

North Dakota State Water Commission

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*Meeting To Be Held At
State Office Building - 900 East Boulevard Avenue
Lower Level Conference Room
Bismarck, North Dakota*

*November 27, 2012
3:00 P.M., CST*

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>*
- C. *Consideration of Draft Minutes of September 17, 2012 State Water Commission Meeting* **
- D. *Proposed Legislation for 2013 Legislative Session:* **
 - 1) *Bill Draft Relating to Liability of State Engineer for Determinations of Surface Water Flow and Appropriate Highway Construction*
 - 2) *Bill Draft Relating to Term "Unnavigable, and Water Conservation*
 - 3) *Bill Draft Relating to State Water Commission Acting as a Public Corporation*
 - 4) *Bill Draft Relating to Penalties for Violation of Provisions for the Appropriation of Water*
 - 5) *Bill Draft Relating to a Permit to Construct or Modify a Dam, Dike, or Other Device*
 - 6) *Bill Draft Relating to Removal or Closing of a Noncomplying Dam, Dike, or Other Device*
 - 7) *Bill Draft Relating to the Sale of Property Owned by the State Water Commission Obtained for Construction of the Northwest Area Water Supply Project*
 - 8) *Bill Draft Relating to Combining the Devils Lake Outlet Management Advisory Committee and the Devils Lake Outlets Advisory Committee*
- E. North Dakota Water Coalition - Project Funding Priorities: 2013-2015 Biennium
- F. Water Use Monitoring for Oil Field Industrial Use
- G. *Devils Lake Downstream Impacts* **
- H. Draft State Water Commission/State Engineer Strategic Plan for 2013-2015 Biennium
- I. Other Business:
 - 1) Next State Water Commission Meeting - December 7, 2012
- J. 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

November 27, 2012

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on November 27, 2012. Governor Jack Dalrymple, Chairman, called the meeting to order at 3:00 p.m., and requested Todd Sando, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Dalrymple announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor Jack Dalrymple, Chairman
Doug Goehring, Commissioner, North Dakota Department of Agriculture, Bismarck
Maurice Foley, Member from Minot
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

STATE WATER COMMISSION MEMBERS ABSENT:

Arne Berg, Member from Starkweather
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

The agenda for the November 27, 2012 State Water Commission meeting was presented; there were no modifications to the agenda.

It was moved by Commissioner Olin, seconded by Commissioner Foley, and unanimously carried, that the agenda be accepted as presented.

**CONSIDERATION OF DRAFT MINUTES
OF SEPTEMBER 17, 2012 STATE WATER
COMMISSION MEETING - APPROVED**

The draft final minutes of the September 17, 2012 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Goehring, and unanimously carried, that the draft final minutes of the September 17, 2012 State Water Commission meeting be approved as prepared.

**PROPOSED LEGISLATION FOR
CONSIDERATION DURING SIXTY-
THIRD LEGISLATIVE ASSEMBLY
OF NORTH DAKOTA (2013)**

The following proposed bill drafts were presented for the State Water Commission's consideration, and pre-filing with the Legislative Council as agency bills on December 6, 2012 to be considered

during the Sixty-third Legislative Assembly of North Dakota (2013). The proposed bill drafts were approved by staff of the Governor's office, and it was the recommendation of Secretary Sando that the State Water Commission concur with the proposed legislation:

- 1) A BILL for an Act to amend and reenact section 24-03-08 of the North Dakota Century Code, relating to liability of the state engineer for determinations of surface water flow and appropriate highway construction.

The proposed change will provide the state engineer with the same liability protection as the Department of Transportation, county, and township have when determining surface water flows for highway construction.

- 2) A BILL for an Act to amend and reenact section 61-02-01 of the North Dakota Century Code, relating to the term "unnavigable"; and to repeal sections 61-15-01, 61-15-02, and 61-15-08 of the North Dakota Century Code, relating to water conservation.

The amendment to 61-02-01 replaces the term "unnavigable" with the term "nonnavigable" because "nonnavigable" is the language used by courts.

The substance of this bill is to repeal sections 61-15-01, 61-15-02, and 61-15-08 because they are redundant of other Century Code and Administrative Code sections and because the definitions found in 61-15-01 are contrary to what courts will use during litigation.

3) A BILL for an Act to amend and reenact section 61-02-09 of the North Dakota Century Code, relating to the state water commission acting as a public corporation.

This amendment will officially make the State Water Commission a state agency instead of a public corporation.

4) A BILL for an Act to amend and reenact section 61-03-23 of the North Dakota Century Code, relating to penalties for violation of provisions for the appropriation of water, and to declare an emergency.

This amendment would increase the civil penalty the state engineer is allowed to fine for violations of N.D.C.C. Title 61 from \$5,000 per day to \$15,000 per day.

5) A BILL for an Act to amend and reenact section 61-16.1-38 of the North Dakota Century Code, relating to a permit to construct or modify a dam, dike or other device.

The proposed amendment clarifies that if the local water resource board fails to respond within the 45 days to permit applications for water storage, obstruction, or diversion, it shall be determined the board has no changes, conditions, or modifications.

6) A BILL for an Act to amend and reenact sections 61-16.1-53, 61-16.1-53.1, 61-32-07, and 61-32-08 of the North Dakota Century Code, relating to appeals of removal or closing of a noncomplying dam, dike, other device, and drains.

These amendments will clarify the appeals process for landowners with unauthorized dikes, dams, drains, etc., and will make the process consistent for all landowners regardless of when the structure was constructed. Local boards will handle the initial complaints, and appeals will flow to the State Engineer, then the District Court, then the Supreme Court.

7) A BILL for an Act to create and enact a new section to chapter 61-24.6 of the North Dakota Century Code, relating to the sale of property owned by the state water commission obtained for construction of the northwest area water supply project.

This proposed new section, which falls under the Northwest Area Water Supply chapter, would give the Commission the authority to sell, transfer, or exchange up to two acres of excess property directly back to the current owner of the surrounding property from which the property was obtained. The Southwest Pipeline Project already has this authority.

Based on the Commission's discussion, bill draft No. 7 was revised, as follows, to resolve the issues and concerns expressed by the Commission members:

Commission has authority to sell property.

If the commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five [2.03 hectares] contiguous acres or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

8) A BILL for an Act to amend and reenact sections 61-36-01, 61-36-02, and 61-36-04 of the North Dakota Century Code, relating to the composition and duties of the Devils Lake outlets management advisory committee; and to repeal section 61-36-03 of the North Dakota Century Code, relating to the compensation and expenses of the Devils Lake outlet management advisory committee.

This bill will combine the two Devils Lake outlet advisory committees into a single advisory committee. It also removes the task of preparing an operating plan.

It was moved by Commissioner Swenson and seconded by Commissioner Goehring that the State Water Commission concur with the proposed bill drafts, as revised, for consideration during the Sixty-third Legislative Assembly of North Dakota (2013). SEE APPENDIX "A"

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

***NORTH DAKOTA WATER COALITION -
PROJECT FUNDING PRIORITIES FOR
2013-2015 BIENNIUM***

At the State Water Commission meeting held on September 17, 2012, Governor Dalrymple discussed the projected revenue forecast for the 2013-2015 biennium, indicating that revenues could significantly exceed the projections. The State Water Commission and the North Dakota Water Coalition have recommended a plan of projects and funding priorities that total approximately \$375 million for the 2013-2015 biennium. The State Water Commission passed a motion which directed the Secretary

to the Commission to work with the North Dakota Water Coalition to develop an optional plan of projects and funding priorities, above the recommended \$375 million plan for the 2011-2013 biennium, that could be considered if supplemental revenues becomes available in the 2013-2015 biennium.

The North Dakota Water Coalition was established in July, 1994 through an initiative of the Flagship Initiative #6 of the North Dakota Vision 2000 report, which states, in part: ... "*The North Dakota 2000 Committee recommends that North Dakota establish a "Coalition for Infrastructure Projects" to further develop three key elements of our state's infrastructure: water resources, telecommunications, and advanced air transportation.*" The Coalition brings together all water interests to reach consensus and unity on water funding issues.

As directed by the State Water Commission on September 17, 2012, Michael Dwyer, executive director of the North Dakota Water Users Association, provided a detailed presentation relating to the recommended plan for the 2013-2015 Water Coalition funding priorities of \$375 million, and an optional plan of projects and funding priorities of \$500 million that could be considered if supplemental revenues become available in the 2013-2015 biennium. The 2013-2015 Water Coalition funding priorities outline is attached hereto as **APPENDIX "B"**. Mr. Dwyer also provided information relating to funding programs that could be made available through the Bank of North Dakota, energy conservation/renewable energy, and 1926(B).

**WATER USE MONITORING FOR
OIL FIELD INDUSTRIAL USE
(SWC Project No. 1400)**

During the September 21, 2011 State Water Commission meeting, water usage under water permits issued by the Office of the State Engineer was discussed. Governor Dalrymple alluded to the reasons that were provided for the basis of the veto of the remote meter requirements contained in 2011 S.B. 2020.

Governor Dalrymple also directed the Secretary to the State Water Commission to report on the current and proposed water metering requirements for the oil field industrial water use at the Commission's next meeting. On October 31, 2011, Robert Shaver, State Water Commission's water appropriation division director, presented a summary of the water availability, allocation, use, and water use monitoring for oil field industrial needs in western North Dakota.

The water appropriation division staff provided updated reports on the water use monitoring for oil field industrial use, and the telemetry pilot study. Outlines of the report/study are included hereto as **APPENDIX "C"**.

**DEVILS LAKE DOWNSTREAM IMPACTS,
GLEN BAKKEN MITIGATION - APPROVAL
OF STATE FUNDS (\$150,000) FOR
COMPENSATION OF DAMAGED HOME
(SWC Project No. 416-10)**

the channel had flowed through the ground into the basement of the Glen Bakken residence. Mr. Bakken stated that the impact was present from 2010 to 2012 during the time at which the outlet was operating at or near full capacity. The basement of the residence sustained substantial damages and it was estimated that the potential repairs would involve a significant expense.

In July, 2012, the State Water Commission staff conducted an investigation of a reported ground water problem impacting a house near the open channel of the Devils Lake west end outlet. The investigation determined that water from

Negotiations between the Commission staff and Mr. Bakken agreed that replacement of the house was the most economical solution, and it was determined that an offer of \$150,000 would be a fair compensation for the damages caused by the outlet.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$150,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), as compensation to Glen Bakken for Devils Lake downstream impacts.

It was moved by Commissioner Foley and seconded by Commissioner Swenson that the State Water Commission approve an allocation not to exceed \$150,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), as compensation to Glen Bakken for Devils Lake downstream impacts.

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

**DRAFT 2013-2015 NORTH DAKOTA
STATE WATER COMMISSION AND
OFFICE OF THE STATE ENGINEER
STRATEGIC PLAN
(SWC Project No. 322)**

key projects and programs that were deemed appropriate to be included in the strategic planning process through June 30, 2015, as well as specific tasks that will need to be completed to achieve the objectives. The Commission members were asked to provide comments relating to the draft Strategic Plan prior to December 7, 2012, so that the Plan can be finalized for presentation during the Sixty-third Legislative Assembly of North Dakota (2013).

The draft 2013-2015 North Dakota State Water Commission and Office of the State Engineer Strategic Plan was presented to the State Water Commission. The draft Strategic Plan contains descriptions and overviews of the agencies'

**NEXT STATE WATER
COMMISSION MEETING**

Hotel in Bismarck, ND. Governor Dalrymple will convene the meeting at 9:00 a.m. in the Lamborn Room.

The next meeting of the State Water Commission is scheduled for December 7, 2012 at the Best Western Ramkota

There being no additional business to come before the State Water Commission, Governor Dalrymple adjourned the meeting at 5:00 p.m.



Jack Dalrymple, Governor
Chairman, State Water Commission

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

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Legislative Assembly
of North Dakota

Introduced by

Office of the State Engineer

A BILL for an Act to amend and reenact section 24-03-08 of the North Dakota Century Code, relating to liability of the state engineer for determinations of surface water flow and appropriate highway construction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-03-08 of the North Dakota Century Code is amended and reenacted as follows:

24-03-08. Determinations of surface water flow and appropriate highway construction.

Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the state engineer, upon petition of the majority of landowners of the area affected or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the department and the state engineer. When the determination has been made by the state engineer, the department, the board of county

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commissioners, or the board of township supervisors, as the case may be, upon notification of the determination, shall install a culvert or bridge of sufficient capacity to permit the water to flow freely and unimpeded through the culvert or under the bridge. The state engineer, department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

Office of the State Engineer

A BILL for an Act to amend and reenact section 61-02-01 of the North Dakota Century Code, relating to the term “unnavigable”; and to repeal sections 61-15-01, 61-15-02, and 61-15-08 of the North Dakota Century Code, relating to water conservation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-01 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01. Water conservation, flood control, management, and development declared a public purpose.

It is hereby declared that the general welfare and the protection of the lives, health, property, and the rights of all the people of this state require that the conservation, management, development, and control of waters in this state, public or private, navigable or ~~unnavigable~~ nonnavigable, surface or subsurface, the control of floods, and the management of the atmospheric resources, involve and necessitate the exercise of the sovereign powers of this state and are affected with and concern a public purpose. It is declared further that any and all exercise of sovereign powers of this state in investigating, constructing, maintaining, regulating, supervising, and controlling any system of works involving such subject matter embraces and concerns a single object, and that the state water commission in the exercise of its powers, and in

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the performance of all its official duties, shall be considered and construed to be performing a governmental function for the benefit, welfare, and prosperity of all the people of this state.

SECTION 2. REPEAL. Sections 61-15-01, 61-15-02, and 61-15-08 of the North Dakota Century Code are repealed.

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Legislative Assembly
of North Dakota

Introduced by

State Water Commission

A BILL for an Act to amend and reenact section 61-02-09 of the North Dakota Century Code, relating to the state water commission acting as a public corporation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-09 of the North Dakota Century Code is amended and reenacted as follows:

61-02-09. Commission a ~~public corporation~~ state agency – Function as state.

The commission shall be a ~~public corporation~~ state agency with all of the powers and authority possessed by such a ~~corporation~~ state agency in the performance of its duties. The commission may sue and be sued, plead and be impleaded, and contract and be contracted with, ~~in its corporate name~~. The commission in the exercise of all its powers and in the performance of all its duties shall be the state of North Dakota functioning in its sovereign and governmental capacity.

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of North Dakota

Introduced by

Office of the State Engineer

A BILL for an Act to amend and reenact section 61-03-23 of the North Dakota Century Code, relating to penalties for violation of provisions for the appropriation of water; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-03-23 of the North Dakota Century Code is amended and reenacted as follows:

61-03-23. Penalties – Civil.

In addition to criminal sanctions that may be imposed pursuant to law, a person who knowingly violates any provision of this title or any rules adopted under this title may be assessed a civil penalty not to exceed ~~five~~ fifteen thousand dollars for each day the violation occurred and continues to occur and may be required by the state engineer to forfeit any right to the use of water. The civil penalty or forfeiture of a right to use water may be adjudicated by the courts or by the state engineer through an administrative hearing under chapter 28-32.

If a civil penalty levied by the state engineer after an administrative hearing is not paid within thirty days after a final determination that the civil penalty is owed, the civil penalty may be assessed against the property of the landowner responsible for the violation leading to the assessment of the penalty. The assessment must be collected

as other assessments made under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and penalties due on the assessment must be paid to the state. Any civil penalty assessed under this section must be in addition to any costs incurred by the state engineer for enforcement of the order.

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

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of North Dakota

Introduced by

Office of the State Engineer

A BILL for an Act to amend and reenact section 61-16.1-38 of the North Dakota Century Code, relating to a permit to construct or modify a dam, dike, or other device.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-38 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-38. Permit to construct or modify dam, dike, or other device required - Penalty - Emergency.

No dikes, dams, or other devices for water conservation, flood control regulation, watershed improvement, or storage of water which are capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, may be constructed within any district except in accordance with the provisions of this chapter. An application for the construction of any dike, dam, or other device, along with complete plans and specifications, must be presented first to the state engineer. Except for low-hazard dams less than ten feet [3.05 meters] in height, the plans and specifications must be completed by a professional engineer registered in this state. After receipt, the state engineer shall consider the application in such detail as the state engineer deems necessary and proper. The state engineer shall refuse to allow the

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construction of any unsafe or improper dike, dam, or other device which would interfere with the orderly control of the water resources of the district, or may order such changes, conditions, or modifications as in the judgment of the state engineer may be necessary for safety or the protection of property. Within forty-five days after receipt of the application, except in unique or complex situations, the state engineer shall complete the state engineer's initial review of the application and forward the application, along with any changes, conditions, or modifications, to the water resource board of the district within which the contemplated project is located. The board thereupon shall consider, within forty-five days, the application, and suggest any changes, conditions, or modifications to the state engineer. If the application meets with the board's approval, the board shall forward the approved application to the state engineer. If the board fails to respond within forty-five days, it shall be determined the board has no changes, conditions, or modifications. The state engineer shall make the final decision on the application and forward that decision to the applicant and the local water resource board. The state engineer may issue temporary permits for dikes, dams, or other devices in cases of an emergency. Any person constructing a dam, dike, or other device, which is capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, without first securing a permit to do so, as required by this section, is liable for all damages proximately caused by the dam, dike, or other device, and is guilty of a class B misdemeanor.

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of North Dakota

Introduced by

Office of the State Engineer

A BILL for an Act to amend and reenact sections 61-16.1-53, 61-16.1-53.1, 61-32-07, and 61-32-08 of the North Dakota Century Code, relating to appeals of removal or closing of a noncomplying dam, dike, or other device, and drains.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-53 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53. Removal of a noncomplying dike ~~or~~, dam, or other device - Notice and hearing - Appeal - Injunction.

Upon receipt of a complaint of unauthorized construction of a dike, dam, or other device for water conservation, flood control, regulation, watershed improvement, or storage of water, the water resource board shall promptly investigate and make a determination thereon. If the board determines that a dike, dam, or other device, capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, has been established or constructed by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by ~~registered~~ certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if any. The notice must specify the

nature and extent of the noncompliance and must state that if the dike, dam, or other device is not removed within the period the board determines, but not less than fifteen days, the board shall cause the removal of the dike, dam, or other device and assess the cost of the removal, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing upon the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the dike, dam, or other device, or ordering the landowner to remove the dike, dam, or other device. Assessments levied under this section must be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. ~~A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not prerequisite to an appeal.~~

SECTION 2. AMENDMENT. Section 61-16.1-53.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53.1. Appeal of board decisions - State engineer review - Closing of noncomplying dams, dikes, or other devices for water conservation, flood control, regulation, and watershed improvement.

The board shall make the decision required by section 61-16.1-53 within a reasonable time, not exceeding one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by ~~registered~~ certified mail. The board's decision may be appealed to the state engineer by any aggrieved party. The appeal to the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer which must specifically set forth the reason why the appealing party believes the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered removal of a dam, dike, or other device, is relieved of its obligation to procure the removal of the dam, dike, or other device. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint for the purpose of investigating the complaint.

If the board fails to investigate and make a determination concerning the complaint within a reasonable time, not exceeding one hundred twenty days, the person filing the complaint may file the complaint with the state engineer. The state engineer, without reference to chapter 28-32, shall cause the investigation and determination to be made, either by action against the board, or by personally conducting the investigation and personally making the determination. If the state engineer determines that a dam, dike, or other device has been constructed or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of these three actions:

1. Notify the landowner by ~~registered~~ certified mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or
3. Forward the dam, dike, or other device complaint and investigation report to the state's attorney.

If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and must state that if the dam, dike, or other device is not removed within such reasonable time as the state engineer determines, but not less than thirty days, the state engineer shall procure the removal of the dam, dike, or other device and assess the cost of removal against the property of the responsible landowner. The notice from the state engineer must state that, within fifteen days of the date the notice is mailed, the affected landowner may demand, in writing, a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying dam, dike, or other device is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and are hereby

appropriated out of the state treasury and must be credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the state engineer under this section may appeal the decision of the state engineer to the district court in accordance with chapter 28-32. A hearing by the state engineer as provided for in this section is a prerequisite to such an appeal.

If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and it must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the state engineer's decision in accordance with the terms of this section.

If the state engineer, after completing the investigation required under this section, decides to forward the dam, dike, or other device complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint in accordance with the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the dam, dike, or other device removed within such reasonable time period as the court determines, but not less than thirty days. If the dam, dike, or other device is not removed within the time prescribed by the court, the court shall procure the removal of the dam, dike, or other device, and assess the cost thereof against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than

one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

~~The authority granted in this section may only be exercised for dams, dikes, or other devices constructed after August 1, 1999.~~

SECTION 3. AMENDMENT. Section 61-32-07 of the North Dakota Century Code is amended and reenacted as follows:

61-32-07. Closing a noncomplying drain - Notice and hearing - Appeal - Injunction - Frivolous complaints.

Only a landowner experiencing flooding or adverse effects from an unauthorized drain constructed before January 1, 1975, may file a complaint with the water resource board. Any person may file a complaint about an unauthorized drain constructed after January 1, 1975. Upon receipt of a complaint of unauthorized drainage, the water resource board shall promptly investigate and make a determination of the facts with respect to the complaint. If the board determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by ~~registered~~ certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if known. The notice must specify the nature and extent of the noncompliance and must state that if the drain, lateral drain, or ditch is not closed or filled within a reasonable time as the board determines, but not less than fifteen days, the board shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost of the closing or filling, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected

landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the drain, lateral drain, or ditch and ordering the closure of the illegal drain. Assessments levied under this section must be collected in the same manner as assessments authorized by chapter 61-16.1. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. ~~A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not a prerequisite to an appeal.~~ If, after the first complaint, in the opinion of the board, the complaint is frivolous, the board may assess the costs of the frivolous complaint against the complainant.

SECTION 4. AMENDMENT. Section 61-32-08 of the North Dakota Century Code is amended and reenacted as follows:

61-32-08. Appeal of board decisions - State engineer review - Closing of noncomplying drains.

The board shall make the decision required by section 61-32-07 within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. The board's decision may be appealed to the state engineer by any aggrieved party. The appeal to

the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer which must specifically set forth the reason why the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to the nonappealing party. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint for the purpose of investigating the complaint.

If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file such complaint with the state engineer. The state engineer shall, without reference to chapter 28-32, cause the investigation and determination to be made, either by action against the board, or by personally conducting the investigation and personally making the determination.

If the state engineer determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of three actions:

1. Notify the landowner by ~~registered~~ certified mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or

3. Forward the drainage complaint and investigation report to the state's attorney.

If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and must state that if the drain, lateral drain, or ditch is not closed or filled within such reasonable time as the state engineer shall determine, but not less than thirty days, the state engineer shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, against the property of the landowner responsible. The notice from the state engineer must state that the affected landowner may, within fifteen days of the date the notice is mailed, demand, in writing, a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other taxes are collected and paid. Assessments collected must be deposited with the state treasurer and are hereby appropriated out of the state treasury and must be credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the state engineer under the provisions of this section may appeal the decision of the state engineer to the district court in accordance with chapter 28-32. A hearing by the state engineer as provided for in this section shall be a prerequisite to such an appeal.

Sixty-third
Legislative Assembly

If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report shall be forwarded to the board and it shall include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the state engineer's decision in accordance with the terms of this section.

If the state engineer, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint in accordance with the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within such reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost thereof against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

~~The authority granted in this section may only be exercised for drainage constructed after January 1, 1987.~~

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

State Water Commission

A BILL for an Act to create and enact a new section to chapter 61-24.6 of the North Dakota Century Code, relating to the sale of property owned by the state water commission obtained for construction of the northwest area water supply project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

Commission has authority to sell property.

If the commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five [2.03 hectares] contiguous acres or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

State Water Commission

A BILL for an act to amend and reenact sections 61-36-01, 61-36-02, and 61-36-04 of the North Dakota Century Code, relating to the composition and duties of the Devils Lake outlets management advisory committee; and to repeal section 61-36-03 of the North Dakota Century Code, relating to compensation and expenses of the Devils Lake outlet management advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-36-01 of the North Dakota Century Code is amended and reenacted as follows:

**61-36-01. Devils Lake ~~outlet~~ outlets management advisory committee -
Members - Terms - Vacancies.**

1. The Devils Lake ~~outlet~~ outlets management advisory committee consists of ~~the state engineer or the state engineer's designee, one member appointed by the Red River joint water resource board, one member appointed by the Devils Lake joint water resource board, one member appointed by the upper Sheyenne River joint water resource board, one county commissioner from Ramsey County appointed by the Ramsey County board of county commissioners, one county commissioner from Benson County appointed by the Benson County board of county~~

~~commissioners, a representative of the Spirit Lake Nation appointed by the tribal council of the Spirit Lake Nation, and three members appointed by the governor. The members appointed by the governor must represent the interests affected by downstream impacts of operating an outlet to Devils Lake. An appointed member may designate a substitute to serve in that person's capacity at such meetings that person may be unable to attend. Except for the first term, all appointed members serve for a term of four years or until their successors are appointed and qualified. For the first term, two of the members from the Devils Lake basin must serve two-year terms and two of the other appointed members must serve two-year terms, provided that at least one member representing the interests affected by downstream impacts of operating an outlet to Devils Lake must remain on the committee for a four-year term. The chairman shall hold the first meeting within two months after August 1, 1997.;~~

- a. The governor or governor's designee;
- b. A representative from Benson County appointed by the governor;
- c. A representative from Ramsey County appointed by the governor;
- d. A representative from Towner County appointed by the governor;
- e. A representative from Nelson County appointed by the governor;
- f. A representative from the Devils Lake joint water resource board appointed by the governor;
- g. A representative from the Spirit Lake Nation appointed by the governor;

Sixty-third
Legislative Assembly

- h. A representative from the city of Devils Lake appointed by the governor;
 - i. A representative from Barnes County appointed by the governor;
 - j. A representative from Valley City appointed by the governor;
 - k. A representative from Lisbon or Fort Ransom appointed by the governor;
 - l. A representative from Fargo appointed by the governor;
 - m. A representative from Grand Forks appointed by the governor;
 - n. The governor of Minnesota or a designee appointed by the governor of Minnesota;
 - o. The premier of Manitoba or the premier's designee.
2. All appointed members serve for a term of four years or until their successors are appointed and qualified.
3. ~~Terms expire on the first day of July. Each appointed member must be a qualified elector of the state and is subject to removal by judicial procedure.~~
4. The terms of appointed members must be staggered by lot so that three of the terms expire each year.
5. Members of the committee may be reappointed for additional terms, and serve at the pleasure of the governor.
6. A vacancy must be filled in the same manner as original appointments for the remainder of the unexpired term. ~~Before entering upon the discharge~~

~~of official duties, each appointed member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.~~

SECTION 2. AMENDMENT. Section 61-36-02 of the North Dakota Century Code is amended and reenacted as follows:

61-36-02. Chairman - Quorum - Meetings.

The ~~state engineer~~ governor or governor's designee is the chairman of the committee. A majority of the members of the committee constitutes a quorum. The committee ~~may~~ shall hold meetings at the call of the chairman ~~or at the request of three members before initial operation of the committee outlets, and at such other times and places as the chairman provides~~ deems necessary.

SECTION 3. AMENDMENT. Section 61-36-04 of the North Dakota Century Code is amended and reenacted as follows:

61-36-04. ~~Development of an annual operating plan~~ Duties of the committee.

The committee shall ~~develop an annual operating plan for the operation of the Devils Lake outlet. The plan must specify the lake elevation at which pumping will take place. In developing the annual operating plan, the committee shall consider spring runoff forecasts, weather forecasts, summer flooding potential, downstream impacts, including water quality and streambank erosion, flooding, and any other factors the committee determines should be considered. The committee must recommend a plan of operation to the state water commission within two weeks following the first official numeric national weather service spring snowmelt flood outlook. If a majority of members are unable to agree on a plan, one or more minority plans may be submitted~~

~~to the state water commission. The state water commission may approve, recommend changes, or make changes to the annual operating plan~~ advise the governor and the state water commission regarding operations of all Devils Lake outlets. The committee may recommend criteria for operation of each outlet based on outflow volumes, water quality considerations, and the risk of an overflow of Devils Lake. Any recommendations developed by the committee must receive support from nine of the fifteen members of the committee before submission to the governor or state water commission. Any recommendation not receiving majority support but receiving support from at least five members may be submitted as a minority recommendation.

SECTION 4. REPEAL. Section 61-36-03 of the North Dakota Century Code is repealed.

Draft**2013-15 Water Coalition Funding Priorities Outline***Estimated 2013-15 Revenues: \$375 million/\$500 million*

	2011-13	2013-15	Additional Options 2013-15		2015-17	2017-19
Devils Lake Projects	\$75 million					
Outlet Operations		\$10 million		\$10 million		
Downstream Impacts	\$15 million	\$15 million		\$15 million		
Fargo Flood Control	\$30 million	\$75 million	\$27 million	\$102 million		
General Water Management/ Flood Control	\$26 million	\$27 million	\$3 million	\$30 million		
Irrigation	\$5 million	\$5 million		\$5 million		
Missouri River Flood Control	\$1 million	\$3 million		\$3 million		
MR&I Water Supply	\$15 million					
Rural Water		\$40 million	\$15 million	\$55 million		
Municipal Water		\$11 million		\$11 million		
Grand Forks		\$5 million		\$5 million		
Northwest Area Water Supply	\$12 million	\$14 million		\$14 million		
Red River Valley Water Supply	\$5 million	\$5 million	\$4 million	\$9 million		
Sheyenne River Flood Control		\$14 million		\$21 million		
Valley City		\$6.4 million	\$5 million			
Lisbon/Ft. Ransom		\$7.2 million	\$2 million			
Souris River Flood Control	\$50 million ⁱ	\$50 million	\$11 million	\$61 million		
Southwest Pipeline Project	\$25 million	\$49 million	\$30 million	\$79 million		
Weather Modification	\$1 million	\$1 million		\$1 million		
Western Area Water Supply	\$35 million	\$50/40 million	\$29/39 million	\$79 million		
Total	\$245/295ⁱ million	\$375 million	\$125 million	\$500 million		

ⁱ Special session funding allocated this biennium/other flood control included

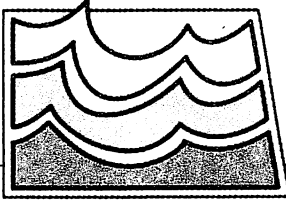
2013-15 Water Coalition Funding Priorities

Estimated 2013-15 Revenues: \$500 million

	2011-13	2013-15
Devils Lake Projects	\$75 million	
Outlet Operations		\$10 million
Downstream Impacts	\$15 million	\$15 million
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Irrigation	\$5 million	\$5 million
Missouri River Flood Control	\$1 million	\$3 million
MR&I Water Supply		
Rural Water	\$15 million	\$55 million
Municipal Water		\$16 million
Northwest Area Water Supply	\$12 million	\$14 million
Red River Valley Water Supply	\$5 million	\$9 million
Sheyenne River Flood Control		\$21 million
Souris River Flood Control	\$50 million ⁱ	\$61 million
Southwest Pipeline Project	\$25 million	\$79 million
Weather Modification	\$1 million	\$1 million
Western Area Water Supply	\$35 million	\$79 million
Total	\$245/295ⁱ million	\$500 million

ⁱ Special session funding allocated this biennium/other flood control included

November 27, 2012



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 Jack Dalrymple
Members of the State Water Commission
FROM: *TSD* Todd S. Sando, P.E., Chief Engineer – Secretary
SUBJECT: Water Use Monitoring for Oil Field Industrial Use
DATE: November 27, 2012

- May 18, 2011, veto of Senate Bill 2020 by Governor Dalrymple stated, "The State Water Commission is in the best position to develop and enforce an efficient, effective system of water metering, including sealed meters, regular reporting, periodic compliance checks and appropriate administrative oversight."
- Beginning January 1, 2012, all industrial use water permit holders with annual allocations greater than 15 acre-feet supplying water for oil field use at water depots are required to report monthly water use on forms provided by the State Engineer.
- In addition, beginning in 2012, the Water Appropriation Division is recording monthly water meter readings at selected water depot sites during the field season as part of the water-level monitoring program. About 50 percent of the water depots fall under this monthly "spot check" program and the other 50 percent that are not within specific water level "well runs" have meters "spot checked" once per year.
- The Water Appropriation Division has undertaken development of a pilot study to evaluate the utility of deploying a remote, water metering telemetry system. (Attachments A and B) A complete report of finding and recommendations will be prepared by January 2013. Prior to global development of a new technology, it was necessary to initiate a pilot study to determine efficiency of application.
- There are some industrial water permit holders that have exceeded authorized allocations in 2012. Preliminary data indicates most exceedance is below 20 acre-feet and that unauthorized industrial oil field use is small in relation to the total industrial oil field amount allocated by the State Engineer (probably less than about 3 percent). The Water Appropriation Division will have more concrete water use statistics when the 2012 water use data is processed and tabulated after the first of the year.

- It is important to understand that:
 1. There is no large scale, wide spread unauthorized industrial water use for oil field applications in western North Dakota.
 2. No undue harm to other water users has occurred from permit exceedance or unauthorized pumping.
 3. No water sources (surface and ground water) have been depleted due to permit exceedance on unauthorized use.

- Permit holders providing industrial water for oil field use exceeding annual allocations and unauthorized users providing industrial water for oil field use are subject to both criminal and civil penalties. Through consent agreements these violators can choose to pay a monetary settlement based on the amount of unauthorized water sales. In addition, future water use of permit holders that exceeded their annual water allocations will be reduced by the amount of exceedance. Thus, no net loss to the water source will occur.

- Water depot operators are beginning to implement electronic accounting (cardtrol) systems for dispensing water. Attached is a brief description of one such system developed for Ames Water Solutions, a major water supplier for oil field industrial use. (Attachment C) It is my understanding that each of these water depots will be programmed to shut off water delivery when the annual permitted allocation is reached.

- It is recommended that staff from the Water Appropriation Division and the Governor's Office, meet with concerned legislators to provide information on the water use monitoring program employed by the Water Appropriation Division and the remote, water metering telemetry system pilot study.



State of North Dakota Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

Telemetry Pilot Study Time Line; by Michael Hove : November 9, 2012

March 24, 2011: Began review of available telemetry technology for remote meter locations.

May 18, 2011: Initiated the start of Telemetry Pilot Study: 1. Research & Review; 2. Data Transfer Testing; 3. Telemetry Purchases, Installation & Monitoring.

June, 2011: Start of data transfer testing with Basic Energy.

October 2011: Finished review of telemetry technology for remotely located water meters.

October 2011: Ordered HOBO telemetry data logger. Loggers built to order; 4 week wait.

January 2012: Completed installation of HOBO telemetry data logger at Dodge Water Depot.

January 2012: Review of IDT telemetry pilot conducted by the Southwest Water Authority.

February 2012: Working with Lalim Depot data transfer.

March 2012: Placed orders for two McCrometer telemetry data loggers. Loggers built to order.

April 2012: Completed the installation of McCrometer telemetry at Timber Creek & Trenton.

May 2012: Working with McCrometer on calibration of telemetry systems.

May-August 2012: Developing processes for working with the various vendor file formats.

June 2012: Started data transfer from the City of Killdeer. Working with DSI.

July 24, 2012: Started data transfer from SWWA East Dickinson Depot. Working with DSI.

August 2012: Working with SWC I.T. director Chris Bader on establishing a common data communication standard using SOAP (Simple Object Access Protocol) over the network.

October 4, 2012: Purchase three iDT telemetry systems.

October 5, 2012 : Chris Bader completes SOAP XML code.

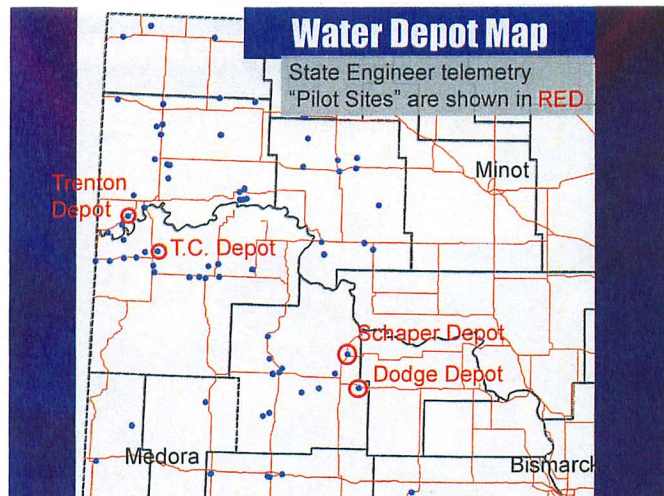
October 29, 2012 : Installation of iDT telemetry systems at the Schaper Water Depot.

Preliminary Conclusion: While each vendor provides useful and convenient tools for gaining access to the data, each vendors' data files are in their own format. Individual processing of each vendors file format is time consuming. For a small number of depots (3 to 4) this process is possible. For a larger number of depots (more than 4) individual depot processing becomes unmanageable. Having a SOAP program written to the agency specifications (which Chris has done) and used on the vendors server for pushing data into our database is a much more practical data transfer solution. Currently we are having discussions with McCrometer, DSI, On-Set Computer and iDT about the SOAP integration.

Telemetry Attachment B

Telemetry Pilot Study : What is being done?

- 1st Phase – Research & Review
- 2nd Phase – Data Transfer Testing
- 3rd Phase – Installation at sites (collection & transfer)
 - A. Dodge Depot (S.W.C)
 - B. Timber Creek Depot (Mike Ames)
 - C. Trenton Depot (Steve Mortenson)
 - D. Schaper Depot (James Schaper)

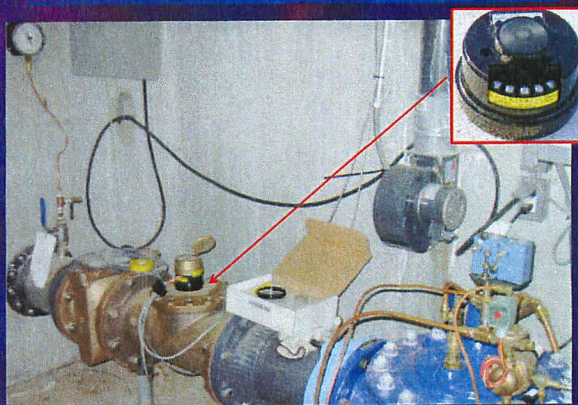


3rd Phase – HOB0 Installation at Dodge

Dodge Depot : Jan. 2012 Initial set-up ~ \$1,600+\$750+\$143

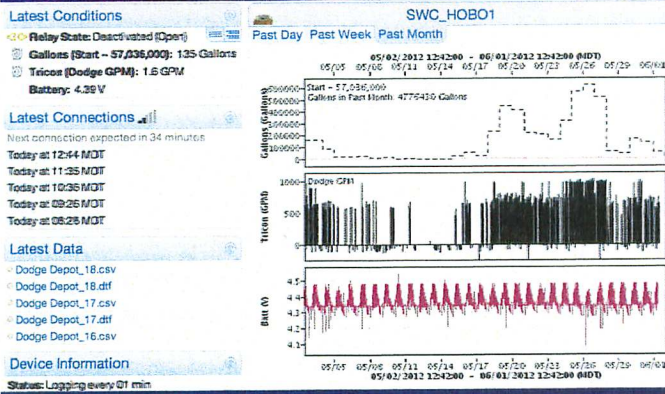


3rd Phase – HOB0 Installation at Dodge



3rd Phase – HOB0 Installation at Dodge

<https://www.hobolink.com/443/p/0b05cccd330a15ccc9b5646e41a7ad>

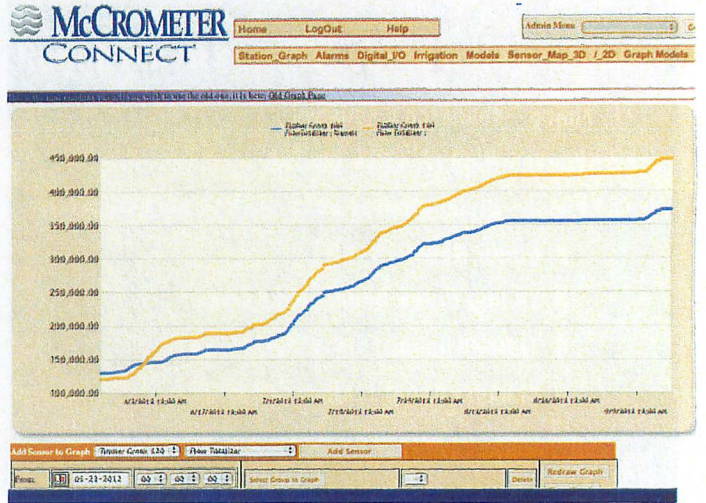


3rd Phase – McCrometer Installation

T.C. Depot : April 2012 Initial set-up ~ \$2,100+\$300+\$300



3rd Phase – McCrometer Installation



I.D.T. Web Page for display of Telemetry Data

Dashboard Water User Fast Report Customer Billing Edit Sites Zone Analysis Reports

Name: Schaper, Jim
 Account No.: 1 North
 Terminal ID: 4930060
 Address: 279 Hwy 8 R, Holiday, MO
 Phone Number:

Previous **Nov 2012** Next

Day	Reading	Daily Usage
1	49665280	
2	49824396	259116
3	50286067	361671
4	50622440	336373
5	50988844	366404
6	51157570	170725
7	51157596	0
8	51157562	0
9	51157541	0
10	51157533	0
11	51157526	0
12	51157524	0
13	51249461	91537
14	51313730	64269
15	51416709	103009

Historical Usage Graph

ATTACHMENT C



September 10, 2012

NDSWC Water Appropriation
900 East Blvd
Bismark, ND 58505

SUBJECT: AMES WATER SOLUTIONS AUTOMATED LOADING AND ACCOUNTING SYSTEM

Dear NDSWC Water Appropriation,

In order to provide an ongoing reliable water solution, we are implementing an automated loading transaction system at each of our water depot sites. This system will provide value in many ways to our customers, including:

- Automatically loading trucks with the requested number of barrels of fresh water;
- Controlling access to the water depot sites to registered customers of Ames Water Solutions only;
- Capturing for each transaction the number of barrels of water loaded, trucking company, oil company, location, date and time water was pulled, driver name and truck number.

Through the associated website customers will be able to:

- View all recent transactions related to their account;
- Manage which subhaulers/lessors are approved to pull water from an Ames Water Solution depot on their behalf;
- View the status of each water depot in the Ames Water Solution network;

We will begin installing the system the second week of September 2012 with full implementation by the middle of October. In order to set your company up as an approved customer in the system and to prevent any delay in your ability to access the depots, we need you to complete and return the enclosed access agreement and purchase agreement no later than Monday, September 17th 2012.

Please return completed forms to:

Ames Water Solutions
Attn: Christina Thompson
6340 South 3000 East, Suite 600
Salt Lake City, UT 84121

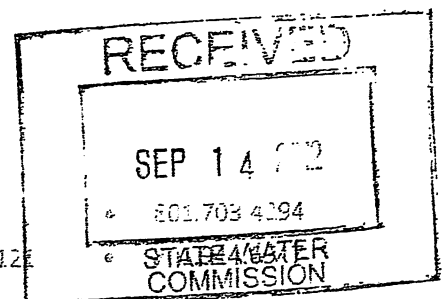
We are excited about this new system and the value it will bring to your daily operations. If you have any questions please contact Christina Thompson: by phone at (801) 944-6547; or by email at christinathompson@ameswater.com. You will be receiving training documents and authorization codes for your company in the coming days.

Thank you in advance for your kind cooperation.

Sincerely,
Ames Water Solutions

3105 2nd Street West, PO Box 1165
6340 South 3000 East, Suite 600

• Williston, ND 58801
• Salt Lake City, UT 84121



Depot Locations & Information

Information subject to change. Visit www.ameswater.com for the current details.

Revised October 2, 2012

● Open ● Under Construction ● Temporarily Closed

Depot Addresses

1. Westby
HWY 5 & 147th Ave. NW
2. Wildrose
119th Ave. NW & 84th St. NW
3. Blue Ridge
HWY 85 & 81st St. NW
4. Gunlikson
138th Ave. NW & 74th St. NW
5. Athens
HWY 85 & 72nd St. NW
6. Bainville #1
HWY 327 & S. Bainville Rd.
7. Bainville #2
HWY 2 & Haugen Rd.
8. Sheldon
HWY 19 & 60th St. NW
9. Red Mike
109TH Ave. NW & 52nd St. NW
10. Parshall
HWY 23 & 76th Ave. NW
11. New Town
88TH Ave. NW & 35th St. NW
12. Bearstail
HWY 22 & Co Rt. 53
13. Timber Creek
34th St. NW & 141.5 Ave. NW
14. Bell View
HWY 23 & Bennie Peer Rd.
15. Letang
31ST St & Slate Ave. N
16. Charley Creek
Co. Rd. 327 & Co. Rd. 146

