

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium
Resources Trust Fund

GENERAL PROJECT OBLIGATIONS

Approved SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Aug-10 Balance
SE	269	5000	2010 Fordville Dam Emergency Action Plan/GF CO.	3/3/2010	9,600	0	9,600
SWC	281	5000	2007-09 Three Affiliated Tribes/Fort Berthold Irrigation Study	3/23/2009	80,000	0	80,000
SWC	322	5000	2009-11 Red River Basin Mapping Initiative/Tri-College LIDAR	6/23/2009	300,000	244,596	55,404
SWC	322	5000	2009-11 Long-Term Red River Flood Control Solutions Study	6/23/2009	500,000	69,112	430,888
SWC	322	5000	ND Water: A Century of Challenge	2/22/2010	34,300	0	34,300
SWC	327	5000	2009-11 White Earth Dam EAP	8/18/2009	25,000	0	25,000
SE	394	5000	2007-09 Odland Dam Spillway Rehabilitation	8/25/2008	16,700	0	16,700
SWC	528	5000	2009 McGregor Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SE	568	5000	2008 Sheyenne River Snagging & Clearing Project	4/11/2008	5,000	0	5,000
SWC	568	5000	2009-11 Southeast Cass WRD Sheyenne River Snagging & Clearing Project	12/11/2009	165,000	0	165,000
SWC	568	5000	2009-11 SE Cass Sheyenne River Snagging & Clearing	3/11/2010	175,473	0	175,473
SWC	620	5000	2008 Mandan Flood Control Protective Works (Levee)	9/29/2008	125,396	0	125,396
SE	642	5000	2009-11 Morton Co/Sweetbriar Dam Emergency Action Plan	5/17/2010	15,200	0	15,200
SWC	642-05	5000	2007-09 Sweetbriar Creek Dam Project	3/6/2009	683,400	95,487	587,913
SE	829	5000	2009-11 Rush River Watershed Detention Site Engineering Feasibility Study	8/10/2010	11,990	0	11,990
SWC	847	5000	2007-09 Swan Creek FC Diversion Ditch	6/23/2008	1,640,992	1,481,182	159,810
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 5 Emergency Action Plan	7/20/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 8 Emergency Action Plan	8/7/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan-Bufferalo Detention Dam No. 12 Emergency Action Plan	10/18/2009	20,000	0	20,000
SWC	847	5000	2009-11 Swan-Bufferalo Detention Dam No. 12 Flood Control Dam Safety Project	7/28/2010	114,783	0	114,783
SE	847	5000	2009-11 Absaraka Dam Safety Analysis	8/31/2009	5,719	0	5,719
SWC	847	5000	2009-11 Swan Creek Diversion Channel Improvement Reconstruction	12/11/2009	76,528	0	76,528
SWC	928/988/1508	5000	2008 Southeast Cass WRD Bois, Wild Rice, & Antelope	6/23/2008	60,000	0	60,000
SE	985	5000	2009-11 Kolding Dam Emergency Action Plan	5/29/2009	9,600	0	9,600
SWC	1068	5000	2009-11 Cass County Drain No. 12 Improvement Reconstruction	8/18/2009	500,000	0	500,000
SWC	1069	5000	2009-11 Cass County Drain No. 13 Improvement Reconstruction	8/18/2009	145,472	23,248	122,224
SWC	1070	5000	2009-11 Cass County Drain No. 14 Improvement Recon	8/18/2009	500,000	60,490	439,510
SWC	1080	5000	2007-09 Cass County Drain No. 27 Improvement Recon	10/24/2007	94,197	0	94,197
SWC	1088	5000	2009-11 Cass County Drain No. 37 Improvement Recon	8/18/2009	158,535	68,735	89,800
SWC	1093	5000	2008 Cass Co. Drain No. 45 Extension Project	3/17/2008	150,800	26,043	124,757
SWC	1131	5000	2009-11 Richland Co. Drain No. 14 Improvement Reconstruction	3/11/2010	183,364	0	183,364
SWC	1180	5000	2009-11 Richland Co. Drain No. 7 Improvement Reconstruction	3/11/2010	130,681	0	130,681
SWC	1232	5000	2009-11 Traill Co. Drain No. 13 Channel Extension Project	8/18/2009	23,575	0	23,575
SWC	1244	5000	2009-11 Traill Co. Drain No. 27 (Moen) Reconstruction & Extension	3/11/2010	500,000	0	500,000
SWC	1289	5000	2007-09 Noxious Weed McKenzie County -Sovereign	10/24/2007	7,247	0	7,247
SWC	1299	5000	2009-11 City of Lisbon's Mapping & Survey for FEMA Buyouts	3/29/2010	30,000	0	30,000
SWC	1299	5000	2009-11 City of Fort Ransom Riverbank Stabilization	9/1/2010	60,803	0	60,803
SWC	1313	5000	2009-11 City of Minot/Ward Co. Aerial Photo & LIDAR	3/11/2010	186,780	0	186,780
SWC	1328	5000	2007 Cass Co. Drain No. 23 Area Improvement	7/17/2007	35,980	0	35,980
SWC	1344	5000	2009-11 Southeast Cass Sheyenne River Diversion Low Flow Channel Improven	3/11/2010	2,037,600	0	2,037,600
SE	1346	5000	2009-11 Mt. Carmel Dam Emergency Action Plan	5/5/2010	9,600	0	9,600
SWC	1378	5000	2009-11 Barnes Co. Clausen Springs Dam Construction Repair	12/11/2009	1,300,000	0	1,300,000
SWC	1401	5000	2009-11 International Boundary Roadway Dike Pembina	9/21/2009	260,238	19,938	240,300
SWC	1401	5000	2009-11 International Boundary Roadway Dike Pembina	9/1/2010	30,000	0	30,000
SWC	1413	5000	2009-11 Traill Co/Bufferalo Coulee Snagging & Clearing	9/1/2010	26,000	0	26,000
SWC	1431	5000	2009-11 US Geological Survey, DOI Report Describing Peak Discharge Period:	8/5/2009	20,000	0	20,000
SWC	1431	5000	2009-11 US Geological Survey - Supplemental Flood Info	3/11/2010	11,000	0	11,000
SWC	1431	5000	2007-2009 (S.B. 2020) 2009 Emergency Flood Control	4/28/2009	100,000	40,390	59,610
SWC	1431	5000	2009-11 DES Purchase of Mobile Stream Gages	9/13/2010	11,214	0	11,214
SWC	1438	5000	2008 Mulberry Creek Drain Partial Improv Phase II	3/17/2008	46,816	23,029	23,787
SWC	1444	5000	2009-11 City of Pembina's Flood Control FEMA Levee Certification	3/11/2010	27,156	0	27,156
SWC	1461	5000	2009-11 Pembina River Bank Stabilization Project	3/11/2010	64,383	0	64,383
SE	1471	5000	2009-11 Erie Dam Emergency Action Plan	7/24/2009	20,000	0	20,000
SWC	1509	5000	2009-11 Sheyenne River Watershed Flood Water Detention Study	7/20/2009	75,000	31,785	43,215
SWC	1515	5000	2009-11 Cottonwood Creek Dam	7/28/2010	373,440	0	373,440
SE	1527	5000	2009-11 Daub Dam Emergency Action Plan	8/16/2010	9,600	0	9,600
SE	1535	5000	2009-2011 Lake Agassiz Resource Conservation & Development Council - Soil S	2/22/2010	1,000	0	1,000
SE	1577	5000	2009-2011 Burleigh Co - Fox Island 2010 Flood Hazard Mitigation Evaluation	8/9/2010	11,175	0	11,175
SWC	1577	5000	2009-11 Hazen Flood Control Levee (1517) & FEMA Accreditation	3/11/2010	567,700	0	567,700
SWC	1591	5000	Revision of Handbook ND Water Managers Proj	4/12/2007	14,750	0	14,750
SE	1625	5000	High Water Mark Delineation Methods & Guidelines	10/24/2007	54,048	0	54,048
SWC	1625	5000	OHWM Delineations MT/ND Border Yellowstone & Missouri	10/29/2008	75,000	0	75,000
SE	1625	5000	2009-11 Missouri River Contract - Environmental Service Bartlett & West	9/21/2009	5,900	0	5,900
SE	1625	5000	2009-11 Sovereign Lands Rules - ND Game & Fish	2/23/2010	10,000	3,213	6,788
SWC	1638	5000	2009-11 Red River Basin Non-NRCS Rural/Farmstead Ring Dike Program	6/23/2009	800,000	284,215	515,785
SWC	1657	5000	2009-11 City of Enderlin's Flood Control FEMA Levee Certification	3/11/2010	100,578	0	100,578
SWC	1667	5000	2009-11 Traill Co/Goose River Snagging & Clearing	9/1/2010	48,000	0	48,000
SWC	1705	5000	2009-11 Red River Basin Flood Control Coordinator Position	7/24/2009	36,000	0	36,000
SWC	1785	5000	2009-11 Maple River Dam EAP	8/18/2009	25,000	0	25,000
SE	1785	5000	2009-11 Sweetbriar Dam EAP	2/17/2010	15,200	0	15,200
SWC	1792	5000	2009-11 SE Cass Wild Rice River Dam Study Phase II	12/11/2009	130,000	0	130,000
SE	1808	5000	2009-11 Beaver Creek Dam Emergency Action Plan	7/14/2009	20,000	0	20,000
SE	1808	5000	2009-11 U.S. Dept of Interior/Beaver Creek Gaging Stations	9/7/2010	11,710	0	11,710
SE	1842	5000	2009-11 SCWRD Wild Rice River Snagging & Clearing	5/28/2009	20,000	15,669	4,331
SWC	1842	5000	2009-10 SCWRD Wild Rice River Snagging & Clearing	12/11/2009	115,000	0	115,000
SWC	18502	5000	(2008) Drought Disaster Livestock Water Supply	5/14/2008	571,747	157,134	414,613
SWC	1921	5000	Square Butte Dam No. 6/Recreational Facility	3/23/2009	882,030	0	882,030
SWC	1934	5000	2007-08 Traill County WRD Elm River Snagging	12/7/2007	24,500	0	24,500
SWC	1934	5000	2009 Elm River Snagging & Clearing Project Tral	12/5/2008	3,266	0	3,266
SWC	1941	5000	Walsh County Assessment Drain 4A Construction	9/21/2009	81,594	81,594	0
SWC	1942	5000	Walsh County Assessment Drain 10, 10-1, 10-2	9/21/2009	273,056	235,789	37,267
SE	1943	5000	2009-11 Missouri River/Oahe Delta Flood Hazard Mitigation Evaluation Project	8/10/2009	12,000	0	12,000

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium
Resources Trust Fund

GENERAL PROJECT OBLIGATIONS

Approved SWC				Initial	Total	Total	Aug-10
By	No	Dept		Approved	Approved	Payments	Balance
				Date			
SWC	1951	5000	2007-09 Lynchburg-Buffalo Drain Improvement	8/31/2009	1,000,000	11,474	988,526
SWC	1953	5000	2009-11 Walsh County Drain No. 73 Construction Project	8/18/2009	96,990	0	96,990
SWC	1960	5000	2009-11 Puppy Dog Flood Control Drain Construction	8/18/2009	796,976	0	796,976
SE	1961	5000	2009-11 Pembina County Drain No. 69 Extension Construction Project	8/10/2009	7,793	0	7,793
SWC	1964	5000	2009-11 Hydraulic Effects of Rock Wedges Study- UND	11/12/2009	50,000	2,409	47,591
SWC	1965	5000	2009-11 ND Silver Jackets Team Charter & Action Plan	11/12/2009	75,000	14,343	60,657
SWC	1966	5000	2009-11 City of Oxbow Emergency Flood Fighting Barrier System	6/1/2010	188,400	0	188,400
SWC	1131*	5000	Nelson County Central-Hamlin Rural Flood	9/17/2009	47,020	37,541	9,479
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment	8/30/2005	1,012,219	80,069	932,150
SE	PBS	5000	2009-11 PBS Documentary on Soil Salinity/Lake Agassiz RC & D	1/29/2010	1,000	0	1,000
SWC	1882-7	5000	2009-11 NDSU Development of SEBAL	9/1/2010	61,404	0	61,404
SE	AOC/ARB/ND	5000	2009-11 NDSU Dept of Soil Science - NDAWN Center	3/8/2010	6,000	3,000	3,000
SE	AOC/RRBC	5000	2009-11 Red River Basin "A River Runs North"	6/30/2010	5,000	0	5,000
SWC	AOC/RRBC	5000	2009-11 Red River Basin Commission Contractor	7/1/2009	200,000	100,000	100,000
SWC	AOC/WEF	5000	2009-11 North Dakota Water Magazine	7/20/2009	36,000	18,000	18,000
SE	AOC/WEF/TO	5000	2010 Summer Water Tours Sponsorship	3/1/2010	2,500	2,500	0
SE	AOC/WRD	5000	2010 Water Managers Handbook	3/22/2010	16,500	0	16,500
SWC	CON/WILL-CA	5000	2009-11 Will & Carlson Consulting Contract	8/24/2009	70,000	22,474	47,526
SE	PSAWRD/MRJ	5000	Missouri River Joint Water Board, Start up	12/5/2008	14,829	0	14,829
SE	PSAWRD/MRJ	5000	Missouri River Joint Water Board (MRRIC) T. FLECK	6/30/2009	20,000	10,806	9,194
SE	PSAWRD/USR	5000	2009-11 Upper Sheyenne River WRB Administration	7/10/2009	12,000	500	11,500
TOTAL					18,898,047	3,264,764	15,633,283

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium
Resources Trust Fund

COMPLETED GENERAL PROJECTS

Approvec SWC			Initial	Total	Total	Aug-10	
By	No	Dept	Approved Date	Approved	Payments	Balance	
SWC	249	5000	2009 Mott Dam Emergency Action Plan	6/23/2009	25,000	12,757	12,243
SE	353	5000	2009-11 Cedar Lake Dam, Emergency Action Plan	7/15/2009	9,600	9,600	0
SE	420	5000	2009 Mirror Lake Dam Safety Repair	10/14/2009	12,220	11,887	333
SE	420	5000	Mirror Lake One-Foot Pool Raise	9/17/2009	18,281	18,281	0
SE	450	5000	2007-09 Sykeston Dam 2008 Emergency Action Plan	11/25/2008	7,839	7,839	0
SE	560	5000	2009 Blacktail Dam Emergency Action Plan	5/28/2009	9,600	6,733	2,867
SWC	568	5000	2009 Sheyenne River Snagging & Clearing Project	12/5/2008	135,000	75,085	59,915
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	12/11/2009	47,500	35,449	12,051
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	3/11/2010	47,500	47,409	91
SWC	568	5000	2009 Richland Co. Sheyenne River & Wild Rice River Snagging & Clearing #184	12/11/2009	39,500	28,488	11,012
SWC	571	5000	2009-11 Oak Creek Bank Stabilization Project	8/18/2009	33,250	25,365	7,885
SWC	576	5000	2009-11 City of Mandan - Missouri River Emergency Bank Stabilization	12/11/2009	33,429	33,370	59
SE	576	5000	2009-11 Mandan City Flood Controls Works	6/18/2010	2,000	2,000	0
SE	586	5000	2009 Short Creek Dam Emergency Action Plan	5/28/2009	9,600	9,600	0
SWC	620	5000	2009-11 City of Manan - Lower Heart River Bank Stabilization	12/11/2009	63,808	63,808	0
SE	662	5000	2009 WCWRD'S Park River Snagging & Clearing Project	6/30/2009	1,948	0	1,948
SE	671	5000	2007-09 Harvey Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,837	3
SWC	847	5000	Maple River - Retention Study Rush River Joint WRD	8/15/2002	25,000	24,927	73
SE	870	5000	2009-11 Crown Butte Dam Emergency Action Plan	7/10/2009	9,600	9,600	0
SWC	988	5000	Southeast Cass WRD Antelope Creek Eng Feas	10/12/2006	40,000	40,000	0
SWC	1084	5000	2008 Cass Co. Drain No. 32 Partial Improvement Recon	3/17/2008	68,538	13,150	55,388
SWC	1140	5000	Pembina County Drain No 11 Outlet Improvement	9/21/2009	70,846	70,846	0
SWC	1155	5000	2008 Pembina Co. Drain No. 42 Partial Impr.Recon.	3/17/2008	11,386	11,386	0
SWC	1176	5000	2008 Richland Co. Drain No. 2 Partial Improvement Recon.	3/17/2008	5,791	2,964	2,827
SWC	1238	5000	2009-11 Traill County Drain No. 19 Legal/Ext Outlet	8/18/2009	46,187	46,187	0
SWC	1249	5000	2008 Traill Co. Drain No. 34 Partial Improvement Recon	3/17/2008	255,629	192,250	63,379
SWC	1334	5000	Traill County Drain No. 38 Reconstruction	6/30/2009	57,631	0	57,631
SE	1378	5000	2009-11 Clausen Springs Dam Incremental Risk Assessment Report	12/22/2009	9,179	9,179	0
SE	1378	5000	2009-11 Clausen Springs Dam Feasibility Study of Improvement Options	12/10/2009	7,921	7,921	0
SE	1378	5000	2009-11 Clausen Springs Dam Emergency Watershed & Dam Hydraulics Repor	8/31/2009	9,418	9,418	0
SE	1382	5000	2009-11 Camel Butte Dam Emergency Action Plan	7/24/2009	9,600	9,600	0
SWC	1403	5000	2009-11 ND Water Resources Research Institute Fellowship Program	12/11/2009	13,850	13,850	0
SWC	1413	5000	2009 TCWRD Buffalo Coulee Snagging & Clearing Project	6/23/2009	49,000	28,874	20,126
SWC	1461	5000	2008 Pembina River Area Bank Stabilization Project	12/5/2008	24,307	0	24,307
SE	1515	5000	2009-11 US Geological Survey - monitoring gages Cottonwood Creek Dam	10/18/2009	8,260	8,260	0
SWC	1523	5000	2008 Souris River Golf Course Area Bank Stabilization	9/29/2008	31,612	31,612	0
SE	1556	5000	2009 Indian Creek Dam Emergency Action Plan	5/28/2009	9,600	9,600	0
SWC	1572	5000	Burnt Creek Floodway Diversion Channel	4/30/2008	121,091	112,637	8,454
SWC	1667	5000	2009-11 Traill County Goose River Snagging & Clearing Project	12/11/2009	46,500	30,873	15,627
SE	1849	5000	2008 Tongue River Diversion Channel Rock Project	11/25/2008	19,087	17,994	1,093
SWC	1859	5000	2009-11 Section NPS 319 ND Health Dept	8/18/2009	200,000	70,895	129,105
SWC	1869	5000	2008 McDowell Dam Emergency Action Plan	9/29/2008	25,000	25,000	0
SE	1921	5000	2009 Square Butte Dam No. 6/Emergency Action Plan	3/9/2009	16,000	11,040	4,960
SWC	1936	5000	Nash Drain Extension Construction Proj	10/12/2006	19,913	14,399	5,514
SWC	1947	5000	Cass County Drain No. 62, Maple River WRD	4/30/2008	39,787	3,687	36,100
SWC	1948	5000	2008 Cass Co. Drain No. 67 Construction Project	3/25/2008	334,250	199,888	134,362
SWC	1950	5000	2008 Cypress Creek Drain No. 2 Construction	6/23/2008	22,400	22,400	0
SWC	1751-06	5000	2009-11 Southeast Cass WRD/Flood Imagery Project	1/18/2010	30,014	30,014	0
TOTAL					2,141,312	1,473,959	667,353

FM METRO FLOOD RISK MANAGEMENT PROJECT

- Lead Agency US Army Corps of Engineers
- Local Sponsors
 - City of Fargo with Cass County and Joint Water Board
 - City of Moorhead with Clay County and Buffalo Red River Watershed District
- Feasibility Study in Progress
 - ND 35K CFS Diversion – Local Preferred Plan (LPP)
 - MN 35K CFS Diversion – Federal Comparable Plan (FCP)
 - MN 40K CFS National Economic Development Plan (NED)
- General Schedule
 - Submit revised Draft Environmental Impact Statement (DEIS) – Spring 2011
 - Submit Final EIS – Fall 2011
 - Final Report for Authorization and Appropriation – Fiscal 2012
 - Water Resource Development Act (WRDA) – Fall 2011
 - Begin Design – Summer 2011
 - Begin Construction – Spring 2013
 - Complete Construction – 2021
- General Cost Estimates*

	<u>LLP (ND 35K)</u>	<u>FCP (MN 35K)</u>
Cost	\$1,500 Million (M)	\$1,300 M
Federal	\$840 M	\$840 M
Local	\$660 M	\$460 M
MN Local **	\$66 M	\$46 M
ND Local	\$594 M	\$414 M
ND Share (50%)***	\$297 M	\$207 M
Fargo/Cass Share (50%)	\$297 M	\$207 M

* Mitigation/minimization of river stage impacts to be added when determined

** Based on 90/10 cost split yet to be confirmed

*** Based on 50% of non-Minnesota, non-federal cost share

- Projected Annual Expenditure (LPP) (See * above)

	<u>Federal</u>	<u>MN Local</u>	<u>Fargo Cass Co.</u>	<u>ND</u>
<u>2011</u>				
○ Complete Feasibility Study and EIS				
○ Begin Project Design	\$24 M	\$2.4 M	\$10.8 M	\$10.8 M
<hr/>				
<u>2012</u>				
○ Design/Right of Way (ROW) Acquisition	\$30 M	\$3 M	\$13.5 M	\$13.5 M
<hr/>				
<u>2013</u>				
○ Design/ROW/Construction	\$60 M	\$6 M	\$27 M	\$27 M
<hr/>				
<u>2014 – 2021</u>				
○ Annual Average Expenditure	\$90 M	\$7 M	\$31 M	\$31 M

- Fargo/Cass County Funding

- City of Fargo ½ cent sales tax
20 years @ \$10 M per year
- Cass County ½ cent sales tax
County-wide vote on November ballot
If approved, 20 years at \$11 M per year
- Cass County Joint Water Board
Potential special assessment for maintenance and/or construction

- Challenges

- Minimizing, mitigating of diversion impacts
- Federal authorization and appropriation
Competition for limited federal funding
Multi-year funding commitment
Congressional/Delegation influence
- Local funding
- Upstream/Retention
 - Long lead time
 - Multiple rivers to deal with
 - Valley terrain not conducive to large retention
 - NIMBY Syndrome

- Benefits
 - Provides regional solution for Cass and Clay Counties and Cities of Fargo, Moorhead, West Fargo, Horace, Harwood, Prairie Rose, Frontier, Reile's Acres, North River
 - Fargo Moorhead metro area the largest population center on Red River and the only one without permanent flood protection
 - Major flood disaster would have multi-state negative economic impact
 - FM Metro ongoing commitment to basin wide flood risk reduction



BYRON L. DORGAN

United States Senator for North Dakota

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CANADA-US OFFICIALS ENCOURAGED BY PRODUCTIVE FOUR-PARTY TALKS

Friday, October 8, 2010

TEXT OF STATEMENT FROM
U.S. SENATOR BYRON DORGAN
AND
MANITOBA PREMIER GREG SELINGER

(WASHINGTON, D.C.) — U.S. and Canadian officials on Friday completed two days of productive, wide-ranging talks in Washington D.C. centered on ways to settle differences over a number of water projects in the North Dakota-Manitoba region. The historic talks were helpful in gaining better mutual understanding regarding the positions of each side. Both sides hope that future discussions will lead to agreements that will find resolution to the issues on the table in a way that protects both countries' interests.

The talks were attended by Manitoba Premier Greg Selinger, Senators Byron Dorgan and Kent Conrad, Congressman Earl Pomeroy, Governor John Hoeven from North Dakota, Canadian Ambassador to the U.S. Gary Doer, and U.S. Ambassador to Canada David Jacobson

All parties agreed that an uncontrolled release of Devils Lake water through the Tolna Coulee would be catastrophic on both sides of the border and that the issue requires urgent attention.

There was unanimous agreement among participants to accelerate work on the quantity and quality of water released from the outlet, as well as to establish a basin-wide nutrient management plan in order to improve the water resource quality of both countries.

There was also general agreement to initiate a joint feasibility study to address mutual concerns related to border area water management in the Lower Pembina River Valley.

The participants of the four-party talks plan to schedule a follow-up meeting in November at a date to be determined to continue discussions aimed at ultimately resolving the water disputes.

October 26, 2010

SOUTHWEST PIPELINE PROJECT WATER SERVICE CONTRACT

Contract No.: 1736-37
Customer Entity: City of Center

I. PARTIES

This contract is between the Southwest Water Authority (the "Authority"), the North Dakota State Water Commission (the "Commission"), and the City of Center (the "Customer").

II. INTRODUCTION

1. The Commission is developing a water pipeline, water supply, and water distribution project known as the Southwest Pipeline Project (the "Project").
2. The Authority, created under North Dakota Century Code § 61-24.5, provides operation, maintenance, and management of the Project.
3. In 1995, the Commission entered into an agreement with the Authority transferring to the Authority the completed portions of the Project for operation, maintenance, and management (the "1995 Agreement").
4. Under North Dakota Century Code § 61-24.5-09 the Authority may enter into water service contracts to deliver and distribute water, and to collect charges for such delivery.
5. The Customer desires to enter into a water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Project for use by the Customer, for which the Customer will make payment to the Authority as set forth in this contract.

III. DEFINITIONS

The following definitions apply to this contract:

1. "Actual proportionate share" means the amount of water delivered to the Customer by the Authority during the Year divided by that Year's total annual water sales to all Customers.
2. "Additional water" means water purchased by the Customer at a flow rate greater than the Maximum flow rate specified in this contract.
3. "Base consumer price index" means the consumer price index, as defined herein, as of January 1, 1995.

4. "Capital costs" means all the costs incurred by the Commission related to construction of the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparations of construction plans and specifications, acquisitions, acquisitions of lands, easements and rights-of-way, relocation work, and related essential legal, administrative and financial work. "Capital costs" shall not include the Customer distribution system costs.
5. "Consumer price index" hereinafter referred to as "CPI" means the consumer price index for all urban consumers, which is a monthly statistical measure of the average change in prices in a fixed market basket of goods and services. The CPI is based on the prices of food, clothing, shelter, fuel, drugs, transportation fares, doctors' and dentists' fees, and other goods and services that people buy for day-to-day living.
6. "Customer" means the city of Center.
7. "Customers" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Authority for the purchase of water from the Project.
8. "Customer distribution system" means all infrastructure from the point of delivery that extends onto the Customer's property, including any storage, clearwell, pump, service line, distribution line, appurtenances and all related items intended for the distribution of water for domestic, business, industrial and public use.
9. "Customer distribution system costs" means all costs for and related to the Customer distribution system.
10. "Domestic use" means the use of water by an individual, or by a family unit or household, for personal needs and for drinking, washing, sanitary, and culinary uses.
11. "Estimated water rate for operation, maintenance, and replacement" means the estimated rate per each one thousand (1,000) gallons of water for operation, maintenance and replacement costs, for establishing and maintaining operating reserves of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Authority estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand (1,000) gallon units of water which the Authority estimates it will sell to its customers during the same year.
12. "Manager" means the person employed by the Authority to be in charge of and supervise the Authority and its powers and duties.
13. "Maximum flow rate" means the maximum number of gallons of water that the Authority may deliver to the Customer during any one minute time period.

14. "Minimum annual water purchase" means the minimum gallons of water which the Customer must purchase and pay for during a year.
15. "Operation, maintenance, and replacement costs" means the cost for operation and maintenance, for establishing and maintaining operating reserves of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. Operation, maintenance, and replacement costs shall be referred to in this contract as OM&R costs.
16. "Point of delivery" means the location where the Project delivers water to the Customer, from which point the Customer is responsible for conveyance of the water for its intended use.
17. "Potable water" means water fit for human consumption.
18. "Unallocated capacity" means the capacity of the Project which is not allocated and contractually committed to customers by virtue of raw and/or potable water service contracts.
19. "Water rate for capital costs" means the rate per each one thousand (1,000) gallons of water to be paid by the customers for capital costs of the Project.
20. "Year" means the period from January 1 through December 31, both dates inclusive.

IV. TERM OF CONTRACT

1. This contract shall remain in effect for forty (40) years after the date of the first water delivery to the Customer, unless terminated sooner by mutual agreement of the parties.
2. Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years from the date of renewal.

V. WATER SERVICE: DELIVERY OF WATER

The Authority will deliver water to the Customer in accordance with the following terms and provisions:

1. All water supplied to the Customer shall be potable treated water that meets water quality standards of the North Dakota Department of Health.
2. The Customer hereby agrees to purchase and make payment for not less than 100,000 gallons per year (minimum annual water purchase) during the entire term of this contract.
3. The maximum flow rate is 150 gallons per minute total for all connections to the

Customer.

4. The Authority will deliver to the Customer any water which the Customer desires to purchase, at a flow rate not to exceed the maximum flow rate specified in this contract. The Authority is not obligated to supply water at a greater flow rate than the maximum flow rate specified in this contract. If there is unallocated capacity in the Project to the Customer's point of delivery, the Authority may allow delivery of additional water at a flow rate greater than the maximum flow rate specified in this contract. If the Customer desires to secure a contractual right to a greater maximum flow rate than specified in this contract, this contract must be amended in writing to provide for such a greater maximum flow rate. At such time the Authority may or may not require an increase in the minimum annual water amount. Unless otherwise specified in the amendment, the term of any amendment is valid through the date specified in Section IV.
5. The flow rate set forth is provided to meet the Customer's needs on a constant flow basis. Should the Customer request or require demand flow service, the Customer may request such service from the Authority. As consideration for receiving this type of service, the Customer agrees to pay, as the water rate for capital costs, an amount equal to two (2) times the water rate for capital costs paid for constant flow service. If the Customer desires to secure a contractual right to demand flow service, this contract must be amended to provide for demand flow service.
6. The Authority will supply water to the Customer at the point of delivery at a pressure range of 20 psi to 35 psi. If the Customer requests that the Authority supply pressure outside the range of 20 psi to 35 psi, and the Authority determines that it can provide the requested pressure, the Customer shall pay the Authority the cost incurred by the Authority in providing the requested pressure.
7. The Customer is responsible for and shall pay all Customer distribution system costs.
8. No liability shall accrue and the Customer agrees it shall be fully responsible and shall not be entitled to any remedy arising from any water shortages or other interruptions in water deliveries resulting from accident to or failure of the Project. The Customer's duties under this contract shall not be reduced or altered by reason of such shortages or interruptions.
9. The Authority has the right during times of water shortage, from any cause, to interrupt water service to the Customer. Preference will be given to municipal, domestic, and rural water needs during times of water shortage.
10. The Authority may temporarily discontinue or reduce the amount of water supplied to the Customer for the purpose of maintaining, repairing, replacing, investigating or inspecting any of the facilities and works necessary for supplying water. To the extent possible, the Authority will give reasonable advance notice of any temporary discontinuance or reduction. No advance notice is required in case of an emergency. In no event shall any liability accrue against the Authority, the Commission, or any of their officers, agents, or

employees for any damage or inconvenience direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

11. The Commission will pay for and install, at the point of delivery, a meter and any other equipment necessary to measure the quantity of water supplied to the Customer ("metering equipment"). The Commission will provide an underground prefabricated steel meter vault ("vault") for purposes of controlling flow and measuring the quantity of water supplied to the Customer. The vault shall include an access hatch and steel vent pipes that terminate three to five feet above ground. The Customer shall dedicate an area for the installation, operation, maintenance, and repairs of the vault and shall provide vehicular access to the vault. Upon installation, the Authority shall operate and maintain the metering equipment. If the Customer believes the measurement of water delivered to be in error, it shall present a written claim to the Authority, either in person or by certified mail. A claim presented after a payment has become delinquent does not prevent the Authority from discontinuing service to the Customer. The Customer shall continue to make payments for water service after a claim has been presented; however, the payment will be under protest and will not prejudice the Customer's claim. After the Customer presents its claim and advances the cost of calibration, the Authority will calibrate the meter. If the meter is found to over-register by more than two percent (2%) of the correct volume, the Authority will refund the Customer's advance for the cost of calibration and the readings for that meter shall be corrected for the twelve (12) months preceding the calibration by the percentage of inaccuracy determined by the calibration. The amount of any overpayment as a result of over-registration shall be applied first to any delinquent payments for water service, and at the option of the Customer, the Authority shall refund or credit the Customer upon future payments for water service. If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Authority and the Customer agree upon a different amount. The Customer and the Authority shall have access to the meter at all reasonable times for the purpose of verifying its readings.
12. The Customer shall be responsible for the control and use of all water in the Customer distribution system and shall pay all costs related to service, maintenance, and repair of the Customer distribution system. The Customer is responsible for the control, distribution, and use of water delivered under this contract, and the operation, maintenance and replacement of the Customer distribution system.
13. The points of delivery under this contract are two connection points, one located adjacent to the Customer's northeast 300,000 gallon reservoir located in Section 14, Township 142, Range 84 West at the east side of the city limits in the vicinity of Second Street and Yatsin Avenue. The other connection is located adjacent to the Customer's southwest 300,000 gallon reservoir located in Section 22, Township 142, Range 84 West at the southwest side of the city limits. Any connection other than the two connections adjacent to the Customer's northeast 300,000 gallon reservoir, and adjacent to the Customer's southwest 300,000 gallon reservoir must be approved, in writing, by the Authority and by the Commission and all costs related to any other connection, including all appurtenant

piping, valves and controls shall be paid by the Customer.

VI. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER

The Customer shall pay for water and water service under the following terms:

1. Ninety (90) days prior to completion of the Project to the point of delivery, the Commission shall, via certified mail, notify the Customer of the date when water will be first available to the Customer. The Customer will make payments for water and water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the Customer, whichever is later in time.
2. The Customer's monthly water service payment is the sum of the following:
 - a. The Customer's proportionate share of the OM&R costs, as determined by the Authority; plus
 - b. The Customer's payment for capital costs, as determined by the Authority.
3. The Customer agrees to use water from no other source than the Project in the Customer distribution system during the term of this contract except if water from other sources is needed for emergencies such as significant fire events or interrupted or reduced service from the Project.
4. The Customer's proportionate share of the Project OM&R costs (for calculating the Customer's monthly payment) will be determined as follows:
 - a. Prior to February 1 of each year, the Authority shall adopt a budget for OM&R for the Project for the immediate ensuing year. The Authority may include in such budget an amount to be accumulated and maintained in a reserve fund for the purpose of replacing Project works and for extraordinary maintenance of Project works. The amount of the reserve fund shall be contingent upon approval by the Commission. The Authority shall deposit and maintain the reserve fund in a separate account in accordance with the laws of the state of North Dakota.
 - b. The Authority will then estimate the total annual water sales for the immediate ensuing year, and calculate the "estimated water rate for operation, maintenance, and replacement" for the Project by dividing the amount of the estimated budget for OM&R for the immediate ensuing year by the estimated total annual water sales for such ensuing year.
 - c. The monthly payment to be made by the Customer to the Authority for OM&R shall be determined by multiplying the amount of water actually delivered to the Customer for each month times the estimated water rate for OM&R.

- d. At the end of each year, the Authority shall prepare a statement of the year's actual OM&R costs.
 - e. The Authority will then determine the adjustment to be applied to the Customer's OM&R payment for the previous year. The adjustment will be calculated by dividing the amount of water delivered to the Customer by the Authority during the previous year by that year's total annual water sales to determine the Customer's proportionate share of the OM&R costs. This fraction will then be multiplied by the actual total cost for OM&R for the previous year, which shall be the amount of the Customer's proportionate share of OM&R costs for the previous year. The Authority shall then subtract this amount of the Customer's proportionate share of OM&R costs for the previous year from the total amount actually paid by the Customer for OM&R during the previous year, which is the adjustment to be applied to the Customer's water service payments for the next year. If the Customer's proportionate share of OM&R costs for the previous year is more than the total amount actually paid by the Customer during the previous year for OM&R, the difference shall be owed by the Customer to the Authority. Any such amount due will be added to the Customer's monthly payments for water for the next four (4) months of the immediate ensuing year in equal monthly installments. If the Customer's proportionate share of OM&R costs for the previous year is less than the total amount actually paid by the Customer during the previous year but the Customer has delinquent payments for water service, the remaining sum, if any, shall be used to satisfy the delinquencies, but if there are no delinquencies the sum will be credited against the Customer's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.
5. The Customer's share of the Project's capital costs (for calculating the Customer's monthly payment) will be determined as provided below.
- a. The base rate for capital costs for constant flow shall be seventy-two cents (\$0.72) per each one thousand (1,000) gallons of water.
 - b. The Commission shall have the authority to adjust the base water rate for capital costs annually in accordance with the increase or the decrease in the consumer price index CPI. The formula for determining the adjustment to the water rate for capital costs for each year is as follows: The CPI for September 1 of each year shall be divided by the base CPI of January 1, 1995, which is 448.4 (1967=100). The result of this calculation shall be reduced by one (1), and then multiplied by the base water rate for capital costs. The product of this formula is the adjustment to the water rate for capital costs and shall be used to add to the base water rate for capital costs for the next year. Notwithstanding the foregoing basis for adjusting the water rate for capital costs, the Commission shall have the authority to decrease the adjustment to the water rate for capital costs, as it deems appropriate and necessary, after considering data on changes to the median incomes of Project water customers, substantial increases in operation,

maintenance and replacement costs, or other factors.

- c. The amount of the Customer's monthly payment to the Authority for capital costs shall be calculated by multiplying the water rate for capital costs times the amount of water actually delivered to the Customer each month.
6. The Authority shall read the metering equipment at the point of delivery and, not later than the first (1st) day of each month, shall send to the Customer, at the address shown on the signature page of this contract, an itemized statement of the payment due from the Customer for water service for the preceding month.
7. The Customer shall pay the Authority for water service under this contract, for OM&R, and for capital costs, by sending payment to the Authority, at the address shown on the signature page, not later than the fifteenth (15th) day of each month. Payments sent after the fifteenth (15th) day of each month shall result in the Customer being in default. If the Customer is in default, the Authority, at its sole discretion, may suspend delivery of water through the Project during the period of default. During any period of default, the Customer remains obligated to make all payments required under this contract. Any action of the Authority shall not limit or waive any remedy provided by this contract or by law for the recovery of money due or which may become due under this contract.
8. Interest of one percent (1%) per month will be imposed upon all payment amounts that are in default.
9. The Customer's failure or refusal to accept delivery of water from the Authority does not relieve the Customer from its obligation to make payments in accordance with this contract.

VII. GENERAL PROVISIONS

1. The Authority, contingent upon the approval of the Commission, may adopt such rules and regulations as it deems appropriate to carry out and to govern the administration of this contract. Such rules and regulations shall not be inconsistent with this contract. The Customer shall comply with such rules and regulations.
2. All notices or other communications required under this contract must be given either in person or by certified mail at the address shown on the signature page of this contract. Notice provided under this provision does not meet the notice requirements for monetary claims against the Commission found at N.D.C.C § 32-12.2-04.
3. Customer shall promptly notify Authority and Commission of all potential claims that arise or result from this contact. Customer shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants Commission the opportunity to review and inspect the evidence, including the scene of an accident.

4. The use of any remedy specified herein to enforce this contract is not exclusive and does not prohibit the use of, or limit the application of, any other remedy available by law.
5. In the event a lawsuit is initiated by Commission to obtain performance due under this contract and Commission is the prevailing party, Customer shall pay Commission's reasonable attorney fees and costs in connection with the lawsuit.
6. This contract may be amended any time by mutual agreement of the parties in writing, except insofar as any proposed amendments are in any way contrary to applicable law.
7. Any waiver by any party of its rights with respect to a default or any other matter arising in connection with this contract does not waive any other default or matter.
8. If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected, and if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.
9. The Customer may not assign or otherwise transfer or delegate any right or duty without the express written consent of both the Commission and the Authority.
10. The Customer understands and agrees that the Authority and the Commission will give preference to potable water for municipal, domestic, and rural water needs before executing water service contracts or allowing additional water purchases.
11. This contract is governed by and construed in accordance with the laws of the state of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota, and the Customer consents to jurisdiction of state courts.
12. Customer understands that, except for disclosure prohibited in this contract, Commission must disclose to the public upon request any records it receives from Customer. Customer further understands that any records that are obtained or generated by Customer under this contract, except for records that are confidential under this contract, may, under certain circumstances, be open to public upon request under the North Dakota open records law. Customer agrees to contact Commission immediately upon receiving a request for information under the open records law and to comply with Commission's instructions on how to respond to the request.

VIII. TERMINATION

The Authority and the Commission may terminate this contract if the Customer fails to use water delivered in a manner consistent with the terms of this contract. Upon such termination, the Authority and the Commission are relieved of all obligations under this contract, and the Customer must immediately disconnect the Customer distribution system from the Point of

delivery.

IX. MERGER

This contract constitutes the entire contract between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by each party to this contract.

STATE WATER COMMISSION
900 East Boulevard Avenue
Bismarck, ND 58505
By:

SOUTHWEST WATER AUTHORITY
4665 2nd Street SW
Dickinson, ND 58601-7231
By:

Todd Sando, Chief Engineer and Secretary

Larry Bares, Chairman

Date _____

Date _____

CITY OF CENTER
PO Box 76
Center, ND 58530-0076

CITY OF CENTER

By: _____

By: _____

Title: _____

City Auditor

Date _____

Date _____



GARRISON DIVERSION CONSERVANCY DISTRICT **STATUS REPORT ON THE** **RED RIVER VALLEY WATER SUPPLY PROJECT**

Garrison Diversion is the co-lead representing the State of North Dakota on the Red River Valley Water Supply Project Environmental Impact Statement (EIS). This update is provided on a regular basis to all state agencies. If you would like additional information, please contact us at gacd@daktel.com, 800-532-0074 or go to www.garrisondiversion.org.

Environmental Impact Statement

- The Secretary of Interior signed a memorandum on January 15, 2009, disclosing the following:
 - The project selected to meet the needs of the Red River Valley is the Preferred Alternative, a pipeline from the McClusky Canal to Lake Ashtabula; and,
 - The identified treatment processes are adequate to meet the requirements of the Boundary Waters Treaty.
- The Final EIS was available to the public on December 28, 2007.

Lake Agassiz Water Authority

- The LAWA board met on September 14. The preliminary findings of the value engineering process were presented. The board also discussed the potential funding needs in the upcoming North Dakota legislative session. The next meeting of the LAWA board is scheduled for December 8 in Bismarck.

Pre-final Design Effort

- The following is a summary of the ongoing efforts on the task orders:

Right-of-Way: Garrison Diversion has wrapped up the effort to obtain options for right-of-way. The next steps to acquire the right-of-way will occur when the decision is made to exercise the options. Access to all of the right-of-way has been secured to complete the studies. Out of 173 landowners, 132 or 76% have signed option agreements for easements.

Permitting and Environmental Services: Notice on the determination of wetlands under the jurisdiction of the Corps of Engineers has been provided to Garrison Diversion. These wetlands, along with the other isolated wetlands, have been field verified. The wetlands under easement by the US Fish and Wildlife Service have been field verified and surveyed to develop contour maps, and the permit application to cross wetland easements has been submitted.

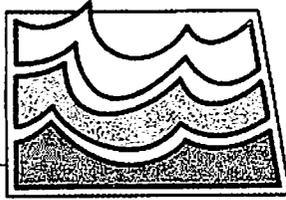
The class 3 cultural and historic properties field review has been completed for the entire right-of-way, and there were no significant findings. These results have been submitted to Reclamation, and consultation with the North Dakota Historic Properties Office was requested.

The Wetland Delineation Report has been completed, and the field verified jurisdictional wetlands have been submitted to the Corps of Engineers with a request to amend the jurisdictional determination to account for the adjustments in alignment.

The remaining effort in this task order is to complete the other miscellaneous permit applications so that they are ready when the decision is made to move forward.

Operational Plan: The technical memorandums supporting the operational plan have been completed. The operational plan and the supporting technical memorandums were sent to the work group for written comments. This will end the development of the operational plan at this stage of the project. It will remain in draft form until the project moves closer to construction.

October 26, 2010



North Dakota State Water Commission

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

MEMORANDUM

TO: Governor John Hoeven
Members of the State Water Commission
FROM: ~~John~~ Todd Sando, PE Chief Engineer/Secretary
SUBJECT: Missouri River Update
DATE: October 13, 2010

On October 11, system storage in the six mainstem reservoirs was 61.2 million acre-feet (MAF), 5.8 MAF above the average system storage for the end of September, and 5.6 MAF more than last year. The record minimum system storage for the end of September was 35.0 MAF in 2006, and the maximum system storage for the end of September was 66.8 MAF in 1975. The Corps predicts runoff above Sioux City for 2010 to be 38.7 MAF, 156% of normal. If this occurs it will be the third highest runoff year since 1898; lagging behind 1997, which had 49.0 MAF of runoff, and 1978, which had 40.6 MAF of runoff. This results in a forecast that the system will have 57.1 MAF at the end of the year. The record low end of year system storage was 34.4 MAF in 2005, and the maximum end of year storage was 60.95 MAF in 1975.

On October 11, Lake Sakakawea was at an elevation of 1847.3 feet msl, about 9.8 into the Flood Pool. This is 5.8 feet higher than a year ago and 11.2 feet above its average daily October elevation. The record minimum average daily October elevation was 1809.5 feet msl in 2006, and the maximum average daily October elevation was 1847.2 in 1972. Lake Sakakawea peaked at 1851.4 ft msl on July 30, which was 1.4 feet into the Exclusive Flood Pool. Releases averaged 26,900 cfs during the September, compared to the long-term average of 20,400 cfs. Releases were increased to 30,000 cfs in early October and are expected to remain at that rate through November, before being reduced in early December. The reservoir is expected to drop 3.1 feet in October, ending at 1845.2 feet msl. The forecast shows Sakakawea falling to 1841 by the end of the year, and to the base of the Flood Pool, 1837.5 feet msl, by end of February 2011.

The elevation of Lake Oahe was 1609.8 feet msl on October 11, about 2.3 feet into the Flood Pool; this is 2.6 feet higher than last year and 10.3 feet higher than its average daily October elevation. The record minimum average daily October elevation for Lake Oahe was 1572.1 feet msl in 2006, and maximum average daily October elevation was 1615.9 in 1997. Lake Oahe peaked at 1617.6 feet msl on July 1, and was 0.6 feet into the Exclusive Flood Pool. Releases from Oahe averaged 39,200 cfs in September and will average 38,900 cfs in October. The forecast shows Oahe falling to 1606.4 by the end of the year, and to the base of the Flood Pool, 1607.5 feet msl, by the end of February 2011.

Fort Peck Lake has remained nearly level this fall at an elevation of 2235.9 feet msl; this is 15.8 feet higher than a year ago and 5.6 feet above its daily average October elevation. Releases averaged 6,100 cfs in September compared to the long-term average of 5,400 cfs. Releases will remain near 6,000 cfs through November. The forecast shows for Fort Peck falling to 2235.1 by the end of the year.

The Corps of Engineers' basic forecast, 38.7 MAF of runoff, shows full service flows for navigation, and an extended navigation season. The navigation season has been extended 10 days and will close in Sioux City, Iowa on December 2.

The Corps scoping phase for the Missouri River Authorized Purposes Study (MRAPS) closed on September 20, 2010. Attached are the written comments The North Dakota State Water Commission (NDSWC) submitted. A complete list of all comments that were submitted during the scoping phase can be found on www.mraps.org.

The Missouri River Recovery Implementation Committee (MRRIC) will be holding a meeting October 19-21 in South Sioux City, Nebraska.

The Corps plans on releasing the draft Programmatic Environmental Impact Statement (PEIS) for Emergent Sandbar Habitat creation between now and December for public comment. The PEIS will focus on mechanically created sandbars in areas identified in the 2003 Biological Opinion. The Corps is planning to hold public meetings in Bismarck and Riverdale, although specific meeting dates and places have not yet been announced.

In 2008, the Corps released a policy that stated no real estate easements would be granted on Corps land without water storage contracts. In order for the Corps to issue a water storage contract, storage must be allocated. The storage in the Missouri River System has never been allocated. The Corps is in the process of conducting a system wide storage allocation study that could potentially take up to 7 years. In order to expedite existing permit applications, the Corps is in the process of drafting a letter report that will be released between January and May 2011. The letter report will temporarily allocate 100,000 acre-ft of storage in Lake Sakakawea to Surplus Water that will be used for municipal and industrial (M&I) use, and grant permits to applicants who have applied for water intakes on the lake to supply water for the oil industry. It is the position of the State Engineer that the natural flow of the river is sufficient for water supply and no storage contracts should be issued. The State is in the process of initiating a natural flows study on the Missouri River.

The task force that was implemented by the Missouri River Protection and Improvement Act of 2000 (Title VII) held a vote by email on October 8, 2010 for a plan that will allow suggested sedimentation management projects to be brought to the task force. If a proposed project meets the criteria of the plan, the task force will then suggest the project to the Corps for cost share funds. Results of the vote are not yet known. The plan can be modified on an annual basis.

The Corps released the draft AOP for 2010-2011 in September. Six public meetings will be held throughout the basin. The Bismarck AOP meeting is scheduled for 7 pm, October 19 at the Radisson Hotel. The Corps will accept comments on the draft plan through November 15.

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