

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

February 23, 2022

The ND State Water Commission (Commission) held a meeting in the Pioneer Room, State Capitol, 600 E. Boulevard Ave., Bismarck, ND, and via telephone conference on February 23, 2022. Governor Burgum called the meeting to order at 1:05 p.m. A quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor Burgum, Chairman

Lt. Governor Sanford

Doug Goehring, Commissioner, ND Dept. of Agriculture, Bismarck (departed at 4:00 p.m.)

Michael Anderson, Hillsboro

Richard Johnson, Devils Lake

James Odermann, Belfield

Connie Ova, Cleveland

Gene Veeder, Watford City

Jay Volk, Bismarck

April Walker, West Fargo

Jason Zimmerman, Minot

OTHERS PRESENT:

Andrea Travnicek, Ph.D., Director, ND Dept. of Water Resources (DWR) and Commission Secretary

John Paczkowski, DWR State Engineer

DWR Staff

Jennifer Verleger, General Counsel, Attorney General's Office

Reice Haase, Policy Advisor, Governor's Office

Approximately 50 people interested in agenda items.

CONSIDERATION OF AGENDA

The agenda for the February 23, 2022, Commission meeting was approved as presented.

CONSIDERATION OF DRAFT MEETING MINUTES

The draft minutes for the following meetings were reviewed and approved as written:

- December 10, 2021, Commission meeting
- December 10, 2021, Commission Policy meeting
- January 27, 2022, Pre-Commission meeting

It was moved by Commissioner Goehring, seconded by Commissioner Walker, and unanimously carried, that the minutes for the December 10, 2021, Commission and Policy meetings and January 27, 2022, meeting be approved as written. Governor Burgum abstained.

COMMISSION SECRETARY UPDATE

Andrea Travnicek, DWR Director and Commission Secretary, provided updates on the status of the agency's Strategic and Water Development Plans, Cost-Share Policy revisions and modifications, Strategic Governance and Finance developments, and Legislative Committee meetings.

Currently, DWR completes a biennial Strategic Plan associated with each legislative session. With the restructuring of the agency, DWR will now complete a 5-year Strategic Plan. Odney, Inc., was awarded the contract to assist the agency with the Strategic Plan and will facilitate survey information and complete interviews as part of the process. The anticipated completion date is May 2022 and the Strategic Plan will be used to aid in developing the 2023-2025 budget.

Requests for future water development projects were sent to project sponsors in January 2022 for inclusion in the 2023-2025 Water Development Plan. Requests are due April 2022. DWR and Commissioners will host basin-wide meetings this summer to obtain further input from stakeholders.

Meetings were held in December 2021 and January 2022 for Commissioners and DWR staff to continue review of potential revisions related to current cost-share policy. The goal is to have all revisions and 45-day comment period completed by December 2022 in order to utilize the revised Cost-Share Policy beginning with the 2023-2025 biennium.

The DWR project team continues work on the Strategic Governance and Finance directives to implement the Commission's long-term goals to better prioritize and utilize available funding by developing future financial models and strategic governance.

FINANCIAL REPORT

The allocated program expenditures, financial reports, and financial spreadsheets were presented by Heide Delorme, DWR Administrative Services Director (**APPENDIX A**). The oil extraction tax deposits into the Resources Trust Fund (RTF) total \$113,510,550 through February 2022 which is \$17,100,807 over projected revenue. There were no questions.

SOUTHWEST PIPELINE PROJECT (SWPP) – REIMBURSEMENT FROM RESERVE FUND FOR REPLACEMENT AND EXTRAORDINARY MAINTENANCE (REM)

Sindhuja S.Pillai-Grinolds, SWPP Project Manager, provided background information related to Southwest Water Authority's (SWA) reserve fund for REM. Expenditures from the reserve fund are authorized by the Commission. The reserve fund accumulates interest and the amount of the reserve fund to be maintained is determined by the Commission. Sindhuja also discussed the process for approval of REM project funds and the reimbursement process.

SWA requested reimbursement in the amount of \$823,662.39 from the REM funds for the replacement of 2,835 automatic meter read equipment which has been completed. The project was included in SWA's 2021 and 2022 budget in the amount of \$1,274,035.

The recommendation was to approve the reimbursement from the reserve fund for REM in the amount of \$823,662.39.

There were no questions. The following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Zimmerman the Commission approve the reimbursement from the reserve fund for REM in the amount of \$823,662.39.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried. Commissioner Odermann stated he was a board member of SWA.

SWPP – SOUTHWEST WATER TREATMENT PLANT (SWTP) DESIGN, EXPANSION, AND CAPACITY MIGRATION

Sindhuja S.Pillai-Grinolds also presented SWA's request that the Commission and DWR start the expansion of the SWTP to its ultimate capacity of 18 million gallons per day (MGD). The SWA would like to begin the design of the expansion and procuring membranes and other equipment using 2021-2023 biennium funding for the SWPP.

Sindhuja briefed the Commission about the history of the water treatment plants at Dickinson, the age and condition of the existing 12 MGD Dickinson Water Treatment Plant, planned projects using the 2021-2023 capital assets appropriation for SWPP, and the timeline and costs for the SWTP design and expansion.

The estimated capital assets funding for the expansion of SWTP to 18 MGD is \$75.5M. The recommendation was to approve the request to begin the design for expansion. Procuring membranes and other equipment for the expansion in the 2021-2023 biennium is dependent on progress on other planned projects for SWPP and funding availability.

Sindhuja stated that there are concerns related to supply chain issues and costs even with the procurement contract. Additional discussion with the state procurement office for adjustments to the contract may be needed prior to bidding the contract.

After discussion, the following motion was made:

It was moved by Commissioner Volk and seconded by Commissioner Anderson the Commission concur with SWA's request to begin the expansion of the SWTP to its ultimate capacity of 18 MGD.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried. Commissioner Odermann stated he was a board member of SWA.

NORTHWEST AREA WATER SUPPLY (NAWS) – INTERIM WATER SUPPLY

Tim Freije, NAWS Project Manager, presented a request and recommendation to approve cost-share with the city of Minot to design and construct a new well in the Sundre Aquifer. The well will provide additional raw water capacity needs until lake water is available and will serve as a redundant and conjunctive water supply when the project is completed.

Tim stated that rural water service to Bottineau was delayed due to insufficient wellfield production of raw water in the Minot area. Continued maintenance and repairs of wells located in the Sundre Aquifer would need to be completed before water service to Bottineau through Minot's interim supply is provided.

The NAWS Advisory Board requested the Commission work with Minot to firm up the capacity of the wellfields. DWR believes that Minot should be the contracting entity. The Minot City Council approved the design and construction of the new well at its January 2022 meeting and requested NAWS provide 65 percent cost-share of the project and Minot to provide 35 percent.

Governor Burgum asked if the well failures in this area are related to aquifer depletion or age of the wells, and what would be done with the new well, if funded, to avoid the current issues. Tim stated that this may be due to several factors. It is possible that the recharge of the aquifer after the 2011 flood and its subsequent depletion back to pre-flood levels are related, as well as very dry conditions in the area. There is more demand for water with less recharge, more use of the wells leading to wear and tear, and slight trend increase of conductivity and salinity.

Commissioner Goehring asked if there were any studies or additional information related to what resources may be recharging the aquifer. Tim stated that there were no studies and that it was possible that the transmissibility of the aquifer had changed since the flood of 2011. There is also a long-term trend of the aquifers in that area declining.

Commissioner Anderson asked when the water supply would be available to Bottineau. Tim stated that in addition to capacity issues with the current system, additional flushing between the systems will need to be done. Tim stated that March or April 2022 may be a possible timeframe. Minot has been diligently working to resolve the current issues in order to provide Bottineau with the needed service.

Governor Burgum asked when the Missouri River water will be flowing to Minot. Tim stated that sometime in 2024 would be a realistic timeframe.

After discussion, the following motion was made:

It was moved by Commissioner Zimmerman and seconded by Commissioner Goehring the Commission approve cost sharing a new well in the Sindre aquifer at a 65/35 split with the city of Minot and approve \$750,000 from the 2021-2023 Biennium Capital Assets Funding for this agreement.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

NAWS – ELECTRICAL SERVICE CONTRACTS

Tim Freije also presented a request for the Secretary to be given authority by the Commission to execute three-phase power agreements for 1) the future Souris Reservoir and Pump Station, and 2) the Lansford Reservoir and Pump Station as well as all future utility agreements necessary for the construction and operation of the NAWS project.

There were no questions. The following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Odermann the Commission authorize the Secretary to execute three-phase power agreements for 1) the future Souris Reservoir and Pump Station, and 2) the Lansford Reservoir and Pump Station as well as all future utility agreements necessary for the construction and operation of the NAWS project.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

STRATEGIC GOVERNANCE AND FINANCE UPDATE

Jon Kelsch, DWR Water Development Division Director, provided an update on several directives from the Commission's regarding the Strategic Governance and Finance Study (**APPENDIX B**).

Western Area Water Supply and SWPP Century Code

Jon provided a summary of current ND Century Code for the oversight of the Western Area Water Supply project (WAWS). DWR staff is identifying required changes needed for the transfer of oversight from the Industrial Commission to DWR and the Commission.

Jon also provided the ND Century Code for the SWPP and SWA.

There were no questions.

Missouri River Use

DWR continues to review tribal and states water rights and quantification along the Missouri River and how other state's water usage compares to North Dakota.

Of the current 28 tribal nations within the Missouri River Basin, very few water rights quantifications have been completed.

States' rights to the water of the Missouri River Mainstem have not been quantified or negotiated. To complete a comparison, usage information would need to be requested from each state. Most states in the Missouri River Basin follow prior appropriation doctrine and these states should have water use records. However, Iowa and Missouri follow riparian doctrine and may not collect the type of data needed to complete a comparison.

Governor Burgum stated that the water usage along the Missouri River is important data because states outside of the Missouri River Basin are trying to access Missouri River water, particularly the western states because of drought conditions. Obtaining this information would be beneficial. Jon stated that the information is not currently available online.

Commissioner Goehring stated that we may want to obtain this information for the states of South Dakota, Iowa, Nebraska and suggested we work with the United States Army Corps of Engineers (USACE) to obtain the information. DWR staff will contact the USACE to determine if this data is available and request the information directly from each state if needed, and also attempt to obtain the data from public sources.

Jennifer Verleger, General Counsel, Attorney General's Office, stated that Missouri does not track their water usage and they do not have this data available because they are not a prior appropriation state. Jennifer stated that the Western States Water Council and the University of Alabama (Internet of Water) may have this data available.

Jennifer also stated that many tribal compacts that have been entered into, especially in Montana, the usage is hard to quantify because the compacts have not clearly defined the actual water quantity, thereby leaving the determinations vague. The compacts generally

allocate states a specific acre-feet of water, and the tribes will generally use the rest; tribes do not have a specific water quantity for downstream allocation.

Cost-Share Review

Jon stated that DWR staff will continue to identify risks associated with the possible 65 percent of cost-share funds for all types of water supply projects within the state. Stakeholders have provided input to DWR staff. Municipalities and rural water districts have concerns related to the proposed 65 percent cost-share.

Duane Pool, Ph.D., DWR Resource Economist, provided an overall summary of potential impacts. Duane stated that the potential effect of a flat 65 percent cost-share would result in a 10 percent reduction of cost-share for rural projects (which tend to be larger dollar amount projects), and 5 percent increase for municipal projects (with smaller average size projects). Dr. Pool also presented the estimated increase/decrease of costs and increase/decrease of completed projects based on current 2021-2023 approved projects.

Governor Burgum stated that Commissioners should study the document provided by Dr. Pool and a continued review is needed to determine the pros and cons of changing the governance and finance models to become more uniform for water projects across the state. The Commission needs to develop the most efficient and economical policies to fund and complete these projects. Governor Burgum requested DWR staff determine definitions for municipal versus rural in relation to areas adjacent to rural water districts or municipalities and possibly define an additional category other than municipal and rural to address growth around municipalities.

Regional Systems Funding Graph

Jon discussed the additional information added to the Regional Systems Funding graph. The information captures previous and very different funding models utilized for the four major water projects in the state.

Commissioner Goehring stated concerns on how the Commission would present recommended financial models and strategic governance changes to the Legislature, and how the changes would be implemented. Governor Burgum stated that because of the collaboration we have had with the Water Topics Overview Committee on the initial study and its parallel efforts related to governance, this will be presented as an initial recommendation for discussion.

Andrea stated that a Water Topics Overview Committee meeting is scheduled for March 22 and this information will be presented at that time. Andrea and DWR staff will keep the Committee informed of any future recommendations and proposals and continue collaboration on how to introduce and proceed as needed.

Other State Programs

Jon also presented a summary of grant and loan programs available in other states for comparison to North Dakota. Sindhuja provided a detailed summary of North Carolina's State Water Infrastructure Authority's state water infrastructure master plan as well as Texas' state participation program as they have similar issues related to traditional funding of projects and the ability to support their state's overall needs.

PURPOSE FUNDING SUMMARY

Jeffrey Mattern, DWR Engineer Manager, presented the purpose funding summary of overall appropriations available for February cost-share requests. There were no questions.

CONSENT AGENDA

The consent agenda included the following cost-share projects with requested funding amount for approval:

Flood Control

- Bottineau County Water Resource District - Stone Creek Lateral B Construction - \$157,537

General Water

- Elm River Joint WRD- Elm River Dams 1 and 2 Improvements - \$213,000

Water Supply (Municipal)

- Fargo – Regional Water System Distribution Extensions - \$172,000
- Minot – NW Minot Residential Watermain Replacement – \$225,000
- Valley City – Watermain Improvement District 59 - \$222,600
- Valley City – 6th Street NW Watermain District 102 - \$252,000

Water Supply (Rural)

- Walsh Rural Water District – Interconnect with Northeast Rural Water District - \$161,500

It was moved by Commissioner Walker, seconded by Commissioner Odermann, and unanimously carried, that the consent agenda items be approved as presented.

Andrea Travnicek stated that the criteria for consent agenda items was 1) no issues or clarifications needed for project presented at the Pre-Commission meeting, 2) clear policy related to project; and 3) lower dollar cost-share requests. Commissioners were asked to provide additional criteria to DWR staff as needed.

STATE COST-SHARE REQUESTS

WATER SUPPLY PROJECTS

Jeffrey Mattern presented the requests for the Municipal and Rural Water Supply projects.

RUGBY – RAW WATER PIPELINE REPLACEMENT - \$0 (SWC Project No. 2050RUG)

Rugby requested cost-share for preconstruction costs to replace 51,800-feet of the raw water supply line between the Pleasant Lake Aquifer and Rugby's water treatment plant, as well as the gate and air valves along the line.

The current 40-year NAWS Water Supply Project Contract defines the "Rugby Component of the Project" as "that portion of the project encompassing an upgrade of the Rugby Water Treatment Plant and expanding its capacity to 1,200 gallons per minute, as well as a pipeline transmission system from the Pleasant Lake Aquifer, which complements the treatment plant capacity." As such, it appears all, or part of the raw water line, is part of NAWS.

Typically, a NAWS project would go through a determination of the type of project needed to address the issue as a Capital Asset project or REM project. Then, an engineering review is completed using NAWS project design criteria, followed by a budget with timeline provided to the NAWS Advisory Committee and Commission for review. Items initially funded by NAWS project funds and considered NAWS project works are eligible for REM reimbursement.

However, the current Rugby portion of the REM fund of around \$25,000 is insufficient to meet the needs of this project and grows by about \$20,000 per year.

Even if portions of this project are considered eligible for Capital Asset funds, the project was not included in the 2021-2023 Capital Asset NAWS budget and funding may not be available based on completing other planned NAWS projects. Rugby has requested that this project be considered for pre-construction cost-share funding as a water supply project at 60 percent, or \$325,000.

The recommendation was to refer the project to NAWS project management and the NAWS Advisory Committee for determination.

After discussion, the consensus was to refer the project to NAWS project management and the NAWS Advisory Committee for determination of project need, budget, and schedule. It was also the consensus that similar requests be given to the DWR Director for final redirection and decision.

GRAND FORKS – AGRIBUSINESS PARK RAW WATER SUPPLY IMPROVEMENTS - \$1,200,000 (SWC Project No. 2050GRF)

Grand Forks requested preconstruction cost-share for a new raw water supply line to the Agribusiness Park for industrial development. This project is for the addition of new pumps at the raw water pump station to increase the intake to 27 million gallons-per-day (MGD), construction of a new 7.2 MGD raw water booster pump station, and installation of dual 18-inch raw water supply pipelines along approximately five miles between the new booster station and the industrial park. This allows for partial redundancy and capacity for future users. Grand Forks will negotiate an agreement with the Agribusiness Park industry for water utility costs to offset the local share of project costs.

The project meets requirements of the Commission's cost-share policy for municipal water supply projects and the recommendation was to approve the project.

Grand Forks Mayor, Brandon Bochenski, clarified that Grand Forks does have sufficient water capacity to support this project. The capacity is supported by water from the Red Lake River (90 percent) and the Red River (10 percent).

After discussion, the following motion was made:

It was moved by Commissioner Johnson and seconded by Commissioner Zimmerman the Commission approve the request by Grand Forks for state cost-share participation at 60 percent of eligible costs for the Agribusiness Park Raw Water Supply Improvements project, with the total amount not to exceed \$1,200,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

RIVERDALE – RAW WATER SUPPLY AND GATE VALVE IMPROVEMENTS - \$225,000 (SWC Project No. 2050RIV)

Riverdale requested cost-share for preconstruction costs to replace and relocate the existing raw water pipeline and replace leaking and inoperable gate valves. Riverdale requested cost-share at 75 percent as a joint project with McLean Sheridan Rural Water District, with local costs being shared.

The project meets requirements of the Commission's cost-share policy for municipal water supply projects and the recommendation was to approve the project.

Jeffrey Mattern clarified that Riverdale requested 75 percent cost-share under regionalization related to transmission and distribution, however, the project is an improvement to replace an existing line under the municipal cost-share policy.

After discussion, the following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Volk the Commission approve the request by Riverdale for state cost-share participation at 60 percent of eligible costs for the Raw Water Supply and Gate Valve Improvements project, with the total amount not to exceed \$225,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

JAMESTOWN – EMERGENCY REPAIR CROSS TOWN WATER SUPPLY REPAIR - \$438,000 (SWC Project No. 2050JAM)

Jamestown requested cost-share for the cost of an emergency repair to replace the main watermain from the ground storage reservoir to the city that was exposed due to migrating of the river bank. The work was completed prior to cost-share approval by the Commission, but it was determined to be an emergency situation.

The project meets requirements of the Commission's cost-share policy for municipal water supply projects under an emergency and the recommendation was to approve the request.

There were no questions. The following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Walker the Commission approve the request by Jamestown for state cost-share participation at 60 percent of eligible costs for the ER Cross Town Water Supply Repair project, with the total amount not to exceed \$438,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

GARRISON – WATER SUPPLY TREATMENT AND TRANSMISSION LINE - \$924,000 (SWC Project No. 2050GAR)

Garrison requested additional cost-share for the rehabilitation of its 1992 water treatment plant and looping of a transmission line to increase the capacity of the system. Estimated project costs have increased by 25 percent after receiving high bids which were rejected. The project was rebid February 4, 2022. Garrison requested cost-share at 75 percent as a joint project with Garrison Rural Water District, with local costs being shared.

The project meets requirements of the Commission's cost-share policy for municipal water supply projects and the recommendation was to approve cost-share at 60 percent.

Mayor of Garrison, Stuart Merry, and Steve Seidler, Vice President, Garrison Rural Water District, requested cost-share at 75 percent because Garrison's rural water use is growing exponentially and many improvements to the system are being made in order to provide water to the growing rural area, as well as expansion of the water treatment plant. The added percentage would also contribute to lower water rates for rural water users. Jeffrey Mattern stated that this project is work within the Garrison's water treatment plant which currently falls under the current policy for municipalities.

Commissioners discussed the current policy definitions related to municipalities and rural areas and whether or not it was reasonable to expect that rural water systems/districts could qualify for the greater cost-share through a municipality. Typically, the regional systems serve the municipalities, however, at times municipalities serve the regional systems. Commissioners reiterated the need for clear definitions for municipal versus rural in relation to areas adjacent to rural water districts or municipalities and possibly define an additional category other than municipal and rural to address growth around municipalities. It was also suggested that a single cost-share percentage be allocated for these projects.

There was further discussion related to additional cities that provide water to rural water systems. The majority of all major cities contribute service to rural water systems across the state. Overall, the goal is to minimize the number of treatment facilities across the state by adding cities to regionalization. Individual projects may need to be broken out to a percentage of what is actually rural and municipal in order to provide consistency in a cost-share funding model and criteria established for mixed systems that are a combination of municipal treatment plants with rural water delivery.

Governor Burgum requested DWR staff review projects beginning with the 2021-23 biennium and determine whether the project would be proportionally allocated municipal or rural and to break down the project by these components.

After discussion, the following motion was made:

It was moved by Commissioner Veeder and seconded by Commissioner Goehring the Commission approve the request by Garrison for state cost-share participation at 60 percent of eligible costs for the Water Supply Treatment and Transmission Line project for additional cost-share of \$924,000, with the total amount not to exceed \$4,320,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

PORTLAND – WATER SYSTEM IMPROVEMENTS - \$97,350 (SWC Project No. 2050POR)

Portland requested cost-share towards the preconstruction costs of a new 150,000-gallon elevated water tower to replace an early 1950s 50,000-gallon water tower and to complete water distribution improvements for fire flow. Portland currently meets its daily water needs with a bulk water supply from East Central Regional Water District (ECRWD). At the Commission's request, Portland evaluated the cost of ECRWD pipeline alternatives to provide 1,500-gallons per minute capacity for fire flow so they are also requesting cost-share reimbursement on \$15,000 in additional engineering costs.

Portland's preferred alternative is a new water tower because it guarantees fire flow over water coming from pumps that are subject to power outages and backup generators failing. Also, Portland qualifies for Rural Development grant funding of up to 45 percent, which current cost-share policy requires those funds to be subtracted and cost-share be based on the remaining non-federal share.

The Life Cycle Cost Analysis (LCCA) summary provided two options: 1) 150,000-gallon elevated tank and in-town water distribution with 60 percent cost-share, and 2) ECRWD 12-inch pipeline connection at 75 percent cost-share and in-town water distribution with 60 percent cost-share.

The project meets requirements of the Commission's cost-share policy for municipal water supply projects. Portland reevaluated the cost of the project alternatives as requested by the Commission and still prefers Option 1. Based on the LCCA, Option 2 was the least cost alternative. The recommendation was to fund approval for state cost-share participation of \$97,350, or 60 percent of eligible preconstruction costs, which accounts for exclusion of Rural Development funding, and the Commission consider least cost alternatives for future construction cost-share requests from Portland based on the results of the LCCA.

After discussion, the following motion was made:

It was moved by Commissioner Johnson and seconded by Commissioner Walker the Commission approve the request by Portland for state cost-share participation of \$97,350, or 60 percent of eligible preconstruction costs, which accounts for exclusion of Rural Development funding and the Commission consider least cost alternatives for future construction cost-share requests from Portland based on the results of the LCCA. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

MCLEAN-SHERIDAN RURAL WATER DISTRICT - SYSTEM EXPANSION PHASE 2 - \$6,200,000 (SWC Project No. 2050MCL)

McLean Sheridan Rural Water District (District) requested cost-share to expand the distribution system and increase the system capacity. The construction funding for the addition of a second treatment train in the water treatment plant will be made in a future request.

The project meets requirements of the Commission's cost-share policy for rural water supply projects and recommendation was to approve the request. Governor Burgum suggested DWR staff continue to utilize a more cost-effective way to determine cost per user over time.

There were no questions. The following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Anderson the Commission approve the request by the McLean Sheridan Rural Water District for state cost-share participation at 75 percent of eligible costs for the System Improvements Phase 2 project for additional cost share of \$6,200,000, with the total amount not to exceed \$6,870,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

MCLEAN-SHERIDAN RURAL WATER DISTRICT – WATER TOWER IMPROVEMENTS - \$2,771,000 (SWC Project No. 2050MCL)

McLean Sheridan Rural Water District (District) requested cost-share to construct a shared 400,000-gallon water tower on the northwest side of McClusky. The purpose of the project is to increase storage capacity for the District and to build a pumping station to distribute water to other District reservoirs and provide McClusky with additional pressure and storage by replacing their existing 50,000-gallon water tower constructed in 1912.

The project meets requirements of the Commission's cost-share policy for rural water supply projects and the recommendation was to approve the request.

Ann Oberg, District Manager, clarified that the placement of the water tower is on the rural line just outside of McClusky and that McClusky contracted for 40 percent of the capacity. Ann also stated that McClusky would maintain the new water lines. Jeffrey Mattern clarified that 75 percent cost-share is applicable because the main purpose is to benefit the rural District but the municipality benefits from the additional capacity and facility regionalization.

Commissioners discussed the issue of funding for fire protection when systems are built to provide for fire flow. The Commission planned to continue discussion related to the state's role in providing funding for fire flow. Commissioners feel that fire flow should not be eligible costs, however, it is better to complete during the initial phase and cost of the project. Governor Burgum requested that DWR staff add this issue to the criteria to discuss when reviewing cost-share requests.

After discussion, the following motion was made:

It was moved by Commissioner Goehring and seconded by Commissioner Veeder the Commission approve the request by the McLean Sheridan Rural Water District for state cost-share participation at 75 percent of eligible costs for the McClusky Water Tower project for additional cost share of \$2,771,000, with the total amount not to exceed \$3,045,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

ROLETTE COUNTY – TURTLE MOUNTAIN PUBLIC UTILITIES COMMISSION (TMPUC) THORNE RESERVOIR AND PUMP STATION - \$1,135,000 (SWC Project No. 2050ROL)

Rolette County requested cost-share on construction costs for the TMPUC Thorne Reservoir and Pump Station project of a 500,000-gallon concrete reservoir and pump station which would provide storage/equalization of raw water for blending of 19 wells, and pretreatment for the TMPUC water treatment plant. U.S. Department of Agriculture Rural Development and Indian Health Services are also providing \$4,367,000 funding for the project.

The project meets requirements of the Commission's cost-share policy for rural water supply projects and the recommendation was to approve the request.

There were no questions. The following motion was made:

It was moved by Commissioner Walker and seconded by Commissioner Volk the Commission approve the request by Rolette County for state cost-share participation at 75 percent of eligible costs for the TMPUC Thorne Reservoir and Pump Station project, with the total amount not to exceed \$1,135,000. The approval is contingent on available funding.

Commissioners Anderson, Johnson, Odermann, Ova, Veeder, Volk, Walker, Zimmerman, Goehring, and Governor Burgum voted aye. There were no nay votes. The motion carried.

COST-SHARE POLICY MODIFICATIONS

Cost-Share Policy Modifications

Pat Fridgen, DWR Planning and Education Division Director, presented the Cost-Share Policy review timeline and a list of considerations discussed at the December 2021 Policy meeting and January 2022 Pre-Commission meeting (**APPENDIX C**). DWR staff have received input and feedback from Commissioners and the Commission will continue to review considerations and revisions at the Pre-Commission meetings until review is complete.

Andrea Travnicek stated that further review will be completed at the March 17 Pre-Commission meeting and the goal is to have a draft Cost-Share Policy to review in June followed by a 45-day comment period.

PROJECT UPDATES

DWR staff provided brief updates on the following projects:

- Jon Kelsch, Water Development Division Director, Devils Lake Outlet
- Chris Korkowski, Investigations Section Chief, Missouri River and Mouse River. Governor Burgum requested that a geographic map of Canada be added to the Mouse River update. Pat Fridgen clarified that the Assiniboine River Basin Initiative is active and DWR staff attend meetings and are active in discussions.
- Tim Freije, NAWS Project Manager, NAWS
- Sindhuja S.Pillai-Grinolds, SWPP Project Manager, SWPP

LEGAL UPDATE

Jennifer Verleger, General Counsel, Attorney General's Office, provided an update on current Commission and DWR litigation. Jennifer stated that requests have been made to the Biden Administration for them to hold their decision on the WOTUS rules until the Supreme Court renders its decision in *Sackett v. EPA*. Jennifer clarified for Governor Burgum that the Scalia test needs a surface water connection to wetlands and the Kennedy test requires a significant nexus.

EXECUTIVE SESSION UNDER AUTHORITY OF NDCC § 44-04-19.1(9) FOR ATTORNEY CLIENT CONSULTATION REGARDING SWPP/FOWLER INTAKE MEDIATION

It was the recommendation of Governor Burgum that the discussion relating to the SWPP/Fowler Intake Mediation be held in executive session, under the provisions of NDCC § 44-04-19.1(9), for the purpose of attorney consultation. The Commission invited the following to participate in the executive session:

STATE WATER COMMISSION MEMBERS PRESENT:

Governor Burgum, Chairman
Lt. Governor Sanford
Doug Goehring, Commissioner, ND Department of Agriculture, Bismarck (departed at 4:00 p.m.)
Michael Anderson, Hillsboro
Richard Johnson, Devils Lake
James Odermann, Belfield
Gene Veeder, Watford City
Jay Volk, Bismarck
April Walker, West Fargo
Jason Zimmerman, Minot

OTHERS PRESENT:

Andrea Travnicek, Ph.D., DWR Director
John Paczkowski, DWR State Engineer
Jon Kelsch, DWR Water Development Director
Cheryl Fitzgerald, DWR Executive Assistant
Kelli Schroeder, ARB Business Manager
Travis Stramer, DWR Data Processing Coordinator
Sindhuja S.Pillai-Grinolds, SWPP Project Manager
Jennifer Verleger, General Counsel, Attorney General's Office
Jim Lennington, Bartlett & West
Reice Haase, Policy Advisor, Governor's Office

It was moved by Commissioner Zimmerman and seconded by Commissioner Walker that under the provision of NDCC § 44-04-19.1 (9), the Commission proceed into executive session on February 23, 2022, at 4:38 p.m., for the purpose of attorney consultation relating to the SWPP/Fowler Intake Mediation.

Commissioners Anderson, Johnson, Odermann, Veeder, Volk, Walker, Zimmerman, and Governor Burgum voted aye. There were no nay votes. The motion carried.

Following attorney consultation regarding the SWPP/Fowler Intake Mediation, Governor Burgum reconvened the open session of the Commission meeting at 5:08 p.m.

The following motion was made:

It was moved by Commissioner Walker and seconded by Commissioner Johnson that the Commission approve the January 2022 Mediation Settlement Agreement which was finalized on January 18, 2022, and allocate \$9,068,203 to SWPP from 2021-2023 Capital Assets funding.

Commissioners Anderson, Johnson, Odermann, Veeder, Volk, Walker, Zimmerman, and Governor Burgum voted aye. There were no nay votes. The motion carried. Commissioner Odermann stated he was a board member of SWA.

There being no further business to come before the Commission, Governor Burgum adjourned the February 23, 2022, meeting at 5:11 p.m.



Doug Burgum, Governor
Chairman, State Water Commission



Andrea Travnicek, Ph.D.
Director, DWR, and Secretary to the State
Water Commission

TO: Governor Doug Burgum & North Dakota Water Commission Members
FROM: Andrea Travnicek Ph.D., Director-Secretary
SUBJECT: Financial Updates
DATE: February 9, 2022



Glossary

The updated glossary of terms is attached on pages 3-4.

2021–2023 Resources Trust Fund

Oil extraction tax deposits total \$113,510,550 through February. This is \$17,100,807 over the projected biennium revenue of \$321,111,419 through February. Pages 5-6 of your packet have line charts showing the deposits into the Resource Trust Fund month by month and cumulative to date and how they track with the projection. Page 7 of your packet has a breakdown of our monthly deposits with the net revenue projection of \$321,111,419 for the biennium. The last column in blue shows the amount over projection that will be transferred to the Water Projects Stabilization Fund in accordance with Senate Bill 2345 from the special session. Senate Bill 2345 increased our federal appropriation authority by up to \$75 million and set up the Water Projects Stabilization Fund which will transfer cumulative oil extraction tax deposits over the projection of \$321,111,419 for the 2021-23 biennium. \$10,288,371 was transferred to the Water Projects Stabilization Fund on January 14, 2022. This was for the excess from August-December and the additional amount directed in Senate Bill 2345. Transfers will be done quarterly the last month of each quarter through February 28, 2023. The next transfer will be done at the end of March for the January-March excess revenue. The excess from January and February is \$7,172,530. Page 8 is a flowchart that shows 20.5% of the Oil Extraction tax that goes into the Resource Trust Fund. The original projection of \$321,111,419 will stay in the Resource Trust Fund and the excess over that will go into the new Water Projects Stabilization Fund. Budget Section approval is needed if funds are needed from the Water Projects Stabilization Fund.

2021-2023 Purpose Funding Summary

Page 9 is the bucket report showing appropriations versus approvals for the purpose funding line items from House Bill 1020 and the bonding amount of \$74.5 million from House Bill 1431. This \$74.5 million was used to pay off the principal of the four WAWSA loans from the Resource Trust Fund and will be paid out for the Minot flood control project. The bonding proceeds were received on December 22, 2021 which was authorized in House Bill 1431. The navy blue shows the appropriation amounts and the light blue shows how much has been approved of that amount.

The bucket on the bottom of the report shows the amount expended of the \$75 million of federal funds appropriated in Senate Bill 2345 from the special session in November. The \$75 million of appropriation is in navy blue and the \$4 million in gray has been expended from Water Supply through December. These are federal funds derived from the State Fiscal Recovery Fund. This \$4 million is for Water Supply projects and has been added back into the appropriation in the Water Supply bucket.

Page 10 has pie charts that show the 2021-2023 total appropriation by funding with expenditures and unpaid approvals as of December 31st. It shows the carryover amount and the 2021-2023 appropriation per bucket or purpose funding in red. The teal green shows the unpaid approvals and the lime green shows the expenditures. The pink shows what is remaining in appropriation for the biennium or the

remaining amounts for your approval. The colors coordinate with the colors on the project summary reports which follow on pages 12-13. A pie has been added showing what is remaining of the \$75 million from Senate Bill 2345.

Project Summary Reports

The December project summary reports are attached on pages 11-23.

Page 11 shows the budget summary with the total projected funding shown in gray at the top. The total revenue we are projecting for the biennium is \$699,300,000, this includes the \$75 million from Senate Bill 2345. Next is the projected expenditures of \$429,550,000 in light blue and the projected funding balance of \$269,750,000 beneath that. The pending February requests are in lime green and the blue bar shows the balance of \$254,448,363 remaining for approvals if all February requests are approved. The bottom of this page shows our anticipated federal funds for the biennium of \$50 million which was included in House Bill 1020, our appropriation bill and the \$75 million in State Fiscal Recovery Fund in Senate Bill 2345.

Pages 12-13 are the project summary reports. These colors correspond with the pie charts on page 10. Page 12 shows the total appropriation which is carryover and new appropriation in red and the appropriation balance in pink for all funding sources. Page 13 shows approvals less expenditures and what is the remaining unpaid balance.

Page 14-23 are the reports by funding source showing each project, split by carryover and new projects.

Glossary of Terms

Allocated-To apportion for a specific purpose. To set apart or earmark.

Anticipated Construction Request-Potential construction requests for prior approved and current projects.

Appropriation-Specifies the amount of funds to be used for a particular purpose during a period of time, normally one biennium.

Original-Legislative authorization to expend.

Current-Requesting authorization to allocate funds.

Balance-Original authorization less current authorization.

Appropriation Authority-Legislative authority in an Appropriation Act for an agency to expend funds.

Appropriation Bill-A bill which appropriations are given legal effect.

Approved-Funds approved and allocated by the State Water Commission.

Beginning Balance-Resource Trust Fund cash balance that carries over from the previous biennium. This information is provided by Legislative Council and includes carryover and funds not approved or allocate by the State Water Commission.

Carryover Funds-Approved funds unpaid during the current biennium which are transferred to the appropriation for the following biennium.

Carryover Projects-Projects approved but not finished by the end of the current biennium. The time is limited to 2 years after the end of the current biennium, 6/30/21, unless approved by the State Water Commission to continue past that date.

Cash-Resource Trust Fund money received and not allocated to a specific appropriation purpose.

Cost Increase-Funding needed above original cost estimate.

De-Obligation-Funds released from project allocation made from the current biennium appropriation.

Expenditure-Payment or funds spent.

Obligation-Funds allocated from current biennium appropriation to pay based on a contract.

Unexpended-Not yet spent or paid.

Turnback-Carryover funds released from prior biennium from a project allocation.

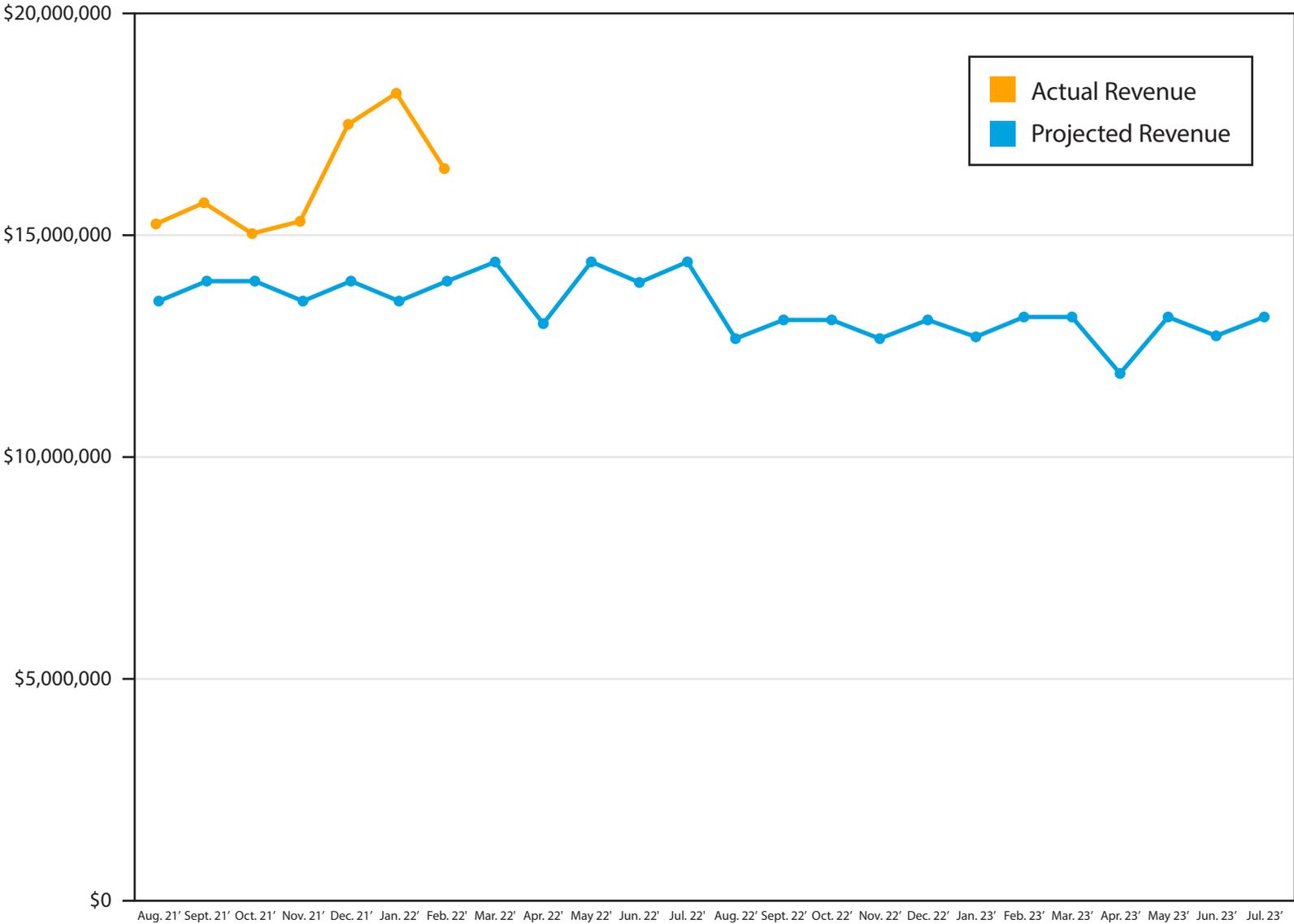
Unobligated Carryover-Previous biennium funding, not associated with a project released to the Resource Trust Fund.

Unpaid Approval-A commitment to an expense at a future date.

Water Infrastructure Revolving Loan Fund (WIRLF) Eligibility-Approval by the State Water Commission of the eligibility of projects to apply for a Water Infrastructure Revolving Loan in compliance with cost share and statutory authority. Final loan approval is by the Bank of North Dakota.

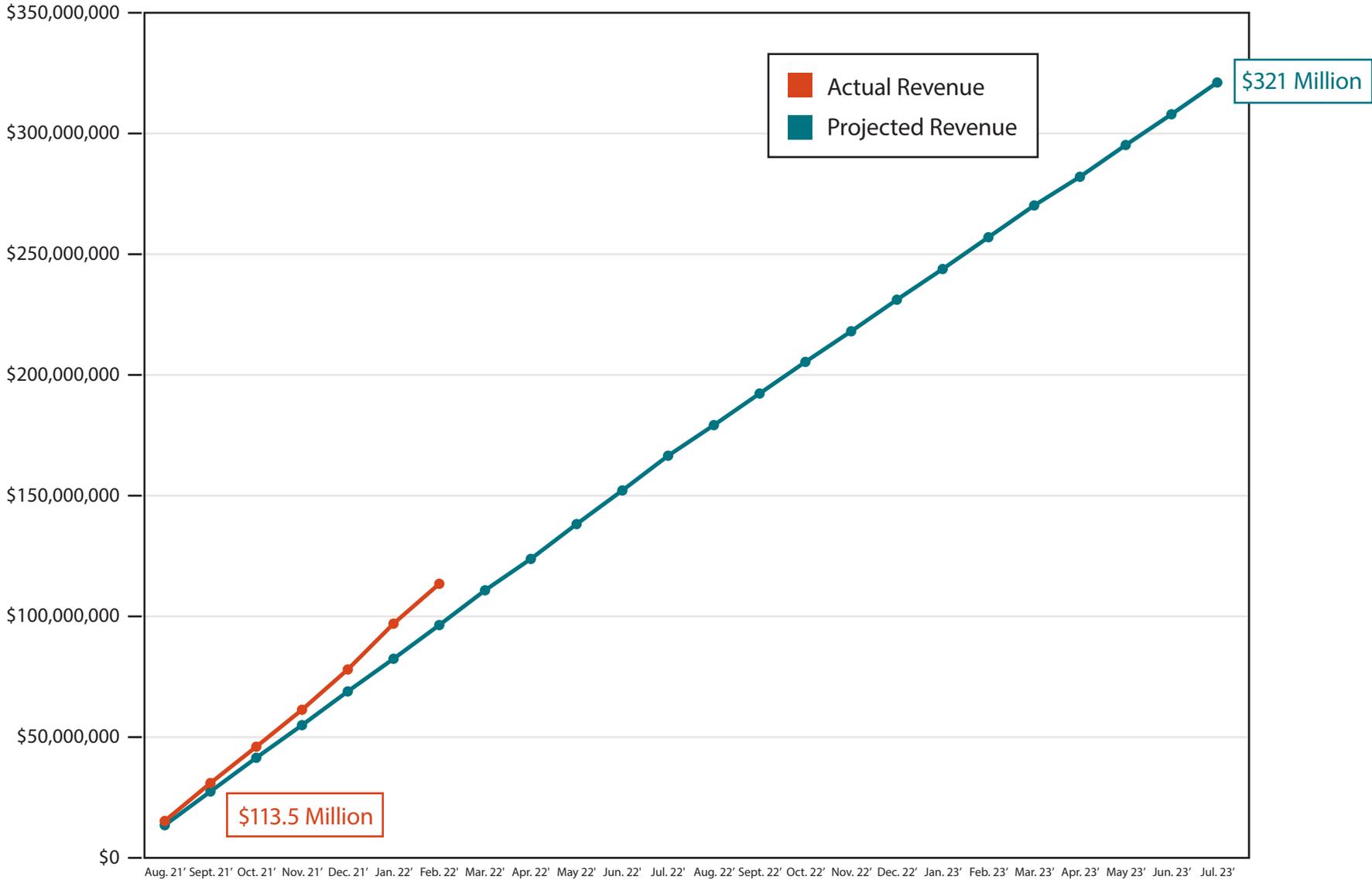
RESOURCES TRUST FUND REVENUE

2021-2023 (Month by Month) | February 2022



RESOURCES TRUST FUND REVENUE

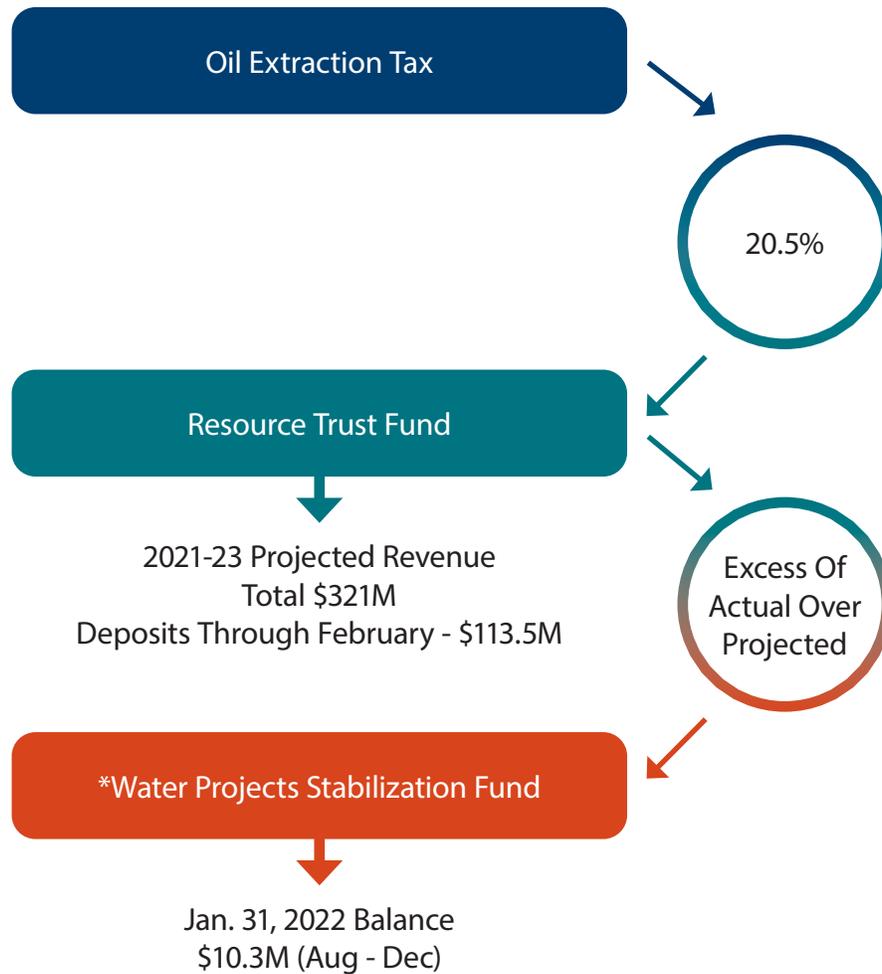
2021-2023 (Cumulative) | February 2022



NORTH DAKOTA DEPARTMENT OF WATER RESOURCES
OIL EXTRACTION REVENUE
FOR THE 2021 - 2023 BIENNIUM

MONTH / YEAR	PROJECTED <u>REVENUE</u>	ACTUAL <u>REVENUE</u>	OVER TRANSFERS TO WATER PROJECTS <u>STABILATION FUND</u>
AUGUST, 2021	13,515,385	15,253,686	1,738,301
SEPTEMBER, 2021	13,965,897	15,731,071	1,765,174
OCTOBER, 2021	13,965,897	15,037,222	1,071,325
NOVEMBER, 2021	13,515,385	15,313,493	1,798,108
DECEMBER, 2021	13,965,897	17,521,266	3,555,369
JANUARY, 2022	13,515,385	18,199,333	4,683,948
FEBRUARY, 2022	13,965,897	16,454,479	2,488,582
MARCH, 2022	14,397,263		
APRIL, 2022	13,006,515		
MAY, 2022	14,400,070		
JUNE, 2022 (INC A/B)	13,935,552		
JULY, 2022	14,400,070		
AUGUST, 2022	12,668,683		
SEPTEMBER, 2022	13,090,973		
OCTOBER, 2022	13,090,973		
NOVEMBER, 2022	12,668,683		
DECEMBER, 2022	13,090,973		
JANUARY, 2023	12,709,026		
FEBRUARY, 2023	13,156,757		
MARCH, 2023	13,156,757		
APRIL, 2023	11,883,522		
MAY, 2023	13,156,757		
JUNE, 2023	12,732,345		
JULY 2023-JUNE REVENUE	13,156,757		
TOTALS	321,111,419	113,510,550	17,100,807

RESOURCES TRUST FUND REVENUE



*Authorized in Sections 5-7 of Senate Bill 2345 during the November special session.

2021-23 PURPOSE FUNDING

December 31, 2021

APPROVED

APPROPRIATED



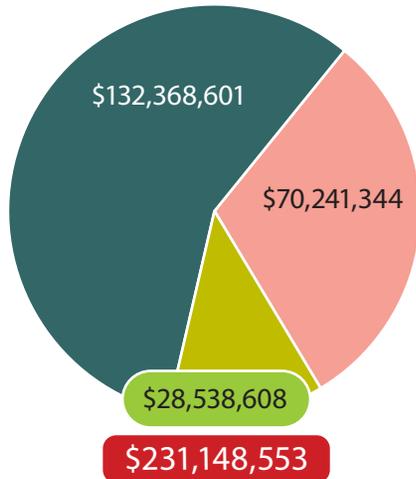
*Capital Assets bucket includes \$45.6M line of credit.



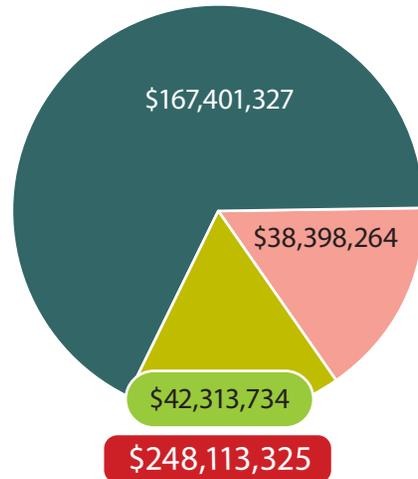
2021-2023 BIENNIUM TO DATE

Project Funds | December 31, 2021

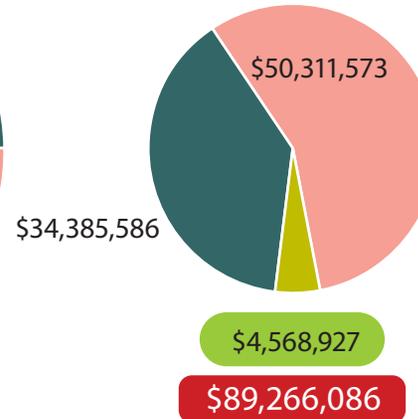
Water Supply



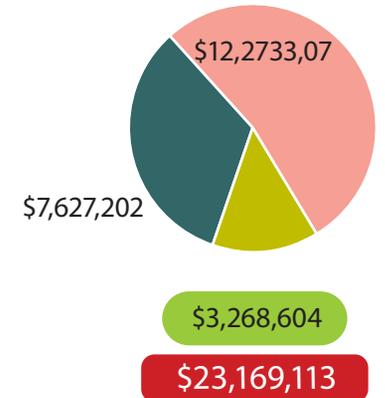
Flood Control



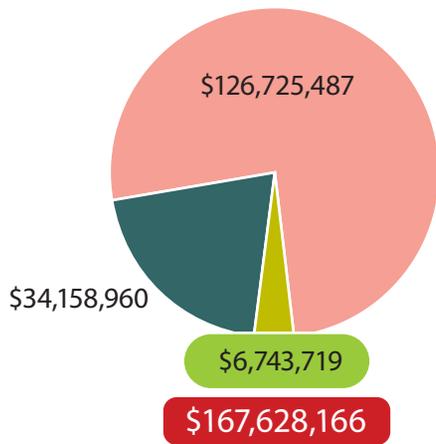
Rural Water Supply



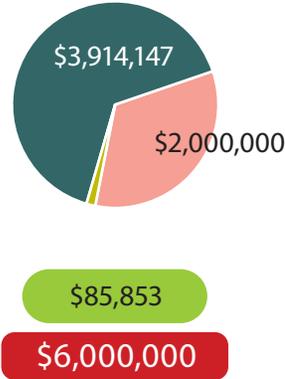
General Water



Capital Assets



Discretionary



Basin Wide Plan



State Fiscal Recovery Fund



■ Expenditures
 ■ Unpaid Approvals
 ■ Appropriation Balance
 ■ 21-23 Total Appropriation (Carryover and New Money)

**DEPARTMENT OF WATER RESOURCES
BUDGET SUMMARY
2021-2023 BIENNIUM**

December 31, 2021

Projected Funding

Cash Balance (December 31, 2021)	\$297,000,000
Future Projected Revenue (19 months at \$12.74 Million / Month)	\$242,000,000
Other Projected Revenue (SWPP, Interest, etc.)	\$10,800,000
HB 1431	\$74,500,000
SB 2345 State Fiscal Recovery Funds	\$75,000,000
TOTAL	\$699,300,000

Projected Expenditures

Unpaid Approvals (December 31, 2021)	\$380,950,000
SWC Operations (December 31 2021)	\$48,600,000
TOTAL	\$429,550,000

Projected Funding Balance	\$269,750,000
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PENDING REQUESTS (February 23, 2021 SWC Meeting)	\$15,301,637
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PROJECTED BALANCE	\$254,448,363
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Federal Funding

MR&I Federal Funds Authority	\$50,000,000
SFRF Funds Authority	\$75,000,000
Federal Funds Expenditures	(\$12,201,780)
Remaining Federal Funds Authority	<u>\$112,798,220</u>

**DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
2021-2023 BIENNIUM**

December 31, 2021

	2019-2021 CARRYOVER	2021-2023 APPROPRIATION	2021-2023 TOTAL	SWC/DIRECTOR APPROVED	APPROPRIATION BALANCE
MUNICIPAL & REGIONAL WATER SUPPLY:					
MUNICIPAL WATER SUPPLY	48,066,436	7,803,750	55,870,186	55,870,186	(0)
RED RIVER VALLEY	28,576,072	47,578,511	76,154,583	76,154,583	(0)
OTHER REGIONAL WATER SUPPLY	21,422,747	3,478,000	24,900,747	24,900,747	(0)
STATE FISCAL RECOVERY FUNDS - SB 2345	0	3,981,693	3,981,693	3,981,693	0
UNOBLIGATED MUNICIPAL/REG WATER SUPPLY	4,101,604	66,139,740	70,241,344		70,241,344
Total	102,166,859	128,981,693	231,148,553	160,907,210	\$ 70,241,343
% OBLIGATED		95.01%			
RURAL WATER SUPPLY:					
RURAL WATER SUPPLY	29,564,313	9,390,200	38,954,513	38,954,513	(0)
UNOBLIGATED RURAL WATER SUPPLY	101,773	50,209,800	50,311,573		50,311,573
Total	29,666,086	59,600,000	89,266,086	38,954,513	50,311,573
% OBLIGATED		18.70%			
FLOOD CONTROL:					
FARGO	50,966,383	(0)	50,966,383	50,966,383	(0)
MOUSE RIVER	38,406,498	10,000,000	48,406,498	48,406,498	(0)
MOUSE RIVER HB1431 BOND PROCEEDS	0	74,500,000	74,500,000	74,500,000	0
VALLEY CITY	11,120,628	(0)	11,120,628	11,120,628	(0)
LISBON	174,579	(0)	174,579	174,579	(0)
OTHER FLOOD CONTROL	3,902,200	372,785	4,274,985	4,274,985	(0)
PROPERTY ACQUISITIONS	7,316,754	30,000	7,346,754	7,346,754	(0)
WATER CONVEYANCE	11,323,127	1,602,105	12,925,232	12,925,232	(0)
UNOBLIGATED FLOOD CONTROL	2,403,152	35,995,114	38,398,266		38,398,266
Total	125,613,325	122,500,002	248,113,325	209,715,060	38,398,265
% OBLIGATED		33.35%			
GENERAL WATER:					
GENERAL WATER	8,927,329	1,968,476	10,895,806	10,895,806	(0)
UNOBLIGATED GENERAL WATER	14,510	12,258,797	12,273,307		12,273,307
Total	8,941,838	14,227,274	23,169,113	10,895,806	12,273,307
% OBLIGATED		16.06%			
SUBTOTAL	266,388,108	325,308,969	591,697,077	420,472,589	171,224,488
CAPITAL ASSETS:					
SWPP CAPITAL ASSETS	8,528,779	9,800,000	18,328,779	18,328,779	0
NAWS CAPITAL ASSETS	10,865,900	11,708,000	22,573,900	22,573,900	0
UNOBLIGATED CAPITAL ASSETS	0	126,725,487	126,725,487		126,725,487
Total	19,394,679	148,233,487	167,628,166	40,902,679	126,725,487
% OBLIGATED		16.97%			
DISCRETIONARY FUNDING:					
DISCRETIONARY FUNDING PROJECTS	0	4,000,000	4,000,000	4,000,000	0
UNOBLIGATED DISCRETIONARY FUNDS	0	2,000,000	2,000,000		2,000,000
Total	0	6,000,000	6,000,000	4,000,000	2,000,000
% OBLIGATED		0.00%			
BASINWIDE PLAN IMPLEMENTATION:					
BASINWIDE PLAN IMPLEMENTATION	0	1,100,000	1,100,000	1,100,000	0
UNOBLIGATED BASINWIDE PLAN IMPLEMENTATION FUNDS	0	0	0		0
Total	0	1,100,000	1,100,000	1,100,000	0
% OBLIGATED		0.00%			
STATE FISCAL RECOVERY FUND:					
STATE FISCAL RECOVERY FUND:					0
UNOBLIGATED STATE FISCAL RECOVERY FUNDS	0	71,018,307	71,018,307		71,018,307
Total	0	71,018,307	71,018,307	0	71,018,307
% OBLIGATED		0.00%			
TOTAL	285,782,787	551,660,763	837,443,551	466,475,268	370,968,282

PROJECTED FUNDING	
\$297,000,000	Cash Balance 12/31/21
\$242,000,000	Future Revenue (19 months) \$12.74 Million / Month
\$10,800,000	Other Revenue SWPP, Interest, etc.
\$74,500,000	HB 1431
\$75,000,000	SB 2345 SFRF
\$699,300,000	Balance

LEGISLATIVE INTENT BALANCE \$0	UNPAID APPROVALS \$380,950,000	SWC OPERATIONS \$48,600,000 Jan 2021-June 2023	PENDING REQUESTS \$15,740,000	PROJECTED BALANCE \$254,010,000
\$269,750,000				

**DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
2021-2023 BIENNIUM**

December 31, 2021

	SWC/DIRECTOR APPROVED	EXPENDITURES	UNPAID APPROVALS
MUNICIPAL & REGIONAL WATER SUPPLY:			
MUNICIPAL WATER SUPPLY	55,870,186	9,828,366	46,041,820
RED RIVER VALLEY	76,154,583	8,286,666	67,867,917
OTHER REGIONAL WATER SUPPLY	24,900,747	6,441,883	18,458,865
STATE FISCAL RECOVERY FUNDS SB2345	3,981,693	3,981,693	(0)
TOTAL	160,907,210	28,538,608	132,368,601
RURAL WATER SUPPLY:			
RURAL WATER SUPPLY	38,954,513	4,568,927	34,385,586
FLOOD CONTROL:			
FARGO	50,966,383	19,408,637	31,557,746
MOUSE RIVER	48,406,498	13,728,435	34,678,063
MOUSE RIVER HB1431	74,500,000	767,215	73,732,785
VALLEY CITY	11,120,628	166,637	10,953,991
LISBON	174,579	94,090	80,489
OTHER FLOOD CONTROL	4,274,985	0	4,274,985
PROPERTY ACQUISITIONS	7,346,754	3,991,409	3,355,345
WATER CONVEYANCE	12,925,232	4,157,310	8,767,922
TOTAL	209,715,060	42,313,734	167,401,327
GENERAL WATER:			
GENERAL WATER	10,895,806	3,268,604	7,627,202
SUBTOTAL	420,472,589	78,689,873	341,782,716
CAPITAL ASSETS:			
SWPP CAPITAL ASSETS	18,328,779	1,667,444	16,661,335
NAWS CAPITAL ASSETS	22,573,900	5,076,275	17,497,625
TOTAL	40,902,679	6,743,719	34,158,960
DISCRETIONARY FUNDING:			
DISCRETIONARY FUNDING PROJECTS	4,000,000	85,853	3,914,147
BASINWIDE PLAN IMPLEMENTATION:			
BASINWIDE PLAN IMPLEMENTATION	1,100,000	10,156	1,089,844
TOTALS	466,475,268	85,529,602	380,945,667

**DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
2021-2023 Biennium
Resources Trust Fund**

WATER SUPPLY

December 31, 2021

Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance
Municipal Water Supply:									
SWC	2050-13	5000	2017-19	Mandan	New Raw Water Intake	6/19/19	580,025	580,025	0
SWC	2050-13	5000	2019-21	Mandan	New Raw Water Intake	6/19/19	16,286,781	2,270,681	14,016,100
SWC	2050-15	5000	2017-19	Washburn	New Raw Water Intake	4/12/18	1,872,949	0	1,872,949
SWC	2050-32	5000	2017-19	Williston	Water Systems Improvement Project	12/6/19	3,629,490	1,626,235	2,003,255
SWC	2050-37	5000	2017-19	Dickinson	Dickinson State Avenue South Water Main	12/6/19	900,043	0	900,043
SWC	2050-75-19	5000	2019-21	Bismarck	Lockport Water Pump Station	10/8/20	408,339	191,960	216,378
SWC	2050-84-19	5000	2019-21	Cavalier	Water Tower Replacement	2/11/21	1,175,325	841,030	334,295
SWC	2050-85-19	5000	2019-21	Mapleton	300,000 Gallon Storage Tank	10/10/19	173,441	0	173,441
SWC	2050-86-19	5000	2019-21	Minot	SW Water Tower	10/10/19	976,010	281,441	694,569
SWC	2050-87-19	5000	2019-21	Streeter	Well Installation and Tower Rehabilitation	10/10/19	96,812	707	96,105
SWC	2050-88-19	5000	2019-21	Davenport	Water Improvement District No. 2019-1	10/10/19	421,582	200,821	220,761
SWC	2050-89-19	5000	2019-21	West Fargo	9th Street NW Water Main	10/10/19	594,000	0	594,000
SWC	2050-90-19	5000	2019-21	Grand Forks	Water Treatment Plant	10/10/19	450,037	0	450,037
SWC	2050-94-19	5000	2019-21	Watford City	Water Distribution 2019	12/6/19	541,400	0	541,400
SWC	2050-95-19	5000	2019-21	Garrison	Water Supply Treatment and Transmission Line	2/13/20	3,076,759	272,589	2,804,171
SWC	2050-96-19	5000	2019-21	Larimore	2020 Water System Replacement	12/11/20	3,329,005	1,036,793	2,292,212
SWC	2050-98-19	5000	2019-21	Sykeston	Water Tower Replacement	5/4/21	414,966	316,441	98,525
SWC	2050-99-19	5000	2019-21	Valley City	Water Main Improvement 100/101	2/13/20	47,939	0	47,939
SWC	2050-100-19	5000	2019-21	Wyndmere	2020 Water Main Improvements	2/13/20	663,203	632,232	30,971
SWC	2050-101-19	5000	2019-21	Fargo	Downtown Water Tower	2/13/20	2,751,478	803,169	1,948,309
SWC	2050-102-19	5000	2019-21	Lincoln	Water Tank Replacement	2/13/20	1,268,000	0	1,268,000
SWC	2050-103-19	5000	2019-21	Kindred	Water Main Looping 2020	2/13/20	35,546	0	35,546
SWC	2050-104-19	5000	2019-21	Hazen	Water Storage Improvements	2/13/20	1,283,038	16,011	1,267,027
SWC	2050-105-19	5000	2019-21	Williston	42nd Street and 16th Avenue Water Main	2/13/20	230,157	9,251	220,906
SWC	2050-106-19	5000	2019-21	Parshall	Water Tower Storage	4/9/20	262,686	262,686	0
SWC	2050-107-19	5000	2019-21	Dickinson	North Annexation Water Supply	4/9/20	842,408	0	842,408
SWC	2050-115-19	5000	2019-21	Killdeer	2020 Water Main and Pump Station Project	10/8/20	1,011,008	87,685	923,323
SWC	2050-116-19	5000	2019-21	Portland	Water Systems Improvement Feasibility Study	11/16/20	0	0	0
SWC	2050-117-19	5000	2019-21	Lakota	Water Transmission Line Replacement Project	12/11/20	184,954	46,822	138,132
SWC	2050-121-19	5000	2019-21	Killdeer	HWBL Water Expansion	2/11/21	72,300	2,700	69,600
SWC	2050-122-19	5000	2019-21	Bobbells	Watermain Improvements 2020	2/11/21	22,800	0	22,800
SWC	2050-123-19	5000	2019-21	Horace	District 2020-06 Water System Improvements	6/8/21	3,053,000	0	3,053,000
SWC	2050-124-19	5000	2019-21	Horace	District 2020-07 Connection to Cass RWD	2/11/21	75,750	0	75,750
SWC	2050-125-19	5000	2019-21	Williston	Williston Square Watermain	2/11/21	280,100	0	280,100
SWC	2050-127-19	5000	2019-21	Valley City	Watermain Improvement District 100 Project	4/8/21	166,645	0	166,645
SWC	2050-128-19	5000	2019-21	Bismarck	43rd Avenue Expansion Phase I	6/8/21	584,000	0	584,000
SWC	2050-129-19	5000	2019-21	Napoleon	Water Tower Replacement	6/8/21	177,000	50,435	126,565
TOTAL MUNICIPAL WATER SUPPLY CARRYOVER							47,938,976	9,529,714	38,409,262
SB2345	2050-13	5000	2021-23	Mandan	New Raw Water Intake	11/15/21	1,003,219	1,003,219	(0)
SWC	2050-104-21	5000	2021-23	Hazen	Water Systems Improvement Project	8/12/21	367,000	0	367,000
SWC	2050-106-21	5000	2021-23	Parshall	Water Tower	8/12/21	703,200	171,192	532,008
SWC	2050-124-21	5000	2021-23	Horace	Watermain Improvement District 2020-7 to Cass	8/12/21	1,232,250	0	1,232,250
SWC	2050-128-21	5000	2021-23	Bismarck	43rd Avenue Expansion Phase 2	10/14/21	2,340,000	0	2,340,000
SWC	2050-129-21	5000	2021-23	Napoleon	Water Tower Replacement	8/12/21	1,617,000	0	1,617,000
SWC	2050-134-21	5000	2021-23	Stanley	Country Estates Watermain Extension	8/12/21	29,400	0	29,400
SWC	2050-138-21	5000	2021-23	Wahpeton	Well Field and Transmission Line	10/14/21	223,400	0	223,400
SWC	2050-139-21	5000	2021-23	Rugby	Water Treatment Plant Improvements Phase 3	10/14/21	881,000	0	881,000
SWC	2050-140-21	5000	2021-23	McLean Sheridan RWD	Service to Blue Flint Ethanol Plant	10/14/21	410,500	0	410,500
TOTAL MUNICIPAL WATER SUPPLY 2021-2023							8,806,969	1,174,411	7,632,558
TOTAL MUNICIPAL WATER SUPPLY							56,745,945	10,704,124	46,041,820
Regional Water Supply:									
SWC	1973-07	5000	2019-21	WAWSA	WAWSA Phase VI	6/8/21	21,422,747	6,441,883	14,980,865
SWC	325-17-19	5000	2017-19	RRVWSP	RRVWSP Garrison Diversion	10/8/20	1,452,074	1,452,074	0
SWC	325-19-21	5000	2019-21	RRVWSP	RRVWSP Garrison Diversion	6/8/21	27,123,998	6,813,299	20,310,699
TOTAL REGIONAL WATER SUPPLY CARRYOVER							49,998,819	14,707,256	35,291,563
SWC	1973-08	5000	2021-23	WAWSA	McKenzie County WRD 2021 System I North Project	12/10/21	3,478,000	0	3,478,000
SB2345	325-19-21	5000	2019-21	RRVWSP	RRVWSP Garrison Diversion	11/15/21	2,556,985	2,556,985	0
SWC	325-21-23	5000	2021-23	RRVWSP	RRVWSP Garrison Diversion	10/14/21	47,578,511	21,293	47,557,218
SB2345	325-21-23	5000	2021-23	RRVWSP	RRVWSP Garrison Diversion	11/15/21	421,489	421,489	0
TOTAL REGIONAL WATER SUPPLY 2021-2023							54,034,985	2,999,767	51,035,218
TOTAL REGIONAL WATER SUPPLY							104,033,804	17,707,023	86,326,781
TOTAL							160,779,749	28,411,147	132,368,602
Capital Assets:									
SWC	1736-05	8000		SWPP	Southwest Pipeline Project	10/14/21	18,328,779	1,667,444	16,661,335
SWC	2374	9000		NAWS	Northwest Area Water Supply	2/8/18	22,573,900	5,076,275	17,497,625
TOTAL CAPITAL ASSETS							40,902,679	6,743,719	34,158,960

PROGRESS REPORT REQUIRED

SWC Board Approved to Continue

	BUDGET	APPROVED	BALANCE
RRVWSP WATER SUPPLY	48,000,000	47,578,511	421,489
OTHER WATER SUPPLY	77,000,000	8,806,969	68,193,031
STATE FISCAL RECOVERY FUNDS - SB 2345	0	3,981,693	71,018,307
OTHER WATER SUPPLY - COMPLETED	0	0	0
BUDGET WATER SUPPLY 2021-2023	125,000,000	56,385,480	68,614,520

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COMPLETED WATER SUPPLY

										<u>December 31, 2021</u>
Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance	
Municipal Water Supply:										
SWC	2050-54	5000	2017-19	West Fargo	North Loop Connection	8/23/17	117,461	117,461	-	
SWC	2050-55	5000	2017-19	West Fargo	West Loop Connection	8/23/17	10,000	10,000	-	
SWC	2050-94-19	5000	2019-21	Watford City	Water Distribution 2019	12/6/19	0	0	541,400.00	
TOTAL MUNICIPAL WATER SUPPLY CARRYOVER							127,461	127,461	541,400	
0	0	0	0	0	0	1/0/00	0	0	0	
TOTAL MUNICIPAL WATER SUPPLY 2021-2023							0	0	0	
TOTAL MUNICIPAL WATER SUPPLY							127,461	127,461	541,400	
Regional Water Supply:										
0	0	0	0	0	0	1/0/00	0	0	-	
TOTAL REGIONAL WATER SUPPLY CARRYOVER							0	0	0	
0	0	0	0	0	0	1/0/00	0	0	-	
TOTAL REGIONAL WATER SUPPLY 2021-2023							0	0	0	
TOTAL REGIONAL WATER SUPPLY							0	0	0	
State Fiscal Recovery Funds:										
SWC	325-19-21	5000	2019-21	RRVWSP	RRVWSP Garrison Diversion	6/8/21	2,556,985	0	2,556,985.00	
SWC	325-21-23	5000	2021-23	RRVWSP	RRVWSP Garrison Diversion	10/14/21	421,489	0	421,489.00	
SWC	2050-13	5000	2019-21	Mandan	New Raw Water Intake	10/7/13	1,003,219	0	1,003,219.00	
TOTAL STATE FISCAL RECOVERY FUNDS							3,981,693	0	3,981,693	
TOTAL							4,109,154	127,461	4,523,093	
Capital Assets:										
0	0	0	0	0	0	1/0/00	0	0	-	
TOTAL CAPITAL ASSETS							0	0	0	

SWC Board Approved to Continue



**DEPARTMENT OF WATER RESOURCES
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RURAL WATER

Dec-21

Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance
Rural Water Supply:									
SWC	2050-43	5000	2017-19	All Seasons Water District	System 4 Connection to System 1	12/11/15	4,900,000	0	4,900,000
SWC	2050-57	5000	2017-19	North Central Regional Water District	Mountrail Expansion Phase II	8/23/17	2,981,628	0	2,981,628
SWC	2050-58	5000	2017-19	North Central Regional Water District	Mountrail Co. Watery Phase III	8/23/17	3,386,181	0	3,386,181
SWC	2050-65	5000	2017-19	Tri-County Rural Water District	System Expansion Project	8/9/18	28,929	0	28,929
SWC	2373-39	5000	2017-19	North Central Rural Water Consortium	Carpio Berthold Phase 2	4/1/15	258,691	0	258,691
SWC	2050-77-19	5000	2019-21	Dakota Rural Water District	2019 Expansion	4/9/20	2,053,156	987,522	1,065,634
SWC	2050-91-19	5000	2019-21	Agassiz Water Users District	2019 Expansion	4/9/20	206,532	116,872	89,660
SWC	2050-92-19	5000	2019-21	East Central Regional Water District	2019 Expansion Phase IV	10/8/20	2,665,243	1,845,752	819,491
SWC	2050-113-19	5000	2019-21	North Prairie Regional Water District	Minot to Velva Highway 52 Improvement	10/8/20	3,074,030	8,440	3,065,590
SWC	2050-114-19	5000	2019-21	Walsh Rural Water District	Drayton Water Supply Project	2/11/21	7,323,029	215,690	7,107,339
SWC	2050-119-19	5000	2019-21	Southeast Water Users District	West System Supply Study	2/11/21	134,408	53,436	80,972
SWC	2050-120-19	5000	2019-21	East Central Regional Water District	Grandin Water Supply	6/8/21	1,640,000	86,045	1,553,956
SWC	2050-126-19	5000	2019-21	East Central Regional Water District	Hatton Water Supply	4/8/21	75,000	74,427	573
SWC	2050-130-19	5000	2019-21	Bames Rural Water District	2021 Storage Expansion	10/14/21	112,000	97,961	14,039
SWC	2050-131-19	5000	2019-21	Northeast Regional Water District	Expansion - Adams/Walsh RWD	6/8/21	50,000	0	50,000
TOTAL RURAL WATER SUPPLY CARRYOVER							28,888,826	3,486,144	25,402,682
SWC	2050-77-21	5000	2021-23	Dakota Rural Water District	2019 Expansion	8/12/21	1,877,000	0	1,877,000
SWC	2050-126-21	5000	2021-23	East Central Regional Water District	Hatton Water Supply	8/12/21	1,220,000	0	1,220,000
SWC	2050-130-19	5000	2021-23	Bames Rural Water District	2021 Storage Expansion	10/14/21	2,262,400	0	2,262,400
SWC	2050-131-19	5000	2021-23	Northeast Regional Water District	Expansion - Adams/Walsh RWD	6/8/21	160,000	0	160,000
SWC	2050-132-21	5000	2021-23	McLean-Sheridan Rural Water District	McClusky Water Tower Replacement	6/8/21	274,000	70,313	203,688
SWC	2050-133-21	5000	2021-23	Rolette County	Turtle Mountain Public Utilities Comm: WTP Membrane	6/8/21	1,036,800	79,042	957,758
SWC	2050-135-21	5000	2021-23	East Central Regional Water District	WTP and Transmission Expansion	8/12/21	521,000	37,319	483,682
SWC	2050-136-21	5000	2021-23	McLean-Sheridan Rural Water District	System Improvements Phase 2	8/12/21	670,000	220,622	449,378
SWC	2050-137-21	5000	2021-23	Upper Souris Water District	2021 Improvements and Expansion	8/12/21	245,000	0	245,000
SWC	2050-140-21	5000	2021-23	McLean Sheridan Rural Water District	Service to Blue Flint Ethanol Plant	10/14/21	410,500	0	410,500
SWC	2050-141-21	5000	2021-23	Agassiz Water Users District	2022 Expansion Phase 2	10/14/21	266,000	0	266,000
SWC	2050-142-21	5000	2021-23	Cass Rural Water District	2022 System Distribution Project	10/14/21	447,500	0	447,500
TOTAL RURAL WATER SUPPLY 2021-2023							9,390,200	407,295	8,982,905
TOTAL RURAL WATER SUPPLY							38,279,026	3,893,439	34,385,586

PROGRESS REPORT REQUIRED

SWC Board Approved to Continue

	<u>BUDGET</u>	<u>APPROVED</u>	<u>BALANCE</u>
OTHER RURAL WATER	59,600,000	9,390,200	50,209,800
OTHER RURAL WATER - COMPLETED	0	0	0
BUDGET RURAL WATER 2021-2023	59,600,000	9,390,200	50,209,800

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COMPLETED RURAL WATER

							<u>December 31, 2021</u>			
Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance	
Rural Water Supply:										
SWC	2050-34	5000	2017-19	North Prairie Rural Water District	Storage and Water Main	10/6/15	26,708	26,708	81,544.00	
SWC	2050-78-19	5000	2019-21	McLean-Sheridan Rural Water District	2019 Expansion	4/9/20	648,780	648,780	20,228.54	
TOTAL RURAL WATER SUPPLY CARRYOVER								675,487	675,487	101,773
0	0	0	0	0	0	1/0/00	0	0	0	
TOTAL RURAL WATER SUPPLY 2021-2023								0	0	0
TOTAL RURAL WATER SUPPLY								675,487	675,487	101,773

SWC Board Approved to Continue



**DEPARTMENT OF WATER RESOURCES
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FLOOD CONTROL

December 31, 2021

Approved SWC By No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance	
Flood Control:									
SB 2020	1928-17	5000	2017-19	Fargo Metro Flood Diversion	Fargo Metro Flood Diversion Authority 2017-2019	2/14/19	6,966,383	6,966,383	0
SB 2020	1928-19	5000	2019-21	Fargo Metro Flood Diversion	Fargo Metro Flood Diversion Authority 2019-2021	10/8/20	44,000,000	12,442,254	31,557,746
SWC	1771-01	5000	2017-19	Grafton	Grafton Flood Control Project	10/12/16	396,733	0	396,733
SWC	1974	Rural	2017-19	Souris River Joint WRD	Mouse River Rural Projects	6/19/19	1,045,902	260,002	785,900
SWC	1974	Rural	2019-21	Souris River Joint WRD	Mouse River Rural Projects	6/19/19	21,913,543	7,891,971	14,021,572
SWC	1974	M-15	2017-19	Souris River Joint WRD	Mouse River Municipal Projects carryover 2015-17	3/29/17	415,310	415,310	0
SWC	1974	M-17	2017-19	Souris River Joint WRD	Mouse River Municipal Projects carryover 2017-19	4/12/18	8,992,670	2,443,414	6,549,257
SWC	1974	M-19	2019-21	Souris River Joint WRD	Mouse River Municipal New Projects 2019-21	6/19/19	5,907,657	2,615,774	3,291,883
SWC	2107-02	5000	2017-19	City of Minot	SWIF 2018 Outfall Pipe Project	10/11/18	131,415	101,965	29,450
SWC	1504-08	5000	2017-19	Valley City	Permanent Flood Protection Erosion Sites	4/9/19	44,560	44,462	98
SWC	1504-09	5000	2019-21	Valley City	Permanent Flood Protection PH IV and V	4/9/20	10,926,068	0	10,926,068
SWC	1504-10	5000	2019-21	Valley City	Permanent Flood Protection Storage Building	6/8/21	150,000	122,175	27,825
SB 2371	1344-02	5000	2017-19	Lisbon	Sheyenne River Valley Flood Control Project	8/8/16	103,971	78,001	25,971
SWC	1991-10	5000	2017-19	Lisbon	Permanent Flood Protection - Levee F Project	4/12/18	70,608	16,090	54,518
SWC	2111	5000	2019-21	Maple River WRD	Davenport Flood Risk Reduction	4/9/20	2,012,115	0	2,012,115
SWC	2118	5000	2017-19	Cass County Joint WRD	Sheldon Subdivision Levee	10/11/18	370,200	0	370,200
SWC	416-02	5000	2019-21	City of Devils Lake	Devils Lake Flood Risk Management Levee	4/8/21	266,250	0	266,250
SE	2124	5000	2017-19	City of Belfield	Heart River & Tributaries Flood Control Study	11/6/18	27,000	0	27,000
SWC	2129	5000	2019-21	Burleigh County WRD	Sibley Island Flood Control Project	8/8/19	48,473	0	48,473
SWC	2131	5000	2017-19	Lower Heart River WRD	Lower Heart Flood Risk Reduction	10/8/20	781,430	0	781,430
TOTAL FLOOD CONTROL CARRYOVER							104,570,289	33,397,800	71,172,489
SWC	1974	MRA-21	2021-23	Souris River Joint WRD	Mouse River Municipal, Rural, and Rural Acquisitions	8/12/21	71,350,000	767,215	70,582,785
SWC	475	5000	2021-23	Steele County WRD	Golden Lake Complex Improvement Study	10/14/21	60,000	0	60,000
SWC	2131	5000	2017-19	Lower Heart River WRD	Lower Heart Flood Risk Reduction	10/8/20	209,285	0	209,285
SWC	2168	5000	2021-23	Bismarck	Wastewater Treatment Plant Effluent Flood Control	10/14/21	72,000	0	72,000
SWC	2171	5000	2021-23	Maple River WRD	Cornell Township Drainage Improvement District 80	12/10/21	31,500	0	31,500
TOTAL FLOOD CONTROL 2021-2023							71,722,785	767,215	70,955,570
TOTAL FLOOD CONTROL							176,293,074	34,165,015	142,128,059
Floodway Property Acquisitions:									
SWC	1974-MA19	5000	2019-21	Minot Acquisitions	Minot Phase - Floodway Acquisitions	6/19/19	7,035,716	3,961,409	3,074,307
SWC	1974-RA19	5000	2019-21	Rural Floodway Acquisitions	Mouse River Rural - Floodway Acquisitions	6/19/19	0	0	0
SB 2371	1504-05	5000	2017-19	Valley City	Valley City - Floodway Acquisitions	12/8/17	260,280	0	260,280
SWC	1991-05	5000	2017-19	Lisbon	Lisbon - Floodway Acquisition	5/8/19	20,759	0	20,759
TOTAL FLOOD FLOODWAY PROPERTY ACQUISITIONS CARRYOVER							7,316,754	3,961,409	3,355,345
SWC	1974	MA-21	2021-23	Souris River Joint WRD	Minot Phase - Floodway Acquisitions 2021-23	8/12/21	13,150,000	0	13,150,000
TOTAL FLOOD FLOODWAY PROPERTY ACQUISITIONS 2021-2023							13,150,000	0	13,150,000
FLOODWAY PROPERTY ACQUISITIONS							20,466,754	3,961,409	16,505,345
TOTAL FLOOD CONTROL							196,759,828	38,126,424	158,633,404
Discretionary Funding Projects:									
SWC	1851	5000	2021-23	ND State Water Commission	Drought Disaster Livestock Water Supply Assistance	7/30/21	2,000,000	0	2,000,000
SWC	0	5000	2021-23	ND State Water Commission	Emergency Livestock Water Supply Program	1/0/00	2,000,000	85,853	1,914,147
Basinwide Plan Implementation:									
SWC	PS/WRD/UPI	5000	2021-23	Upper Sheyenne River Joint WRB	Upper Sheyenne River Watershed Pilot Project	8/12/21	1,100,000	10,156	1,089,844
TOTAL							201,859,828	38,222,433	163,637,395

PROGRESS REPORT REQUIRED

SWC Board Approved to Continue

	<u>BUDGET</u>	<u>APPROVED</u>	<u>BALANCE</u>
LEGISLATIVE INTENT	-	-	-
FLOOD CONTROL	120,867,895	84,872,785	35,995,110
FLOOD CONTROL - COMPLETED	30,000	30,000	0
CONVEYANCE	1,602,105	1,602,105	0
BUDGET FLOOD CONTROL 2021-2023	122,500,000	86,504,890	35,995,110

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COMPLETED FLOOD CONTROL

					<u>December 31, 2021</u>				
Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance
					Flood Control:				
SWC	1504-03	5000	2017-19	Valley City	Permanent Flood Protection PH II	12/9/16	0	0	234,498
SWC	1771-01	5000	2017-19	Grafton	Grafton Flood Control Project	10/12/16	1,864,788	0	1,864,788
					TOTAL FLOOD CONTROL CARRYOVER				
							1,864,788	0	2,099,286
	0	0	0	0	0	1/0/00	0	0	0
					TOTAL FLOOD CONTROL 2021-2023				
							0	0	0
					TOTAL FLOOD CONTROL				
							1,864,788	0	2,099,286
					Floodway Property Acquisitions:				
	0	0	0	0	0	1/0/00	0	0	0
					TOTAL FLOOD FLOODWAY PROPERTY ACQUISITIONS CARRYOVER				
							0	0	0
Director	1504-05	5000	2021-23	Valley City	Valley City - Floodway Acquisitions	8/18/21	30,000	30,000	0
					TOTAL FLOOD FLOODWAY PROPERTY ACQUISITIONS 2021-2023				
							30,000	30,000	0
					FLOODWAY PROPERTY ACQUISITIONS				
							30,000	30,000	0
					TOTAL FLOOD CONTROL				
							1,894,788	30,000	2,099,286
					Discretionary Funding Projects:				
0	0	0	0	0	0	0	0	0	0
					Basinwide Plan Implementation				
								0	0
TOTAL							1,894,788	30,000	2,099,286

SWC Board Approved to Continue



**DEPARTMENT OF WATER RESOURCES
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WATER CONVEYANCE

December 31, 2021

Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance
Drain & Channel Improvement Projects:									
SWC	1064	5000	2019-21	Rush River WRD	Cass County Drain 2 Channel Improvement	6/8/21	605,379	0	605,379
SWC	1090	5000	2019-21	Southeast Cass WRD	Cass County Drain 40 Channel Improvements 2021	6/8/21	320,017	0	320,017
SWC	1217	5000	2019-21	Tri-County WRD	Drain No 6	10/10/19	174,013	70,515	103,498
SWC	1222	5000	2015-17	Sargent Co WRD	Drain No 11 Channel Improvements	10/12/16	1,350,501	0	1,350,501
SE	1299	5000	2019-21	Ransom County	Maple River Bridge Bank Stabilization	6/11/21	50,267	36,527	13,740
SWC	1951	5000	2015-17	Maple River WRD	Lynchburg Channel Improvements	7/6/16	505,707	0	505,707
SWC	1975	5000	2019-21	Walsh Co. WRD	Walsh County Drain 31 Improvements	6/8/21	287,349	7,432	279,917
SWC	1990	5000	2011-13	Mercer Co. WRD	Lake Shore Estates High Flow Diversion Project	3/7/12	43,821	0	43,821
SWC	1999	5000	2019-21	Pembina Co. WRD	Tongue River Cutoff Channel Improvements	2/13/20	6,812	0	6,812
SE	2016	5000	2015-17	Pembina Co. WRD	Establishment of Pembina County Drain No. 80	4/10/17	3,981	0	3,981
SWC	2084	5000	2019-21	Richland County WRD	Richland County Drain 31 Reconstruction	6/8/21	174,771	0	174,771
SWC	2087	5000	2015-17	Walsh Co. WRD	Drain #87/McLeod Drain	3/29/17	374,907	18,760	356,147
SWC	2094	5000	2019-21	McLean County WRD	Fort Mandan/4H Camp Access Road	4/9/20	67,996	0	67,996
SWC	2112	5000	2019-21	Pembina Co. WRD	Pembina Co Drain #81	2/13/20	284,982	284,982	0
SWC	2135	5000	2019-21	Grand Forks-Traill County Joint WRD	Grand Forks County Legal Drain No.59	12/11/20	2,783,837	2,176,628	607,209
SWC	2136	5000	2019-21	Pembina County WRD	Drain No. 39	4/9/20	27,683	0	27,683
SWC	2138	5000	2019-21	Pembina County WRD	Drain No. 82	12/6/19	985,718	0	985,718
SWC	2140	5000	2019-21	Grand Forks-Traill County Joint WRD	Thompson Drainage	4/9/20	613,751	534,025	79,726
SE	2143	5000	2019-21	Traill Co. WRD	Hillsboro Drain No. 26 Channel Improvements	3/27/20	7,612	0	7,612
Director	2144	5000	2019-21	Ransom County	Virgil Schultz Bridge Bank Slope Stabilization	5/5/20	36,531	36,531	0
SWC	2157	5000	2019-21	Maple River WRD	Upper Swan Creek Channel Improvements	6/8/21	698,468	0	698,468
SWC/SE	1413-01	5000	2019-21	Traill Co. WRD	Camrud Drainage Improvement District No. 79	4/9/20	740,307	659,312	80,995
SWC	2152	5000	2019-21	Enderlin Park Board	Maple River Bank Stabilization Project	12/11/20	132,500	81,385	51,115
SE	2153	5000	2019-21	Traill Co. WRD	Hong Drainage Improvement District No. 81	11/16/20	2,279	779	1,501
SWC	2155	5000	2019-21	Richland County, Center Township	Wild Rice River Bank Stabilization	10/8/20	44,423	40,929	3,494
SWC	2156	5000	2019-21	Bottineau County WRD	McHenry Laterals A and B	10/8/20	362,492	0	362,492
SE	2159	5000	2019-21	North Cass WRD	Cass County Drain 18 Extension	10/14/21	10,350	0	10,350
SWC	PS/WRD/MER	5000	2019-21	Mercer County WRD	Knife River Bank Stabilization	10/8/20	87,831	78,768	9,063
TOTAL RURAL FLOOD CONTROL CARRYOVER							10,784,285	4,026,573	6,757,712
SWC	1061	5000	2021-23	Bottineau County WRD	Stone Creek Lateral B	10/14/21	20,250	0	20,250
Director	1085	5000	2021-23	Maple River WRD	Cass County Drain 34 Planning Study	12/21/21	22,500	0	22,500
SWC	1221	5000	2021-23	Sargent County WRD	County Drain No. 9/11	8/12/21	35,618	0	35,618
SWC	1241	5000	2021-23	Traill Co. WRD	Blanchard-Norman Drain 23-40	10/14/21	85,545	3,781	81,764
SWC	1650	5000	2021-23	Sargent Co WRD	County Drain No.7	8/12/21	185,927	0	185,927
SWC	1923	5000	2021-23	Pembina Co. WRD	Drain 66 Outlet Feasibility Review	5/4/21	69,930	0	69,930
SWC	1999	5000	2021-23	Pembina Co. WRD	Tongue River Cut-off Channel Improvements	8/12/21	145,980	0	145,980
SWC	2140	5000	2021-23	Grand Forks-Traill County Joint WRD	Thompson Drainage Improvement District 72	8/12/21	168,148	0	168,148
Director	2144	5000	2021-23	Ransom County	Virgil Schultz Bridge Bank Slope Stabilization	8/18/21	18,754	11,639	7,116
SWC	2159	5000	2019-21	North Cass WRD	Cass County Drain 18 Extension	10/14/21	147,149	0	147,149
SWC	2162	5000	2021-23	Steele County WRD	Drain 1 Lateral A - Construction Phase	9/30/21	128,007	0	128,007
SWC	2163	5000	2021-23	Nelson County WRD	Petersburg Infrastructure and Flood Mitigation	10/14/21	78,509	0	78,509
Director	2167	5000	2021-23	Steele County WRD	Steele County Drain 11 Outlet Improvements	8/18/21	74,250	0	74,250
TOTAL RURAL FLOOD CONTROL 2021-2023							1,180,567	15,419	1,165,148
TOTAL RURAL FLOOD CONTROL							11,964,852	4,041,992	7,922,859
Snagging & Clearing Projects:									
SWC	568	5000	2019-21	Southeast Cass WRD	Sheyenne River Snag & Clear	8/8/19	84,852	0	84,852
SE	1277	5000	2019-21	Emmons County WRD	2020-2021 Beaver Creek Snag & Clear	12/10/20	74,000	0	74,000
SE	1667	5000	2019-21	Traill County WRD	Goose River Snagging & Clearing	10/27/20	44,683	0	44,683
SWC	1694	5000	2019-21	Pembina County WRD	Tongue River Snag and Clear, City of Cavalier	10/8/20	98,400	0	98,400
SWC	1868	5000	2019-21	Southeast Cass WRD	2020-2021 Wild Rice River Snag & Clear	12/11/20	9,956	0	9,956
SE	1934	5000	2019-21	Traill County WRD	Elm River Snagging & Clearing	10/27/20	45,739	0	45,739
SE	1945	5000	2019-21	Rush River WRD	Rush River Snagging & Clearing	2/10/21	70,000	0	70,000
SE	2095	5000	2019-21	Barnes Co WRD	2019 Sheyenne River Snag & Clear Reach 1 - Project 2	9/16/19	7,435	0	7,435
SWC	2095	5000	2019-21	Southeast Cass WRD	2020-2021 Sheyenne River Snag & Clear	12/11/20	39,244	0	39,244
TOTAL SNAGGING & CLEARING CARRYOVER							474,309	0	474,309
SWC	568	5000	2021-23	Southeast Cass WRD	2021-2022 Sheyenne River Snag & Clear	12/10/21	98,000	0	98,000
Director	662	5000	2021-23	Walsh County WRD	Park River Snag & Clear 2021	8/13/21	40,538	784	39,754
Director	1271	5000	2021-23	Southeast Cass WRD	Rose Coulee Snagging and Clearing	8/18/21	50,000	0	50,000
SWC	1842	5000	2021-23	Richland County WRD	Wild Rice River Snagging and Clearing 2021	10/14/21	85,000	0	85,000
SWC	1868	5000	2019-21	Southeast Cass WRD	2021-2022 Wild Rice River Snag & Clear	12/10/21	98,000	0	98,000
SWC	2170	5000	2021-23	Richland County WRD	Sheyenne River Snag & Clear	8/30/21	50,000	50,000	0
TOTAL SNAGGING & CLEARING 2021-2023							421,538	50,784	370,754
TOTAL SNAGGING & CLEARING							895,847	50,784	845,063
TOTAL WATER CONVEYANCE							12,860,699	4,092,776	8,767,922
TOTAL							12,860,699	4,092,776	8,767,922

PROGRESS REPORT REQUIRED

SWC Board Approved to Continue

	BUDGET	APPROVED	BALANCE
WATER CONVEYANCE	1,602,105	1,602,105	0
COMPLETED WATER CONVEYANCE	0	0	0
BUDGET WATER CONVEYANCE 2021-2023	1,602,105	1,602,105	0

**DEPARTMENT OF WATER RESOURCES
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Resources Trust Fund**

COMPLETED WATER CONVEYANCE

							<u>December 31, 2021</u>			
Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance	
SWC	1059	5000	2017-19	Bottineau Co WRD	Baumann Legal Drain	12/7/18	156,132	225	155,907	
SWC	1520	5000	2017-19	Walsh Co. WRD	Walsh County Drain 30-2	10/11/18	82,318	308	82,010	
SE	1638	5000	2019-21	Rush River WRD	Auka Ring Dike	5/20/21	55,000	55,000	0	
SWC	2104	5000	2019-21	Bottineau Co. WRD	Overgaard Extension	2/13/20	57,899	0	57,899	
SE	2149	5000	2019-21	Maple River WRD	Tower Township Improvement District No. 79	12/2/20	8,051	0	8,051	
SE	2162	5000	2019-21	Steele County WRD	Drain 1 Lateral A - Preliminary Design Phase	4/13/21	9,000	9,000	0	
TOTAL WATER CONVEYANCE CARRYOVER								368,399	64,533	303,866
0	0	0	0	0	0	0	0	0	0	
TOTAL WATER CONVEYANCE 2021-2023								0	0	0
TOTAL								368,399	64,533	303,866
SWC Board Approved to Continue										

**DEPARTMENT OF WATER RESOURCES
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GENERAL PROJECTS

December 31, 2021

Approved SWC By No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance
Hydrologic Investigations:								
SWC 2041	3000	2017-19	USGS	Stream Gage Joint Funding Agreement	6/8/21	463,860	115,965	347,895
TOTAL CARRYOVER						463,860	115,965	347,895
Subtotal Hydrologic Investigations						463,860	115,965	347,895
General Water Management:								
SWC 269	5000	2017-19	Walsh Co. WRD	Fordville Dam Rehabilitation	6/19/19	45,098	3,042	42,056
SWC 391	5000	2019-21	Sargent Co WRD	Silver Lake Dam Improvements	4/9/20	46,047	17,491	28,556
SWC 394	5000	2019-21	Golden Valley Co WRD	Odland Dam Rehabilitation Project	4/9/20	571,582	571,582	0
SWC 394	5000	2019-21	Golden Valley Co WRD	Odland Dam Rehabilitation Project	12/11/20	306,000	68,676	237,324
SE 477	5000	2019-21	City of Valley City	Mill Dam Rehabilitation	11/16/20	74,625	0	74,625
SE 531	5000	2017-19	Benson Co WRD	Bouret Dam Rehabilitation	12/20/18	8,124	8,124	0
SWC 531	5000	2017-19	Benson Co WRD	Bouret Dam Rehabilitation	4/9/19	79,058	79,058	(0)
SE 531	5000	2019-21	Benson Co WRD	Bouret Dam Rehabilitation	12/2/20	75,000	24,962	50,038
SE 632	5000	2019-21	Bottineau County Highway Dept	Antler Dam Repair	1/16/20	31,207	29,728	1,479
SWC 688	5000	2017-19	Grand Forks Co WRD	Larimore Dam Rehabilitation	6/19/19	43,211	0	43,211
SWC 980	5000	2015-17	Cass Co. Joint WRD	Upper Maple River Watershed Detention Study	6/11/21	35,910	22,589	13,321
SWC 980	5000	2015-17	Cass Co. Joint WRD	Rush River Watershed Detention Study	1/7/16	38,602	0	38,602
SE 1264	5000	2013-15	Barnes Co WRD	Little Dam Repurposing Feasibility Study	6/17/15	5,797	0	5,797
SE/SWC 1267	5000	2019-21	Bottineau County WRD	Westhope Dam Rehabilitation	6/9/20	71,293	0	71,293
SE 1289	5000	2015-17	McKenzie Co. Weed Board	Control of Noxious Weeds on Sovereign Land	3/23/21	40,111	4,945	35,166
SWC 1303	5000	2015-17	Sargent Co WRD	Shortfoot Creek Watershed Planning Program	3/9/16	45,560	10,251	35,309
SE 1378	5000	2019-21	Barnes Co WRD	Clausen Springs Dam EAP	2/7/20	3,304	0	3,304
SWC 1389	5000	2013-15	Bank of ND	BND AgPace Program	2/11/21	220,291	0	220,291
SE 1431	5000	2019-21	USGS/LaMoure County	Rapid Deployment Gages under FEMA Hazard Mit	10/17/19	500	0	500
SE 1453	5000	2017-19	Hettinger County WRD	Karey Dam Rehabilitation Design & Planning	12/14/18	48,284	48,284	0
SE 1453	5000	2017-19	Hettinger County WRD	Karey Dam Rehabilitation Project	4/9/19	181,661	78,146	103,515
SWC 1785	5000	2019-21	Maple River WRD	Maple River Dam Site T-180 Improvements	2/13/20	35,759	0	35,759
SWC 1851-01	5000	2015-17	ND State Water Commission	Drought Disaster Livestock Water Supply Assistance	6/8/21	3,853,243	1,854,024	1,999,219
SWC 1968	5000	2017-19	Garrison Diversion	MM 0 and MM 0.4 Irrigation Project	12/7/18	1,620,054	0	1,620,054
SE 2055	5000	2015-17	Red River Joint Water Resource District	Lower Red Basin Regional Detention Study	11/3/20	77,905	19,433	58,472
SWC 2059	5000	2015-17	Park River Joint WRD	North Branch Park River NRCS Watershed Study	10/6/15	4,904	0	4,904
SWC 2060	5000	2017-19	Walsh Co. WRD	Matejcek Dam Rehabilitation	10/11/18	85,993	507	85,486
SE 2072	5000	2015-17	Barnes Co WRD	Ten Mile Lake Flood Risk Reduction Project	6/8/16	4,901	0	4,901
SE 2073	5000	2019-21	Walsh Co. WRD	BTAG Oslo, MN Area Hydraulic Analysis	4/15/21	3,139	0	3,139
SE 2089	5000	2015-17	Maple River WRD	Tower Township Improvement District No. 77 Study	12/19/16	11,769	0	11,769
SE 2090	5000	2015-17	International Water Institute	River Watch Program	8/2/19	17,330	0	17,330
SWC 2103	5000	2017-19	Walsh Co. WRD	Bylin Dam Rehabilitation	6/19/19	50,341	4,782	45,559
SE 2109	5000	2017-19	Logan County WRD	McKenna Lake Feasibility Study	6/21/17	2,247	0	2,247
SE 2109	5000	2017-19	Logan County WRD	McKenna Lake Hydrologic Study	9/12/18	4,271	4,270	2
SWC 2109-02	5000	2019-21	Logan County WRD	McKenna Lake Hydrologic Study Phase 2	10/8/20	89,786	39,496	50,290
SWC 2115	5000	2017-19	Applied Weather Associates, LLC	(PMP) Probable Maximum Precipitation Estimates	10/11/18	11,822	130	11,692
SWC 2121	5000	2017-19	Pembina Co. WRD	Senator Young Dam Rehabilitation	6/19/19	53,205	0	53,205
SWC 2123	5000	2017-19	Geotech, Inc.	Airborne Electromagnetic (AEM) 2018	8/9/18	23,104	0	23,104
SWC 2141	5000	2019-21	Pembina Co. WRD	Weiler Dam Gate and Catwalk Retrofit	4/9/20	28,661	0	28,661
SWC 2161	5000	2019-21	AE2S	Strategic Governance and Finance Study	10/8/20	115,975	0	115,975
SE 2164	5000	2019-21	City of Dickinson	East Broadway Dam Rehabilitation	4/1/21	34,732	18,947	15,786
SE 1396-01	5000	2013-15	State Water Commission	Missouri River Recovery Program	11/17/15	46,510	0	46,510
SWC ARB-WMI-19-1	7600	2019-21	Weather Modification, Inc.	Atmospheric Resource Operations and Research Gr	6/19/19	307,223	0	307,223
TOTAL GENERAL WATER CARRYOVER						8,917,999	3,024,431	5,893,568
Director 653	5000	2021-23	McLean County WRD	Katz Dam Spillway Safety Improvement Feasibility Study	8/26/21	7,088	0	7,088
SE 671	5000	2021-23	Wells Co. WRD	Harvey Dam Hydrologic and Hydraulics Analysis	7/23/21	12,800	0	12,800
SWC 849-01	5000	2021-23	Pembina Co. WRD	Tongue River NRCS Watershed Plan Implementation	12/10/21	441,086	0	441,086
SWC 1264	5000	2021-23	Barnes Co WRD	Valley City Little Dam Improvement Project	10/14/21	102,000	0	102,000
SE 1403	5000	2021-23	NDSU	ND Water Resource Institute grant student stipends	6/11/21	25,000	25,000	0
SWC 1859	5000	2021-23	ND Dept of Environmental Quality	NPS Pollution	8/12/21	200,000	0	200,000
SE 1923	5000	2019-21	Pembina Co. WRD	Drain 66 Outlet Feasibility Review	5/4/21	69,930	0	69,930
SE 2165	5000	2021-23	USGS	Red River Low Flow Study	6/21/21	25,000	0	25,000
SWC 2169	5000	2021-23	Minot	Water Supply Low Head Dam Remediation	10/14/21	93,750	0	93,750
SE PS/WRD/DEV	5000	2021-23	Devils Lake Basin Joint WRB	Board Manager	8/18/21	60,000	0	60,000
SWC ARB-WMI-21-1	7600	2021-23	Weather Modification, Inc.	Atmospheric Resource Operations and Research Gr	8/12/21	429,980	0	429,980
SE PS/WRD/MRJ	5000	2021-23	Missouri River Joint WRB	MRRIC Terry Fleck	8/19/21	42,000	0	42,000
SWC AOC/ASS	5000	2019-21	Assiniboine River Basin Initiative	ARBI's Outreach Efforts 21-23	6/8/21	100,000	0	100,000
SWC AOC/RRB	5000	2019-21	Red River Basin Commission	Red River Basin Commission Contractor 21-23	6/8/21	200,000	50,000	150,000
TOTAL GENERAL WATER 2021-2023						1,808,634	75,000	1,733,634
TOTAL GENERAL WATER						10,726,633	3,099,431	7,627,202
TOTAL						10,726,633	3,099,431	7,627,202

PROGRESS REPORT REQUIRED

SWC Board Approved to Continue

	BUDGET	APPROVED	BALANCE
GENERAL WATER	14,008,931	1,808,634	12,200,297
COMPLETED GENERAL WATER	218,344	159,844	58,500
BUDGET GENERAL WATER 2021-2023	14,227,275	1,968,478	12,258,797

DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
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COMPLETED GENERAL PROJECTS

						December 31, 2021				
Approved SWC By	No	Dept	Approved Biennium	Sponsor	Project	Approved Date	Total Approved	Total Payments	Balance	
Hydrologic Investigations:										
	0	0	0	0	0	1/0/00	0	0	0	
							0	0	0	
SE	1378	5000	2019-21	Barnes Co WRD	Clausen Springs Dam Improvements	2/7/20	17,258	2,748	14,510	
SWC	160	5000	2017-19	McLean Co WRD	Painted Woods Lake Flood Damage Reduction & Habitat	8/9/18	5,547	5,547	0	
SE	2154	5000	2019-21	Elm River Joint WRD	Elm River Watershed Study	11/3/20	1,035	1,035	0	
TOTAL GENERAL WATER CARRYOVER								23,839	9,330	14,510
SE	249	5000	2021-23	City of Mott	Mott City Dam Feasibility Study	7/23/21	57,344	0	57,344	
SWC	2154	5000	2021-23	Elm River Joint WRD	Elm River Watershed Study	8/12/21	36,000	34,844	1,156	
HB2009	1986	5000	2021-23	ND Dept of Agriculture	Wildlife Services	7/1/21	125,000	125,000	0	
TOTAL GENERAL WATER 2021-2023								218,344	159,844	58,500
TOTAL GENERAL WATER								242,183	169,173	73,010
TOTAL							<u>242,183</u>	<u>169,173</u>	<u>73,010</u>	

WAWS Oversight Transfer to SWC

61-40 Summary Matrix

This is a draft of a matrix that summarizes the current code creating and providing for the oversight of the Western Area Water Supply project. It is intended to provide a brief overview of the current oversight and help identify where changes could be/should be made in the transfer of oversight from the Industrial Commission to the State Water Commission/Department of Water Resources.

Notes:

The table below is not complete. It shows how we are trying to visually display the many details of this law and how they may change in this effort to bring WAWS under a governance and finance structure similar to the other regional water systems.

Include intro, include full text with highlights, may change to landscape, add key to acronyms.

Section No. and Title				
Sub Sec	Purpose	Current Authority	Proposed Authority	Proposed Revisions to legislation
61-40-01. Legislative declarations – Authority of western area water supply authority.				
	Declaration of need and creation of WAWS project. Authority of WAWSA. Limit impact on private water sellers.	WAWSA	WAWSA	None
61-40-02. Western area water supply authority.				
	Definition of WAWSA. Participating member requirements.	WAWSA	WAWSA	None
61-40-03. Western area water supply authority – Board of directors.				
1.				
2.				
3.				
61-40-04				
1.				
2.				
3.				
61-40-05. Authority of the western area water supply authority.				
1.				
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7.				
8.				
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10.				
11.				
12.				
13.	Additional debt approval required.	IC & EC	BND & EC	See Note 1
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
61-40-05.1. Revenue bonds and bonds exempt from taxation.				
1.				
2.				
3.				
4.				
5.				
6.				
61-40-06. Oversight of authority projects. (Repealed by S.L. 2013, ch. 490, § 24.)				
61-40-07				
61-40-08				
61-40-09. Default				
	Oversight of WAWSA's ability to repay loans. If WAWSA is in default on BND loan, request funding from legislature.	IC & SWC	BND	See Note 2
61-40-10				
1.	Accounting of water sales. Transfer of sales to authority. Notification to boards and member entities. Application of revenues.	WAWSA & IC	WAWSA & DWR	See Note 3
a.	Funding for FTE	IC	DWR	See Note 4
b.				
c.				
d.				
e.				

CHAPTER 61-40
WESTERN AREA WATER SUPPLY AUTHORITY

61-40-01. Legislative declarations - Authority of western area water supply authority.

The legislative assembly declares that many areas and localities in western North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in western North Dakota do not have sufficient quantities of water to ensure a dependable, long-term domestic or industrial water supply; that greater economic security and the protection of health and property benefits the land, natural resources, and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and necessitates and requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, it is declared necessary that a water authority to treat, store, and distribute water to western North Dakota be established to provide for the supply and distribution of water to the people of western North Dakota for purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas development, and other uses, and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of western North Dakota, by the creation and development of a western area water supply project for beneficial and public uses. The western area water supply authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities, water districts, and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers. The independent water providers shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers.

61-40-02. Western area water supply authority.

The western area water supply authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. Other cities and water systems, within or outside the authority counties' boundaries, including cities or water systems in Montana, may contract with the authority for a bulk water supply. The authority is a political subdivision of the state, a governmental agency, body politic and corporate, with the authority to exercise the powers specified in this chapter, or which may be reasonably implied. Participating member entities may be required to pay dues or water sale income to the authority, as determined by the bylaws and future resolutions of the authority. Participating member entities may not withdraw from the authority or fail or refuse to pay any water sale income to the authority until the state-guaranteed loans have been repaid. The provisions of subsections 1 through 5 of section 61-35-02.1 apply if the authority's board of directors unanimously votes to convert to a water district.

61-40-03. Western area water supply authority - Board of directors.

1. The initial board of directors of the western area water supply authority consists of two representatives from each of the following entities: Williams rural water district, McKenzie County water resource district, the city of Williston, BDW water system association, and R&T water supply association. The governing body of each member entity shall select two representatives to the authority board who are water users of the member entity. If a vacancy arises for a member entity, the governing body of the member entity shall select a new representative to act on its behalf on the authority board. Directors have a term of one year and may be reappointed.
2. Additional political subdivisions or water systems may be given membership on the board upon two-thirds majority vote of the existing board. To be eligible for membership on the board, the member entity must first contract with the authority for financial participation in the project.

3. A member entity may designate an alternate representative to attend meetings and to act on the member's behalf. The board may designate associate members who are nonvoting members of the board. Notwithstanding this section, initial board members must be removed if they have not entered a contract with the authority, before August 1, 2013, for financial participation in the project.

61-40-04. Board of directors - Officers - Meetings.

1. The board of directors shall adopt such rules and bylaws for the conduct of the business affairs of the authority as it determines necessary, including the time and place of regular meetings of the board, financial participation structure for membership in the authority, and membership appointment and changes. Bylaws need to be approved by member entity boards.
2. The board shall elect from its members a chairman and a vice chairman. The board shall elect a secretary and a treasurer, which offices may be held by the same individual, and either or both offices may be held by an individual who is not a member of the board. Special meetings of the board may be called by the secretary on order of the chairman or upon written request of a majority of the qualified members of the board. Notice of a special meeting must be mailed to each member of the board at least six days before the meeting, provided that a special meeting may be held at any time when all members of the board are present or consent in writing.
3. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative management under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

61-40-05. Authority of the western area water supply authority.

In addition to authority declared under section 61-40-01, the board of directors of the western area water supply authority may:

1. Sue and be sued in the name of the authority.
2. Exercise the power of eminent domain in the manner provided by title 32 or as described in this chapter for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of an entire part of any pipeline, reservoir, connection, valve, pumping installation, or other facility for the storage, transportation, or utilization of water and all other appurtenant facilities used in connection with the authority. However, if the interest sought to be acquired is a right of way for any project authorized in this chapter, the authority, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county in which the right of way is located, may take immediate possession of the right of way, as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.
3. Accept funds, property, services, pledges of security, or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the authority. The authority may cooperate and contract with the state or federal government, or any department or agency of state or federal government, or any city, water district, or water system within the authority, in furnishing assurances and meeting local cooperation requirements of any project involving treatment, control, conservation, distribution, and use of water.

4. Cooperate and contract with the agencies or political subdivisions of this state or other states, in research and investigation or other activities promoting the establishment, construction, development, or operation of the authority.
5. Appoint and fix the compensation and reimbursement of expenses of employees as the board determines necessary to conduct the business and affairs of the authority and to procure the services of engineers and other technical experts, and to retain attorneys to assist, advise, and act for the authority in its proceedings.
6. Operate and manage the authority to distribute water to authority members and others within or outside the territorial boundaries of the authority and this state.
7. Hold, own, sell, or exchange any and all property purchased or acquired by the authority. All money received from any sale or exchange of property must be deposited to the credit of the authority and may be used to pay expenses of the authority.
8. Enter contracts to obtain a supply of bulk water through the purchase of infrastructure, bulk water sale or lease, which contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water supply or infrastructure.
9. Acquire, construct, improve, and own water supply infrastructure, office and maintenance space in phases, in any location, and at any time.
10. Enter contracts to provide for a bulk sale, lease, or other supply of water for beneficial use to persons within or outside the authority. The contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water system projects, as well as the authority's costs of operating and maintaining one or more projects, whether the acquisition, construction, or reconstruction of any water supply project actually is completed and whether water actually is delivered pursuant to the contracts. The contracts the cities, water districts, and other entities that are members of the western area water supply authority are authorized to execute are without limitation on the term of years.
11. Borrow money as provided in this chapter.
12. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of its powers or in the performance of its covenants or duties or in order to secure the payment of its obligations, but an encumbrance, mortgage, or other pledge of property of the authority may not be created by any contract or instrument.
13. Accept from any authorized state or federal agency loans or grants for the planning, construction, acquisition, lease, or other provision of a project, and enter agreements with the agency respecting the loans or grants. Other than state-guaranteed loans, additional debt that may form the basis of a claim for territorial or franchise protection for industrial water sales for oil and gas exploration and production may be acquired by the authority or member entities only upon approval by the **industrial commission** and the **emergency commission**.
14. Contract debts and borrow money, pledge property of the authority for repayment of indebtedness, and provide for payment of debts and expenses of the authority.
15. Operate and manage the authority to distribute water to any out-of-state cities or water systems that contract with the authority.
16. Accept, apply for, and hold water allocation permits.
17. Adopt rules concerning the planning, management, operation, maintenance, sale, and ratesetting regarding water sold by the authority. The authority may adopt a rate structure with elevated rates set for project industrial water depot and lateral supplies in recognition that a large component of the project expense is being incurred to meet the demands of industrial users. The industrial water depot and lateral rate structure must be approved in accordance with section 61-40-11.
18. Develop water supply systems; store and transport water; and provide, contract for, and furnish water service for domestic, municipal, and rural water purposes; milling, manufacturing, mining, industrial, metallurgical, and any and all other beneficial uses; and fix the terms and rates therefore. The authority may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all treatment plants, works, facilities, improvements,

and property necessary the same without any required public vote before taking action.

19. Contract to purchase or improve water supply infrastructure or to obtain bulk water supplies without requiring any vote of the public on the projects or contracts. In relation to the initial construction of the system and for the purposes of entering a contract with the authority, municipalities are exempt from the public voting requirements or water contract duration limitations otherwise imposed by section 40-33-16.
20. Accept assignment by member entities of contracts that obligate member entities to provide a water supply, contracts that relate to construction of water system infrastructure, or other member entity contracts that relate to authorities transferred to the authority under this chapter.
21. Issue revenue bonds to repay its loan obligations to the Bank of North Dakota. For the purpose of issuing such revenue bonds, the provisions of chapters 40-35 and 40-36 apply to the extent necessary and consistent with S.L. 2017, ch. 19, § 12.

61-40-05.1. Revenue bonds and bonds exempt from taxation.

1. The authority shall have the power and authority to issue revenue bonds, to include refunding bonds, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Revenue bonds issued under this section must be issued as provided in chapter 61-35, and are not subject to section 61-35-15.
2. Issuance of revenue bonds must be approved by a majority of the members of the board of directors of the authority.
3. The authority shall pledge sufficient revenue from any revenue-producing facility or other revenue sources, excluding industrial water sales, for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level, together with any other available funds, to provide for the operation of the facilities and for the bond payments in the manner provided by section 61-40-11.
4. Revenue bonds may not be a general obligation of any participating member entity or the state and may not be secured by property taxes.
5. The revenue bonds may be issued and sold at public or private sale on the terms and conditions determined by the board of directors.
6. Bonds issued under this section and their income are exempt from taxation by the state.

61-40-06. Oversight of authority projects.

Repealed by S.L. 2013, ch. 490, § 24.

61-40-07. Easement granted for pipelines and appurtenant facilities on any public lands.

In connection with the construction and development of the project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the project. However, the plans of the authority with respect to the use of right of way of roads must be approved by the director of the department of transportation and the director of the [department of water resources](#) before the grant becomes effective.

61-40-08. Proceedings to judicially confirm contracts and other acts.

The authority, before making any contract or taking any special action, may commence a special proceeding in district court by which the proceeding leading up to the making of such contract or leading up to any other special action must be examined, approved, and confirmed. The judicial proceedings must comply substantially with the procedure required in the case of judicial confirmation of proceedings, acts, and contracts of an irrigation district.

61-40-09. Default.

The **industrial commission** may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 61-40-10, and if the **industrial commission** is uncertain of that ability, the **industrial commission** shall provide written notification to the **state water commission** and direct the Bank of North Dakota to consider revision of the terms of the loan repayments. If the authority is in default in the payment of the principal or interest on the obligation to the Bank of North Dakota for a loan for which the Bank of North Dakota is the source of funds for the loan, the **state water commission** shall request funding from the legislative assembly to repay the principal and interest due.

61-40-10. Industrial water depot and lateral sales.

1. An accounting of industrial water depot and lateral sales collected and distributed by the authority must be reported to the **industrial commission** on a monthly basis. Participating member entities shall transfer industrial water depot and lateral sales to the authority within thirty days of receipt of the revenues. The boards of the authority and participating member entities must be notified of the sweep of revenues; however, board approval is not required. Upon the receipt of industrial water depot and lateral revenues by the authority, the authority shall apply immediately all revenues each month in the following order:
 - a. One hundred fifty thousand dollars per biennium to the **industrial commission** for **one additional full-time equivalent position to implement this section**.
 - b. Reimburse the authority for industrial water depot capital improvements and the cost for delivery of potable or nonpotable water sold at industrial water depots and lateral lines, at a cost no greater than the participating member, or submember, if applicable, entity rate at the location of the depot or lateral line.
 - c. Regular payments on the participating member entity debt as described in the agreements with the authority as of March 31, 2013, and baseline 2010 industrial water sales included in and subject to the terms of the authority and participating member agreements as of March 31, 2013. Baseline 2010 industrial water sales for the city of Tioga in the year 2013 are limited to the lesser of legally permitted industrial water sales or the amount in the member agreement.
 - d. Required monthly payments on state-guaranteed loans. The required transfer must occur no later than the twentieth day of the following month.
 - e. Additional principal payment on state-guaranteed loans.
 - f. Payment to the resources trust fund.
2. If the state-guaranteed loans have not been repaid, without the written consent of the **industrial commission** the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of the property used in a water system of the authority if the property is used to provide revenue. Any requirements on the state-guaranteed loans for establishment of reserve funds for operation and maintenance or debt service are waived.
3. The **state water commission** shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after July 1, 2013.

61-40-11. Water rates.

The **industrial commission** may authorize the authority to contract at competitive, floating, market rates for industrial water depot and lateral retail sales. The authority shall provide a report on the rates to the **commission** and legislative management's water topics overview committee on a regular basis. The authority shall develop domestic water rates that must include all costs for operation, maintenance, and operating and capital reserves, and debt repayment of all infrastructure managed or constructed by the authority, with the exception of the costs identified in section 61-40-10 which are paid for by industrial water depot and lateral sales.

61-40-12. Construction funding.

The authority shall follow the **state water commission** requirements for funding through the resources trust fund or Bank of North Dakota state-guaranteed loans and shall present the overall plan and project components to the **state water commission** for funding approval. Priority on project funding first is reserved for state-guaranteed loan payments if not met by industrial water depot and lateral sales, second is for full repayment of existing federal debt if 7 U.S.C. 1926(b) protection for oil and gas exploration and production industrial water sales is asserted, and third for expanding domestic water supply to areas currently not served. In accepting construction funding, the authority and participating member entities agree to not hinder or prevent depot and lateral industrial water sales for oil and gas exploration and production.

61-40-13. Franchise protection.

Notwithstanding any other provision of law, neither the authority nor its participating member entities may be required to waive the right to assert franchise protection under state or federal law with regard to water used for purposes other than industrial sales for oil and gas exploration and production.

CHAPTER 61-24.3 SOUTHWEST PIPELINE PROJECT

61-24.3-01. Legislative findings and intent.

The legislative assembly finds that adequate water supplies for municipal, domestic, livestock, rural, irrigation, industrial, and other uses are essential for the social stability and economic security of the people of the state of North Dakota. It is further found that the development and utilization of the water resources of this state are necessary for the protection of health, property, and enterprise, and for the promotion of prosperity and general welfare of the people of the state of North Dakota, and that such development and utilization of water resources in this state involves and requires the exercise of the sovereign powers of the state and concern a public purpose. It is necessary the southwest pipeline project, as authorized and approved pursuant to this chapter, be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses. In furtherance of this public purpose, the state water commission may provide for the issuance of bonds not to exceed twenty-five million dollars in accordance with chapter 61-02 to finance the cost of the project. The provisions of this chapter may not be construed to abrogate or limit the rights, powers, duties, or functions of the state water commission or the department of water resources, but are supplementary to the rights, powers, duties, or functions. Nor may this chapter be construed as limiting or affecting the laws of this state relating to the organization or operation of irrigation districts, water resource districts, or other political subdivisions.

61-24.3-02. Definitions.

In this chapter:

1. "Commission" means the state water commission.
2. "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, limited liability companies, and other entities which have entered into and executed water service contracts with the commission for the purchase of water from the commission through the southwest pipeline project.

61-24.3-03. Authorization of southwest pipeline project.

The preliminary designs for a water supply facility for supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River for multiple uses, as set forth in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, are hereby confirmed and approved, under the designation of the southwest pipeline project, and the construction of the southwest pipeline project shall be initiated and completed by the state water commission substantially in accordance with plan B of the engineering preliminary design final report, state water commission project no. 1736, dated September 1982, except as otherwise specifically provided in this chapter. The commission shall have the authority to eliminate the construction of any primary or secondary transmission mains which are part of plan B of the engineering preliminary design final report if the water user entities to be served by the primary or secondary transmission mains do not execute water service contracts for the purchase of a sufficient quantity of water, as determined by the commission, to justify the construction of the primary or secondary transmission mains. Chapters 49-22 and 49-22.1 shall not apply to this chapter. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain such works over and through any of the lands which are or may be the property of the state.

61-24.3-03.1. Preference for resident pipeline manufacturers and bidders for labor and services.

Any contracts for the purchase of pipeline materials, labor, or services awarded by the state water commission in regard to the construction of the southwest water pipeline project must be

awarded to North Dakota resident pipeline manufacturers and North Dakota resident bidders for labor and services making the lowest responsible bids if those bids do not exceed by more than five percent the lowest responsible bid submitted by a nonresident pipeline manufacturer or bidder for labor or services. As used in this section, "North Dakota resident pipeline manufacturers and bidders for labor or services" means bidders or sellers who have maintained a bona fide place of business within this state for at least five years prior to the date on which the contract bid on is awarded. If the state water commission awards any contract for pipeline materials, labor, or services in regard to construction of the southwest water pipeline project to a nonresident bidder, the commission shall publicly give notice in a newspaper of general circulation regarding the specific reasons why it did not award the contract to a resident bidder. This section does not apply to contracts that involve federal moneys when a preference would be contrary to federal laws or regulations, contracts covered under chapter 48-01.2, or to architect, engineer, professional right of way, and land surveying services.

61-24.3-04. Water treatment.

The extent and type of water treatment and the location of a water treatment plant or plants for the southwest pipeline project shall be determined by the commission, in accordance with law and as in the judgment of the commission the interests of the state and the water user entities of the southwest pipeline project are best served. In determining the location of the water treatment plant or plants, the commission may only consider alternatives that will provide treated water to all potential using entities at a cost not to exceed the cost of water from the single treatment facility originally provided for in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982. Any existing water treatment facility that is to be used in the final pipeline design must be made available to the state in operable condition free of deferred maintenance costs and at a cost that does not exceed the actual depreciation, maintenance, and operation costs of that facility. A water treatment facility is in operable condition if, at the time it becomes part of the southwest pipeline project, it is meeting the needs of its current users. Capital improvements necessary for upgrading any existing water treatment facility to be used in the southwest pipeline project must be borne by the state water commission.

61-24.3-05. Intake structure.

The intake structure to be utilized for the withdrawal of water from the water source for the southwest pipeline project shall be determined by the commission, as in the judgment of the commission the interests of the state and water user entities of the southwest pipeline project are best served. In making its determination on the selection of the intake structure, the commission shall consider, among other things, cost, project stability, capacity and ability to withdraw water, and flexibility in delivering water to water user entities.

61-24.3-06. Secondary transmission mains.

Secondary transmission mains shall be constructed as part of the southwest pipeline project, as provided in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, except as provided in section 61-24.3-03.

61-24.3-06.1. Water distribution lines.

Notwithstanding the plans and specifications of state water commission project no. 1736, as authorized in this chapter, the state water commission is hereby authorized to investigate the integration of rural water delivery into the southwest pipeline project, state water commission project no. 1736. If the commission determines that construction cost savings, operation and maintenance cost savings, operation efficiencies, and other advantages can be realized by incorporating water supply, distribution, and delivery into one entire system, and that such benefits and advantages outweigh any additional costs or disadvantages, the commission shall plan, design, integrate, incorporate, construct, operate, and maintain the southwest pipeline

project and rural water delivery as one system. The exercise of this authority must be in the manner and time as the commission may deem appropriate.

61-24.3-07. Capacity for industrial use.

Upon receipt of a commitment from any large industrial user through the execution of a water service contract for the purchase of water from the southwest pipeline project, or other appropriate contract, as required by the commission, the commission shall have the authority to include in the southwest pipeline project sufficient capacity to provide water to such large industrial user, and to determine the rates and charges for delivery of water to the industrial user.

61-24.3-08. Capacity for South Dakota users.

Upon receipt of a commitment from water user entities in South Dakota, through the execution of a water service contract for the purchase of water from the southwest pipeline project, whereby no less than the total additional capital costs of increasing the capacity of the southwest pipeline project to provide water through the southwest pipeline project for the water user entities in South Dakota will be paid by the water user entities in South Dakota, the commission shall have the authority to include in the southwest pipeline project the additional capacity for water user entities in South Dakota as provided in plans SD of the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, and to determine the rates and charges for the operation and maintenance costs of delivery of water to such water user entities.

61-24.3-09. Pipeline construction standards.

The commission, as in its judgment the interests of the state and the water user entities of the southwest pipeline project are best served, shall determine the pipeline construction standards to be utilized for the southwest pipeline project. In making its determination, the commission shall consider cost, maintenance, life of pipelines, and other factors it deems appropriate.

61-24.3-10. Commission to construct, operate, and maintain southwest pipeline project - Rules made by commission.

The commission shall have the authority to:

1. Construct the southwest pipeline project as provided in this chapter.
2. Operate and maintain, or provide for the operation and maintenance of the southwest pipeline project.
3. Exercise all express and implied rights, powers, and authorities, including all powers and authorities granted in chapter 61-02, necessary to carry out the provisions and purposes of this chapter.
4. Make and enforce orders, rules, and bylaws for the operation and maintenance of the southwest pipeline project.
5. Sell, transfer, or exchange property acquired for the southwest pipeline project provided the commission determines the property is not necessary for the operation, maintenance, or construction of the southwest pipeline project. For a period of sixty days, the property must first be offered for sale, transfer, or exchange to the current owner of the surrounding property from which the property was obtained. Any parcel of property sold, transferred, or exchanged under this section may not exceed two acres [.81 hectare]. Sections 54-01-05.2 and 54-01-05.5 do not apply to the sale, transfer, or exchange of property pursuant to this subsection.

61-24.3-10.1. Deposits of income.

All income derived from the lease and management of lands acquired by the state water commission for the southwest pipeline project must be deposited in the resources trust fund.

61-24.3-11. Commission to fix water rates for the southwest pipeline project.

The commission shall establish the payments for water service to be paid by water user entities for purchase of water from the southwest pipeline project. The payments for water service include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the southwest pipeline project reserve fund for replacement, as established by section 61-24.3-16, for replacement and extraordinary maintenance of southwest pipeline project works. The amount of such reserve fund for replacement shall be determined by the commission.

61-24.3-12. Operation and maintenance - Commission to employ manager and employees.

The commission shall obtain the assistance necessary for the operation and maintenance of the southwest pipeline project. To that end, it may appoint a manager, and may appoint subordinate officers and employees. It may designate the manager its general agent in respect to the operation and maintenance of the southwest pipeline project, but subject, nevertheless, in such agency, to the supervision, limitation, and control of the commission. It may appoint or employ such contractors, engineers, attorneys, and other experts, agents, and servants as in the judgment of the commission the interests of the state may require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such persons so engaged. Subject to the control and regulation of the commission the manager of the southwest pipeline project may appoint and employ such deputies and other subordinates, and such contractors, engineers, attorneys, and other experts, agents, and servants as the manager shall deem required. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the southwest pipeline project, shall remain within the appropriation and earnings lawfully available in each year for such purpose.

61-24.3-13. Removal and discharge of appointees.

The commission may remove and discharge any and all persons appointed in the exercise of powers granted by this chapter, whether by the commission or by the manager of the southwest pipeline project. Any such removal may be made whenever in the judgment of the commission, the public interests and the interests of the southwest pipeline project require it. All appointments and removals contemplated by this chapter shall be made as the commission shall deem most fit to promote the purpose and efficiency of the southwest pipeline project.

61-24.3-14. Operation and maintenance fund

To identify and distinguish the revenues received by the commission from water user entities for operation and maintenance of the southwest pipeline project, there shall be maintained, as a part of the moneys of the state received and kept by the state treasurer, a fund to be designated as the southwest pipeline project operation and maintenance fund. All moneys received by the state treasurer from the commission, whether from payments made by water user entities for operation and maintenance of the southwest pipeline project or otherwise, which shall be by law or by other authoritative designation made applicable to the payment of operation and maintenance of the southwest pipeline project, shall be kept by the state treasurer in such fund distinct from all other moneys and shall be disbursed by the state treasurer only for the particular purpose or purposes for which the moneys were received, and no other appropriations shall ever be made of the moneys in said fund. This section shall not be construed as preventing the state treasurer from depositing the moneys in the Bank of North Dakota.

61-24.3-15. Revenues for operation and maintenance - Deposit - Use.

Money derived and received by the commission from water user entities for operation and maintenance of the southwest pipeline project shall be deposited by the commission in the

operation and maintenance fund, and shall be used for no purposes other than to pay for costs and expenditures for operation and maintenance of the southwest pipeline project.

61-24.3-16. Reserve fund for replacement.

To identify and distinguish the revenues received by the commission from water user entities for replacement and extraordinary maintenance of the southwest pipeline project, there shall be maintained, as a part of the moneys of the state received and kept by the state treasurer, a fund to be designated as the southwest pipeline project reserve fund for replacement. All moneys received by the state treasurer from the commission, whether from payments made by water user entities for replacement and extraordinary maintenance of the southwest pipeline project or otherwise, which shall be by law or by other authoritative designation made applicable to replacement of the southwest pipeline project, shall be kept by the state treasurer in such fund distinct from all other moneys and shall be disbursed by the state treasurer only for the particular purpose or purposes for which the moneys were received, and no other appropriations shall ever be made of the moneys in the fund. This section shall not be construed as preventing the state treasurer from depositing the moneys in the Bank of North Dakota.

61-24.3-17. Revenues for replacement - Deposit - Use.

Money derived and received by the commission from water user entities for replacement and extraordinary maintenance of the southwest pipeline project shall be deposited by the commission in the reserve fund for replacement, and shall be used for no purposes other than to pay for replacement or extraordinary maintenance of works which are part of or associated with the southwest pipeline project.

61-24.3-18. Water rates for capital costs - Deposit.

Money derived and received from water user entities for capital costs of the southwest pipeline project may be pledged by the commission for the repayment of bonds issued for the construction of the southwest pipeline project. Any money not pledged must be deposited by the commission in the resources trust fund, established pursuant to section 57-51.1-07, and may be expended only pursuant to legislative appropriation for the purposes specified in subsection 1 of section 57-51.1-07.

61-24.3-19. Validation of water service contracts.

Water service contracts entered by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts are judicially examined, approved and confirmed, or disapproved and disaffirmed. The proceeding must comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 are not applicable to contracts between the state water commission and cities for water service and cities for water service from the southwest pipeline project, provided the contracts were approved by the city governing body and executed before January 1, 1999.

61-24.3-20. Other pipelines - Commission approval required.

Upon construction of the southwest pipeline project, utilities, corporations, limited liability companies, companies, or any other person or entity which proposes to install or construct a pipeline or other underground conveyance system which crosses or intersects the southwest pipeline project may do so only with the approval of the commission, in accordance with the requirements and conditions imposed by the commission for the pipeline or other crossing.

61-24.3-21. Authorization of facilities - Water service areas.

Notwithstanding the plans and specifications of state water commission project no. 1736, as authorized in this chapter, the state water commission may include as part of the southwest

pipeline project the delivery of water from southwest pipeline facilities to areas in Dunn County, Mercer County, and Oliver County and plan, design, integrate, incorporate, construct, operate, and maintain necessary facilities for this purpose as part of the southwest pipeline project, consistent with this chapter. The exercise of this authority must be in the manner and time the commission deems appropriate.

CHAPTER 61-24.5 SOUTHWEST WATER AUTHORITY

61-24.5-01. Findings and declaration of policy.

1. Many areas and localities in southwestern North Dakota do not enjoy adequate quantities of high-quality drinking water. Other areas and localities in southwestern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply. Supplementation of the water resources of southwestern North Dakota, with water supplies from Lake Sakakawea and the Missouri River, utilizing a pipeline transmission and delivery system, is a feasible approach to provide southwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.
2. Opportunity for greater economic security, protection of health, property, enterprise, preservation of the benefits from the land and water resources of this state, and the promotion of the prosperity and general welfare of all of the people of North Dakota depends on the effective development and utilization of the land and water resources of this state, and require the exercise of the sovereign powers of the state and concern a public purpose. To accomplish this public purpose, a project to supply and distribute water to southwestern North Dakota, as authorized by chapter 61-24.3 must be established and constructed, to:
 - a. Provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses.
 - b. Provide for the future economic welfare and property of the people of this state, and particularly the people of southwestern North Dakota, by making available waters from Lake Sakakawea and the Missouri River for beneficial and public uses.
3. It is necessary to study and further develop water resources to provide adequate water supplies for energy, industrial, agriculture, and other opportunities in southwest North Dakota. This section may not be construed to limit the rights, powers, duties, and functions of the state water commission or the department of water resources, but must be considered supplementary to those rights, powers, duties, and functions.

61-24.5-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Authority" means the southwest water authority.
2. "Board" means the board of directors of the southwest water authority.
3. "Person" includes any natural person, state agency, municipality, political subdivision, public or private corporation, limited liability company, partnership, or association.
4. "Southwest pipeline project" includes the project and works, or any part thereof, authorized in chapter 61-24.3.
5. "Works" includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for operation of the southwest pipeline project, all water rights acquired and exercised by the authority in connection with the southwest pipeline project, and all means of delivering and distributing water through the utilization of a pipeline transmission and delivery system, as authorized in chapter 61-24.3.

61-24.5-03. Southwest water authority created.

The southwest water authority shall consist of that part of the state which is included within the boundaries of Dunn, Stark, Golden Valley, Billings, Slope, Bowman, Adams, Grant, Hettinger, Morton, and Mercer Counties.

Such authority is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

- the necessary rights in land for the construction of pipelines, reservoirs, connections, valves, and all other appurtenant facilities used in connection with the southwest pipeline project, or any part thereof.
3. To accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the southwest pipeline project, or any part thereof.
 4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development, or operation of the southwest pipeline project, or any part thereof.
 5. To furnish assurances of cooperation, and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations and political subdivisions of North Dakota for the performance of obligations for the construction, operation, or maintenance of the southwest pipeline project, or any part thereof, or for the delivery of water to any such department, agency, or political subdivision.
 6. To construct or purchase separately or in cooperation with agencies of the United States, or the state of North Dakota, its agencies or political subdivisions, and to equip, maintain, and operate an office and principal place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.
 7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the authority, and to procure the services of engineers and other technical experts, and to retain an attorney or attorneys to assist, advise, and act for it in its proceedings.
 8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation, and maintenance of the southwest pipeline project, or any part thereof.
 9. To enter into a contract or contracts for a supply of water from the United States or the state water commission and to sell, lease, and otherwise contract to furnish any such water for beneficial use to persons or entities within or outside the authority.
 10. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States or the state water commission and authorization to make collections of money for and on behalf of the United States or the state water commission in connection with the southwest pipeline project, or any part thereof.
 11. To sell or exchange any and all real property purchased or acquired by the authority. All moneys received pursuant to any such sale or exchange shall be deposited to the credit of the authority and may be disbursed for the payment of expenses of the authority.
 12. Notwithstanding any other law, to exercise the powers granted to a municipality under subsection 5 of section 40-33-01 pursuant to the limitations set forth therein. The authority may pay the cost of leasing any waterworks, mains, and water distribution system and any equipment or appliances connected therewith and any property related thereto pursuant to subsection 5 of section 40-33-01 solely from revenues to be derived by the authority from the ownership, sale, lease, disposition, and operation of the waterworks, mains, and water distribution system; the funds or any other amounts invested by the authority pursuant to the laws of the state or invested on the authority's behalf by the state, or any agency or institution of the state, in conformity with policies of the industrial commission, including investment in a guaranteed investment contract and any earnings thereon, to the extent pledged therefor; and funds, if any, appropriated annually by the board of the authority or received from federal or state sources.

13. To study and analyze options for providing additional water supplies to southwest North Dakota for purposes, including domestic, rural water, municipal, livestock, energy development, industrial, mining, and other uses.
14. To conduct engineering, legal, financial, educational, and other activities to further the completion of the southwest pipeline project, or any part thereof, or any other works or projects necessary to provide adequate water supplies for southwest North Dakota.

61-24.5-10. District budget - Tax levy.

For each taxable year through 2020, the authority may levy a tax of not to exceed one mill annually on each dollar of taxable valuation within the boundaries of the authority for the payment of administrative expenses of the authority, including per diem, mileage, and other expenses of directors, expenses of operating the office, engineering, surveying, investigations, legal, administrative, clerical, and other related expenses of the authority. All moneys collected pursuant to the levy must be deposited to the credit of the authority and may be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, certificates of deposit guaranteed or insured by the United States or an instrumentality or agency thereof, and bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. During the period of time in which the authority may levy one mill annually as provided herein, any joint water resource board created pursuant to section 61-16.1-11, by or among one or more of the water resource districts in the counties which are included in the authority, must be limited to one mill under the authority of section 61-16.1-11.

61-24.5-11. District budget - Determination of amount to be levied - Adoption of levy - Limitation.

In July of each year, the board of directors shall estimate and itemize all the administrative expenses and obligations of the district, including expenses of directors, expenses of operating the office, and any other obligations and liabilities relating to administrative, clerical, engineering, surveying, investigations, legal, and other related expenses of the authority. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy must be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution must levy in mills, but may not exceed one mill, and must be sufficient to meet the administrative, engineering, surveying, investigations, legal and related expenses, obligations, and liabilities of the district as provided in the budget. The board shall also prepare and adopt an annual budget for operation, management, maintenance, and repayment of the southwest pipeline project. Revenues for operation, management, maintenance, and repayment of the southwest pipeline project must come from water service contract revenues.

61-24.5-12. Board to certify mill levy to city auditors, county auditors, and state tax commissioner.

Upon the adoption of the annual mill levy by the board of directors, but no later than October first, the secretary of the board shall send one certified copy of the mill levy to the county auditor of each county which is a member of the authority. Copies of all such documents must be sent to the state tax commissioner.

61-24.5-13. County auditors to extend tax levy.

The county auditor of each county within the authority, to whom a mill levy is certified in accordance with this chapter, shall extend the levy upon the tax lists for the current year against each description of real property and all personal property within the county in the same manner and with the same effect as other taxes are extended.

61-24.5-14. County treasurer or city auditor to collect and remit district taxes - District fund established - Nonreverter - Disbursements.

The treasurer of each county in which a mill levy has been certified shall collect the taxes, together with interest and penalty thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the authority, on demand, all taxes, interest, and penalties so collected, and shall forthwith notify the secretary of the authority of such payment. Expenditures must be approved by the board of directors.

61-24.5-15. Proceedings to confirm contract.

The board of directors of the authority, after entering into a contract with the United States government, the state of North Dakota, or with any public corporation or political subdivision of the state of North Dakota, may commence a special proceeding in and by which the proceedings of the board and the making of such contract, or contracts, must be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Such proceeding must comply as nearly as possible with the procedure required in the case of irrigation districts under the laws of North Dakota.

61-24.5-16. Procedure for exclusion from authority of county not benefited.

1. Any county in the authority not benefited or not to be benefited, in whole or in part, by the southwest pipeline project, or any part thereof, may be excluded from the authority as provided herein. The board of county commissioners of any such county may by resolution direct the county auditor and the chairman of the board to file with the board of directors of the authority a petition, for and on behalf of the county, requesting the board of directors of the authority to exclude such county therefrom. A certified copy of the resolution of the county board must accompany and be filed with such petition. The petition and resolution must state specific reasons why such county will not be benefited by the southwest pipeline project, or any part thereof.
2. Within sixty days from the date of filing said resolution and petition for exclusion from the authority, the authority board shall meet to consider such petition. It may grant such petition or it may fix a time and place for a hearing thereon. If a hearing is set, the secretary of the board shall cause notice of the filing of such petition for exclusion, and of the time and place for a hearing, to be published once each week for two consecutive weeks in a newspaper of general circulation printed within the authority. The hearing mentioned in such notice must be held not less than ten nor more than twenty days after the last publication of such notice. The notice must state that any person, corporation, limited liability company, municipality, and county in the authority may appear or be represented at the hearing and show cause why the petition should or should not be granted. The board shall hear the petition at the time and place mentioned in the notice.
3. If after the hearing on the petition the authority board of directors shall determine that the county requesting to be excluded from the authority will not be benefited, the authority board shall by resolution grant the petition and shall direct the chairman and secretary to execute the order of the board excluding such county from the authority. If, however, the authority board shall decide that such county will be benefited, it shall deny the petition and direct the chairman and secretary to execute its order refusing to exclude such county from the authority. A county excluded from the authority is not liable for any obligations thereof incurred after exclusion but is liable for and shall pay to the authority taxes levied before exclusion.
4. If any contract has been made with the United States or any agency thereof, or the state of North Dakota or any agency thereof, before such petition is filed, such petition may not be granted unless consented thereto by the appropriate agency of the United States or North Dakota, and if such agency gives its consent upon condition, such conditions must be included in the order of exclusion and the county may be required to, and in that event such county shall continue to, pay and satisfy any obligations under any such contract.

61-24.5-17. Appeal from orders of authority board.

An appeal from an order of the board of directors of the authority denying a petition for exclusion may be taken to the district court of the petitioning county. The appeal provided for herein must be taken within thirty days after the order of the authority board has been filed with the secretary thereof and public notice of such order has been made. The appeal must be taken by serving notice of appeal upon the secretary of the authority. The appeal must be docketed as any cause pending in district court is docketed and thereupon the court shall have and exercise original jurisdiction and shall hear and determine the cause de novo without a jury. An appeal to the supreme court may be taken by the petitioning county or by the authority, from any judgment entered therein in district court, and from any order of said court if an appeal would lie from such order if entered by the court in a civil action.

61-24.5-18. Easement granted for ditches, canals, tramways, and transmission lines on any public lands.

In connection with the construction and development of the southwest pipeline project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the southwest pipeline project, provided, however, the director of the department of transportation and the director of the department of water resources must approve the plans of the authority regarding the use of all right of way of roads before the grant is effective.

61-24.5-19. Operation and maintenance fund.

To identify and distinguish the revenues received by the southwest water authority from water user entities for operation and maintenance of the southwest pipeline project, the southwest water authority shall maintain a fund designated as the southwest pipeline project operation and maintenance fund. All moneys received by the southwest water authority, whether from payments made by water user entities, or otherwise, for operation and maintenance of the southwest pipeline project must be by law or by other authoritative designation made applicable to the payment of operation and maintenance of the southwest pipeline project, must be kept in the fund distinct from all other moneys, and must be disbursed only for the particular purpose or purposes for which the moneys were received.

61-24.5-20. Revenues for operation and maintenance - Deposit - Use.

Money derived and received by the southwest water authority from water user entities for operation and maintenance of the southwest pipeline project must be deposited by the southwest water authority in the operation and maintenance fund and must be used to pay for costs and expenditures for operation and maintenance of the southwest pipeline project.

61-24.5-21. Reserve fund for replacement.

To identify and distinguish the revenues received by the southwest water authority from water user entities for replacement and extraordinary maintenance of the southwest pipeline project, there must be maintained a fund to be designated as the southwest pipeline project reserve fund for replacement. All moneys received by the southwest water authority, whether from payments made by water user entities, or otherwise, for replacement and extraordinary maintenance of the southwest pipeline project, which are by law or by other authoritative designation made applicable to replacement of the southwest pipeline project, must be kept by the southwest water authority in the fund distinct from all other moneys and may be disbursed only for the particular purpose for which the moneys were received.

61-24.5-22. Revenues for replacement - Deposit - Use.

Money derived and received by the southwest water authority from water user entities for replacement and extraordinary maintenance of the southwest pipeline project must be deposited by the southwest water authority in the reserve fund for replacement and must be

used to pay for replacement or extraordinary maintenance of works that are part of or associated with the southwest pipeline project.

Missouri River Use

The Commission asked staff to investigate Tribal and States water rights and quantification along the Missouri River and how other State's water usage compares to North Dakota.

Tribal Water Rights

Based on work done by a former employee of the appropriations division, it seems that only some Tribal water rights have been determined/adjudicated in the Missouri River Basin. These determinations have been completed for the Wind River Tribe in Wyoming and for some tribes in Montana. It is unclear based on the previous investigation if determinations/adjudications have been made for other Tribes. For reference, there are 28 Tribal nations within the Missouri River Basin.

States Water Rights

State's rights to the water of the Missouri River Mainstem have not been quantified or negotiated. The rights to some of the interstate rivers within the Missouri River Basin have been settled by decrees from the Courts of the United States or by interstate compacts. If the Commission would find this information useful, we can provide a list for future reference.

Regarding the question on other state's usage compared to North Dakota, there is no way to gather this data quickly or efficiently. To complete a comparison, usage information would need to be requested from each state. Most states in the Missouri River Basin follow prior appropriation doctrine, so it is assumed that these states would have water use records. However, Iowa and Missouri follow riparian doctrine and may not collect the type of data needed to complete a comparison. Attempting this comparison would likely take a considerable amount of time with no guarantee we would get the necessary data. Requesting each state's water use records could be pursued, but we thought it would be beneficial for the Commission to understand this issue more fully before proceeding.

For the commission's conversation regarding water usage, we did prepare a quick comparison of North Dakota's Missouri River usage compared to the average annual flow at Bismarck. The state's total average annual usage of the Missouri River is 117,570 acre-feet, which makes up 0.7 percent of the average annual flow at Bismarck.

The total statewide average annual use is 363,918 acre-feet, which makes up 2.2% of the average annual flow at Bismarck. More water evaporates off Lake Sakakawea every year (497,570 acre-feet) than the total statewide average annual water use.

Possible next steps:

If Commission would like to compare states usage from the Missouri River, we could request water use records from each state.

Provide a list to the commission of all the rights of the interstate rivers within the Missouri River Basin that have been settled by decrees from the Courts of the United States or by interstate compacts.

Potential Impacts Associated With 65% State Cost-Share for All Water Supply Projects

Through the water development planning process, the Department of Water Resources (DWR) has estimated that nearly \$2.5 billion in state funding is expected to be needed in support of water projects over the next ten years. At current cost-share percentages across all project types, the estimated state shortfall is just over \$980 million if Resources Trust Fund revenues average \$300 million per biennium. In comparison, the Department of Water Resources is anticipated to receive \$321 million in Resources Trust Fund revenues during the 2021-2023 biennium.

To ensure the state is able to help more sponsors, it is necessary to rethink current match rates so that state financial support can be more broadly shared. With regard to water supply projects specifically, the delivery of those funds by DWR has historically been partitioned into municipal, rural, and regional water project support - with levels of state participation changing over time with the evolution of policy.

The DWR currently implements three approaches to infrastructure development investment: 1) own and rent (capital repayment), 2) loans, and 3) grants. Each of these approaches has an impact on financial capacity at the state and local level. The Governance and Finance Study (Study) recommended the state consider migrating to a single grant support model to bring all water supply systems to a level playing field.

Grant percentages have a significant impact on the number of projects, and the scale of projects to which the state is able to participate. With grants having ranged from 100% to 50% over the course of the last few biennia. With occasional commitments outside those bounds, the basic policy is 75% for rural and regional projects, and 60% for municipal.

The recent Study of the state's regional water systems recommended an across-the-board cost-share grant of 65% for all water supply project types. This change will mean slightly greater funding for municipal projects and less for rural and regional projects. However, this concept allows the state to participate with more projects through both grants and lending, which replenishes the states capital to participate in even more projects.

The portfolio of grant versus loan can have a significant impact on how cash can be managed in the future. Grant expenditures make projects more affordable to local sponsors, whereas loans make it easier for the state to participate in more projects over time and discourages over design or over investment at the local level. Incentives to follow smart growth guidelines and to leverage existing and joint infrastructure add to investment efficiencies across the system. Smart growth guidance is expected to lead to greater sustainability through the life and eventual rehabilitation and replacement of infrastructure investments today.

Staff reached out to local stakeholders in response to the request from the Water Commission to expound upon the risks associated with moving to a 65% across the board cost-share policy for water supply projects. Telephone interviews were conducted with individuals representing rural

and municipal systems and governments. Their comments have been organized and are merged into the following:

Compilation of risks or potential impacts of all systems migrating to 65% cost-share.

- Rural Perspective, (75% reduced to 65%)
 - Low hanging fruit is complete – meaning, remaining hookups are the farther runs and more difficult deliveries, so they will be more expensive to include in a system.
 - Future rate of expansion to non-connected potential users may be delayed due to budget limits of local entities or user declination due to cost of rural water rates and a higher local share percentage.
 - State cost-share was originally set at 75% for regionalization of water systems to mirror the federal MR&I program. The 75% cost-share was then expanded to include rural water projects in general, beyond regionalization efforts. This is backing away from those earlier commitments to rural expansion.
 - Rural improvements are more directly absorbed by the beneficiary and dropping match by 10% may mean a rate increase for rural users according to the Rural Water Association.
 - This is a focus on equitable and affordable vs urban where a larger tax base can afford to absorb costs. However, the urban advantage is not so much in the larger tax base as the density of development which more efficiently utilizes infrastructure and then by design, has more payers per unit of shared capital construction.
 - The question is, if you want economies of user scale, is that not a decision to live in higher density environments. Choosing rural independence implies users may not need urban efficiencies to supplement their lifestyle.
- Municipal Perspective, (60% increased to 65%)
 - This may make infrastructure affordable to build, yet unaffordable at the local level to maintain and replace as needed.
 - Limits or slows regionalization rates (pace) due to reduced municipal local costs and compromises the incentive to regionalize for some small communities. (The state is down to approximately 40 communities to bring into the regional/rural supply model.)
 - May make urban sprawl cost competitive with interior urban development by keeping the cost of infrastructure in line with city services to match differentials.
 - Infill may be disincentivized in favor of edge development if served by a lower infrastructure construction cost for the developer.
 - The water rate may impact the buyer and will not likely be evaluated rationally with lot and land development costs.
 - Rates are not evaluated as soundly as the financing of internalized lot costs when added to lot-cost or special assessments vs marginally higher water bills.
 - Constituent Comment - If the rate for a specific cost-share category is below 65%, leave the lower state participation rates where they are.
- Other Categories of Risk

- The rate at which full regional build-out happens will be constrained by local share participation limits for any specific system, yet it will spread the marginal advancement across more entities as the state rural financial capacity is shared more broadly but at a lower individual magnitude. Meaning, fewer dollars into each project but more projects.
- Financial limiting factors like credit, tax base, emergency reserves, long-term tax base commitments, and tax base size are all important factors for consideration. The opportunity cost of local share becomes a more important consideration, where communities weigh if they apply their limited taxing capacity to water infrastructure or some other priority need in the community.
- Smart growth could be negatively impacted when flagpole and sprawl are incentivized at a higher rate than urban infill.
- Infrastructure sizing is also important to consider. Growth estimates and planning are not always supported by census data. Should rural towns limit risk by using more conservative population projections to keep costs down and to limit overbuilding and the budgetary risk of future maintenance and replacement risk.
- Other notable comments:
 - Dropping from 75% to 65% allows the state to participate in an increase of 2.6 rural projects per biennium – based on project needs identified in the 2021 Water Development Plan.
 - Increasing from 60% to 65% precludes the state from participating in 4.1 municipal projects per biennium – based on project needs identified in the 2021 Water Development Plan.
 - If the cost-share percent is lowered, based on historic responses, impacted interest groups may lobby the legislature to directly restore higher participation percentages by the state.

2021-23 Water Plan								
	#	Non-Fed	Avg Non-Fed	Current	Proposed	Increase/Decrease	Increase (Decrease) State Expense	Number of Projects
Municipal	82	154,935,316	1,889,455	60%	65%	5%	7,746,766	-4.1
Rural	26	99,141,164	3,813,122	75%	65%	-10%	(9,914,116)	2.6
						Net Difference	(2,167,351)	-1.5

As of December 31, 2021

	Federal (Including MR&I)	State	Local	Cost-Share State	Cost-Share State & Federal	Loan	Loan Repayment (Principal)	Loan Repayment (Interest)	Capital Repayment
SWPP*	\$121,900,000	\$287,660,000		70%	100%				\$84,210,000
NAWS**	\$146,400,000	\$65,000,000	\$72,000,000	23%	75%				
WAWS***		\$227,767,000	\$164,465,000	58%	58%	\$153,209,245	\$44,715,061	\$19,953,386	
RRVWSP ****		\$116,985,554	\$25,336,025	81%	81%				
TOTAL	\$268,300,000	\$697,412,554	\$261,801,205						

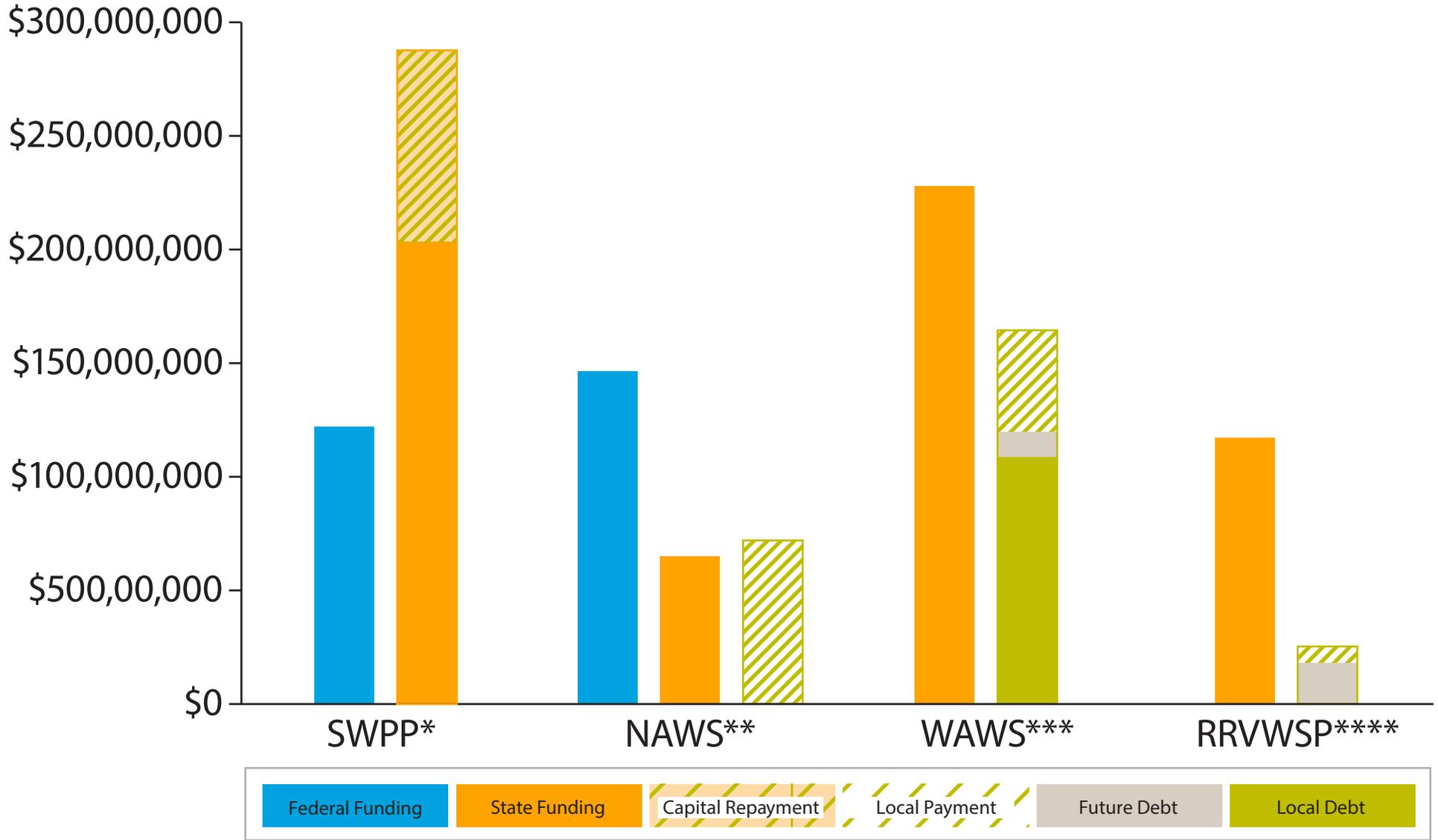
* Capital Repayment includes \$19.25M in bond payments and \$5.5M from Perkins County, SD.

** The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M will be covered with Federal MR&I funds.

*** HB 1431 included \$74.5M in debt service, which was applied to the state share.

**** Local share includes \$18,125,000 WIRLF loan. The balance has been paid with GDCD cash on hand.

TABLE 2.1 GRAPHIC



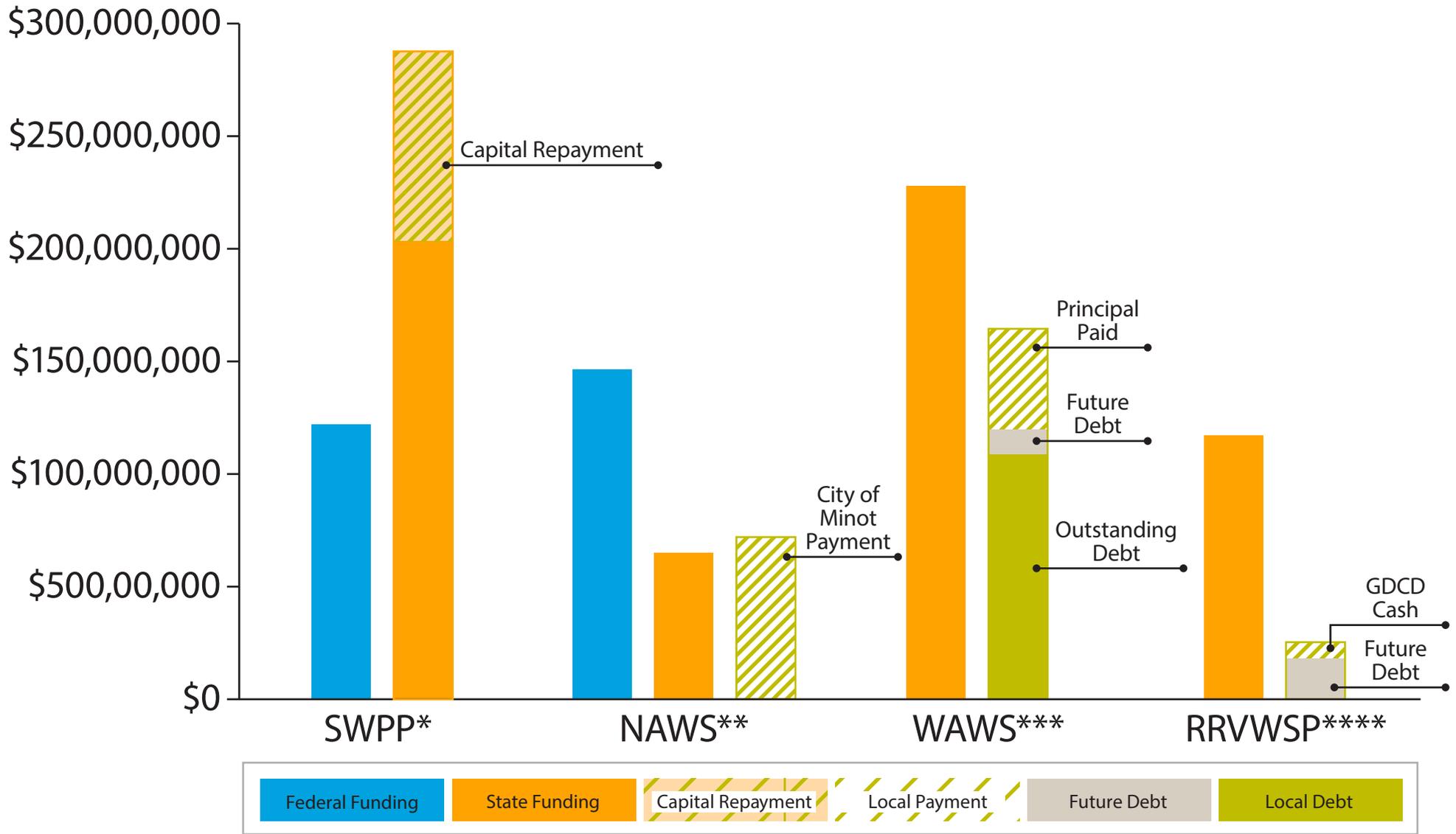
* Local Funding in the form of capital repayments includes \$19.25M in bond payments and \$5.5M from Perkins County, SD. Capital repayments are considered a reduction in the State Share.

** Local sponsor is the City of Minot (paid through sales tax). The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M Federal share will be covered with Federal MR&I Funds.

*** Local WAWS funding includes \$164M in loans, with 44.7M of repaid principal, \$20M in interest paid (not pictured above), and \$11M in future debt. HB 1431 included \$74M in debt service, which was applied to the state share.

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TABLE 2.1 GRAPHIC



* Local Funding in the form of capital repayments includes \$19.25M in bond payments and \$5.5M from Perkins County, SD. Capital repayments are considered a reduction in the State Share.

** Local sponsor is the City of Minot (paid through sales tax). The SWC has approved \$112.2M in Federal MR&I funding to date. It is anticipated that the full \$146.4M Federal share will be covered with Federal MR&I Funds.

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**** Local share includes \$18,125,000 WIRLF loan.

Other States Funding Programs

In spring 2021, DWR's planning team members gathered information about the grant and loan programs available in some of the other states and the attached table is the summary of the information collected.

DWR team members also reached out to AE2S/NEXUS to gather information in addition to what was reported in the Strategic Governance and Finance Study report regarding funding programs in neighboring states. Information below is from AE2S/NEXUS.

Minnesota:

Historically Minnesota focused on grant funding for wastewater projects. In recent years, this funding has been expanded to offer limited grant funding to water projects. This approach to grant funding prioritizes projects that have water quality impacts and offer centralized treatment systems for communities.

In addition to the standard funding programs, Minnesota has a significant amount of funding that is directly appropriated by the legislature and distributed through their funding agencies. Loan funding in Minnesota is not as plentiful as it is in North Dakota. Minnesota's loan programs offer reduced interest rates to communities through a buy-down approach. This approach uses the limited direct funding available to the program and allocates it to the top scoring programs. As a result, a project is not guaranteed to receive funding unless it has a highly competitive score based on SRF criteria.

Minnesota has an active collaboration with Rural Development and will review funding applications to help the project sponsor determine what the most advantageous funding route is. Should SRF funding not be available, and the project qualify for RD funding, the State will recommend they go that route. Similarly, this collaboration also extends to the State's grant funding for water and wastewater projects. Projects that qualify for RD funding are submitted automatically by USDA for consideration under the state grant program.

Montana:

Montana is a good example of program collaboration through the uniform application. It is very common for MT communities to use multiple sources to fund a single project.

Montana's grant funding programs are fairly limited but targeted to resource producing communities. The Montana Coal Endowment Program (formerly Treasure State Endowment Program) offers limited grants to communities within the coal producing regions of the state. Similar to the NDSWC, the MCEP program requires planning applications be submitted in the year before the legislative session, delaying the timetable for projects to receive funding.

Funding for water and wastewater projects in the state has been greatly increased by the addition of ARPA funding. Nearly \$400 million was allocated to these projects on a competitive basis. The first round of funding saw over 200 applicants for these grant funds.

In recent years, the SRF program in Montana has faced a shortage of funds as well. This has resulted in projects not receiving grant funding and seeking funding through non-state sponsored programs

South Dakota:

South Dakota has the most limited grant funding for water/wastewater projects. There is loan forgiveness available through SRF, but traditionally any funding was allocated through the Governor's fund as part of a business attraction.

The SD SRF program funds loans in a similar manner to the ND SRF program so has not traditionally seen shortages of funds for projects and been able to offer loans to all projects. Recently, SD has allocated \$600 million in ARPA funding to water and wastewater projects through the State's SRF program. This will provide grant funding to a large number of projects based on SRF ranking criteria.

After the November 2021 special State Water Commission meeting, DWR's Strategic Governance and Finance Study team member's research was concentrated on North Carolina's and Texas's programs and the information from the research is summarized below.

North Carolina:

In the 2013 legislative session, North Carolina General Assembly created the Division of Water Infrastructure to consolidate the state and federal funding programs. Funding decisions are made by the State Infrastructure Authority (SWIA) created during the same legislative session. SWIA was created to assess and make recommendations about the water and wastewater infrastructure needs and the infrastructure funding programs available to the local government and utilities. The General Assembly tasked the Authority with twelve different activities which included developing a master plan to meet the state's water infrastructure needs, making recommendations on the role of the state in the development and funding water infrastructure, and developing a troubled systems protocol.

In 2017, North Carolina's Statewide Water and Wastewater Infrastructure Master Plan: The Road to Viability was published. The SWIA's vision is for viable water utilities across North Carolina.

Some of the highlights from the plan are listed below:

- According to the plan, utility systems can become viable by focusing on: Infrastructure management, organizational management, and financial management.
- To meet the vision of viable utilities across the state, it requires actions by state, local governments, and utility providers.
- Viable water utilities through the state water infrastructure funding programs can be promoted by recognizing that many entities can afford to incur some amount of debt and by encouraging utilities to transition to local funding solutions and end long term reliance on grant funding.
- The plan estimates North Carolina's water infrastructure needs at 17 billion over the next 20 years. It is also estimated that only a small fraction of this capital needs can be met with grant funds. Over 93% must be funded by utility providers, most likely through higher water rates.
- State's role is to provide strategic project funding to support utilities - Transition to permanent local funding solutions, access non-subsidized forms of capital, end long term reliance on grant funding.
- Issues identified by SWIA includes significant gap between infrastructure needs and available funding through grants and loans, incentives are needed to encourage utilities to become more proactive in management and financing of the systems, and State grant and loans may not be reaching the most economically distressed communities.
- To address the issues identified, SWIA proposed fundamental changes to state's approach to water infrastructure funding which included: 1. Expanding access to capital by simplifying the application process, developing a strategic comprehensive priority rating system, and refining the criteria for project affordability 2. Incentivizing utility management by creating a new grant program to allow a utility to develop an inventory, condition assessment, and prioritization of critical capital needs and to study feasibility of merging or regionalizing with other systems 3. Focusing on economically distressed utilities by identifying the factors struggling utilities face and initiated working with local government commission to develop "troubled system" protocol and seek solutions to the issues.

North Carolina through legislation signed in July 2020, established Viable Utility Reserve Program which is a funding program to help distressed units. The program defines criteria to identify distressed systems and funding is provided to the distressed utility to conduct an asset assessment and rate study, participate in training and educational program, and develop an action plan.

Texas:

Texas Water Development Board (TWDB) has numerous financial assistance programs. Below is the brief description of "Board Participation" program in which the TWDB holds temporary ownership interest of a project to accommodate future demand.

TWDB will provide financial assistance to political subdivisions through the Board Participation Program for projects where at least 20% of the total facility capacity is serving the existing need. Financing for at least 20% of the total project cost will have to come from sources other than the Board Participation program. In this program, the TWDB interest in the excess capacity portion of the project are limited to 80% of the total project costs.

The political subdivision repurchases the TWDB's ownership interest under a repayment schedule that allows for the structured deferral of both principal and interest. Interest rates are based on the TWDB's cost of funds, which reflects the program's AAA credit rating. Financing terms vary but are generally 34-year term.

The board and the political subdivision enter and execute a master agreement regarding responsibilities, duties and liabilities of each party, the board's cost of acquisition, procedures for disbursement of board funds for the project and a schedule for purchase of the board's interest in the project.

Other State Grant & Loan Project Funding Programs

February 2022 Draft

State	Grant Program	Budget	Project Types Funded	Local Match Required	Loan Program	Size/Budget	Interest Rate	Term
Alaska	Yes Two Separate Programs: 1) Water development program has not been funded since 2017. 2) Alaska Clean Water Grants are primarily for non-point source pollution projects.	•No set budget. •2019-2020 Clean Water Grants Budget of \$689,554 •2018-2019 Clean Water Grants Budget of \$267,163	•Non-Point source pollution •Watershed management •Water quality monitoring •Lake/Stream management	40% Minimum	Drinking Water State Revolving Fund (DWSRF) & Clean Water State Revolving Fund (CWSRF)		•20-30 Years: 2% •5-20 Years: 1.5 •0-5 Years: 1%	Maximum: 30 years
Arizona	Yes	No funding available for 2021	•River and riparian projects •Primary purpose of grant program is to protect rivers, streams, and habitats •Channel restoration •Wetland restoration •Erosion control		DWSRF & CWSRF			
California	Yes •Several programs with most focused on drought and disadvantaged communities and water quality/quantity. •Another program provides drinking water to schools at \$1 million per school district.	More than \$100 million for FY 2020 (Includes all grant programs)	•Drought •Flood Control •Water Supply •Water quality and quantity •Disadvantaged communities •Non-point source pollution •Desalination	Most programs require varying degree of local match.	More information requested			
Colorado	Yes •Various grant types •3 Major: Water Plan Grants, Water Supply Grants, Watershed Grants	•Based on oil and gas revenues so difficult to predict. •Water Supply Reserve Fund: \$10 million/year •Water Plan Grants: \$7million/year •Total: ~\$20 million/year	Wide range of eligibility.	•Varies from project-to-project •State is pushing for a 50/50 match threshold through the legislature •Local sponsors often use state loans to cover their local share, but the state is not supportive of this practice	•Colorado Water Conservation Board •Water Project Loan Program	•Portfolio size: ~\$1 billion •Whole agency is run on proceeds from this program •Took 50 years to build portfolio	•Agricultural: 1.5% •Municipal: 2%-3% •Hydroelectric: 2%	•30-Year •Rates increased by 0.45% for 40-year term
Hawaii	No •In 2016, there was a one-time legislative appropriation for water conservation, recharge, and reuse. All funds have been disbursed.	\$0	NA	NA	DWSRF & CWSRF			
Idaho	Yes •Competitive program through state DEQ and USDA •Not in statute, so needs to be approved annually	~\$1 million per year	•Stream channel repair/improvement •Flood risk reduction •Flood prevention	50% Minimum	•Broad list of eligible projects •Sponsor must be a public entity	•\$10 million per year plus interest earned •Current balance: ~\$13 million •Occasionally get one-time appropriations for specific projects	•Statute states "reasonable" rate •Average is 3.5%	•5-30 years •Average is 10-15 years •Statute allows for 60 years
Kansas	No •Community Development Block Grant (CDBG) and US Department of Ag Rural Development •Kansas has groundwater management districts that operate independently from the state. They may have grant programs, but it is not likely.	\$0	NA	NA	DWSRF & CWSRF			
Montana	Yes •Irrigation development grants	•\$300,000 per biennium •Maximum grant is \$20,000	Irrigation	•No match required for political subs •Private entities are 50% minimum	Private Water Development Loans	State law allows a maximum outstanding balance of \$20 million	Currently 3.3%	•15-year max for new systems •10-Year max for existing systems
Nebraska	Yes Source Water Protection Grants Program	\$100,000 per Year	Protection of public drinking water sources	10% minimum	DWSRF & CWSRF			
Nevada	Yes Capital Improvements Grant Program	Previous 6 biennium budgets have been \$0-\$3M	•Drinking water improvements •Septic-to-sewer consolidations •Irrigation •Conservation measures	25% to 75%	No	NA	NA	NA
New Mexico	Yes Water Project Finance Act - New Mexico Finance Authority (Combined Loan/Grant Program)	•Variable and funded by State Severnace Tax Bonds •2020: \$39.4M •2019: \$25.5M •Projects receive a grant/loan package	•Water storage, conveyance, delivery •Water conservation or treatment •Watershed restoration/management •Flood prevention (Dams) •Endangered Species Act implementation	Variable depending on priority for funding	Water Project Finance Act - New Mexico Finance Authority (Combined Loan/Grant Program)	•Variable and funded by State Severnace Tax Bonds •Projects receive a grant/loan package		
Oklahoma	Yes •Emergency Grants •Rural Economic Action Plan (REAP) Grant	•Emergency Grants: \$100,000 per project/applicant (2-3 Projects per year) •Rural Economic Action Plan (REAP) Grants: \$1.2 million funded from Legislature divided evenly between 11 Councils of Government. •\$150,000 max per project	•Emergency Grants: Water and wastewater with emergency defined by life, health, or threatening situation. •Rural Economic Action Plan (REAP) Grants: Water and wastewater in communities with smaller populations.	•Emergency Grants: 15% local contribution •Rural Economic Action Plan (REAP): No match required	Financial Assistance Program for water, wastewater, studies, and engineering	Sell revenue bonds as needed to fund projects.	Generally 2.3% or less	

State	Grant Program	Budget	Project Types Funded	Local Match Required	Loan Program	Size/Budget	Interest Rate	Term
Oregon	Yes •Special Public Works Fund (SPWF) •Water/Wastewater Financing Program	•All programs are funded by the Lottery. •SPWF is limited to \$500,000 or 85% of project costs. •Water/Wastewater Financing Program can give grants up to \$750,000 based on needed or ability to repay.	•SPWF: Water and wastewater but not exclusively for water projects. Can be used for any publicly owned facilities. •Water/Wastewater Financing Program: Drinking and wastewater improvements related to community compliance	•SPWF: 15% local share or remaining balance above \$500,000. (Must create or retain trade sector jobs) •Water/Wastewater Financing Program: Funding cap is \$750,000	•Special Public Works Fund (SPWF) •Oregon Water/Wastewater Financing Program	•SPWF: \$131 million out in loans and \$200 million available. •Water/Wastewater Financing Program: \$60 million out in loans and \$35 million available	Interest rates are based on the state's Moody's Credit Rating - generally around 1%	
South Dakota	Yes Consolidated Water Facilities Construction Program	Over the past few years average is about \$10 million.	•Water resource projects including water and wastewater •Project must be included in the State Water Facilities Plan	20% Minimum	Consolidated Water Facilities Construction Program	Average of about \$10 million/year	•1.875% for 10 year •2.00% for 20 years •2.125% for up to 30 years	•1.875% for 10 year •2.00% for 20 years •2.125% for up to 30 years
Texas	Yes •Flood Infrastructure Fund(FIF) •Economically Distressed Areas Program (EDAP)	•FIF: \$770,000,000 was available in 2020 with \$231M for grants and \$539M for loans. No Project would receive more than \$23,100,000 in grant funding. Interest Rates on all FIF loans would be 0%. •EDAP: Has a bond authorization for \$200M	•FIF: -Drainage -Flood Control Infrastructure -Flood Mitigation Infrastructure -Retention/Detention Basins -Erosion Control -Pumpstations -Property Acquisitions -Riparian Restoration -Project design -Engineering -Coordination and Development, Hydraulic Studies. •EDAP: Available for economically distressed areas where water or sewer services do not exist or do not meet minimum standards. EDAP can be used by cities, counties, water districts, non-profit water supply systems and all other political subdivisions.	•FIF: The portion not covered by the grant can be taken as a 0% interest loan rather than being contributed in cash or in-kind services. •EDAP: Awards include a loan and a grant, however they do have the ability to make full grants. The ratio of each project is calculated based on several factors, including whether a public health nuisance has been declared.	•Texas Water Development Fund (D-Fund): A catch-all loan when other programs are oversubscribed. In addition to water supply and wastewater, flood control projects can also use this fund. •State Water Implementation Fund and State Water Implementation Fund for Texas (SWIFT): Available to any political subdivision with a project included in the most recently adopted state water plan. Water conservation, pipelines, reservoirs, well fields, and purchasing water rights.	•D-Fund: Has a \$6 billion bond authorization but the amount at any given time varies depending on repayments of existing projects. •SWIFT: Capacity is calculated from bond sales. Each year's total capacity is calculated by a contracted financial advisor. Since 2015 it has funded \$8.2B in projects.	•D-Fund: Depending on credit rating is 0.95% to 1.60%. •SWIFT: 20 year low interest - graduated from 0.10% to 1.55%; 25 year low interest graduated from 0.12% to 0.11% to 2.20%; 30 year low interest graduated from 0.12% to 2.48%; and rural/agriculture 20 year graduated from 0.09% to 1.20% •FIF-related loans are 0%.	•D-Fund: Depending on credit rating is 0.95% to 1.60%. •SWIFT: 20 year low interest - graduated from 0.10% to 1.55%; 25 year low interest graduated from 0.11% to 2.20%; 30 year low interest graduated from 0.12% to 2.48%; and rural/agriculture 20 year graduated from 0.09% to 1.20% •FIF-related loans are 0%.
Utah	Yes •Board of Water Resources Project Funding •Permanent Community Impact Board Grant (CIB)	•Board of Water Resources has two grants programs: 1. High hazard dam owners who need to upgrade/modify dams can get up to 80% in grant funding and can borrow the rest at 0% interest. 2. Sponsors can get a grant for bond insurance. •Permanent Community Impact Board Grant: In 2020 it funded \$10.4 million in water infrastructure projects with grants of up to 25.5%. •No set budget with revenue from a revolving fund.	•Board of Water Resources: -Ag related storage reservoirs, diversion ditches, canals, pipelines -Canal, ditch lining, pipeline projects -Municipal water treatment plants, storage tanks, distribution -Water distribution lines and meter replacement -Remote sensing and measuring devices for agriculture and municipal systems -Dam safety upgrades -Hydropower facilities -stormwater system components •Permanent Community Impact Board Grant: Water infrastructure projects that are normally provided by political subdivisions.	•Board of Water Resources: No match required. •Permanent Community Impact Board Grant: Not required but can be a factor in determining funding allocations.	•Board of Water Resources Project Funding: 1. Conservation and Development 2. Small Projects •DWSRF •Permanent Community Impact Board Loans	•Board of Water Resources: 1. Anything over \$1 million. Can get loans for up to 85% of project. 2. Anything Under \$1 million. Can also get loans for up to 85% of project. •State Revolving Fund: Funded through 1/16 of 1% sales tax and is capped at \$3.8M/year. •Permanent Community Impact Board Loans: \$10.4 million combined loans and grants in 2020.	•Board of Water Resources: Interest rates are based on the municipal bond index with a flat 1% for agriculture projects, and a minimum of 1% to currently around 2% for municipal projects. •State Revolving Funds: Based on bond buyers rate index and not to exceed 2.8%, but generally at 0-1.5%. •Permanent Community Impact Board: On a per-applicant basis, but the benchmark is 2.5%.	
Washington	No	NA	NA	NA	Public Works Board Fund Loans (Revolving Funds): Not Just for Water Infrastructure - can be used by counties, cities, special use districts, and quasi-municipal organizations for: -Domestic water -Roads/Streets -Bridges -Sanitary sewer -Solid waste and Recycling -Stormwater	•Public Works Board Fund Loans: Program is funded on a biennial basis through real estate excise taxes and solid waste tipping fees. -Construction: \$68M for applications on a competitive application process with a \$10M cap and loan term of 20 years or life of improvement. -Pre Construction: \$17M for applications on a competitive application process with a \$1M pre-construction award cap and loan term of 5 years. -Emergency Loans: \$4M on a first-come-first-served basis and a \$1M award limit.	1-3% depending on financial situation.	•Public Works Board Fund Loans: Program is funded on a biennial basis through real estate excise taxes and solid waste tipping fees. -Construction: \$68M for applications on a competitive application process with a \$10M cap and loan term of 20 years or life of improvement. -Pre Construction: \$17M for applications on a competitive application process with a \$1M pre-construction award cap and loan term of 5 years. -Emergency Loans: \$4M on a first-come-first-served basis and a \$1M award limit.
Wyoming	Yes Combination Grant/Loan Program through Wyoming Water Development Office	Variable depending on what is submitted to legislature for omnibus bill. Over the past few years expenditures have been averaging \$42M/year	Public water infrastructure projects	•All planning is 100% grants •Construction is usually 67% grant/33% loan	Combination grant/loan program through Wyoming Water Development Office	Variable depending on what is submitted to legislature for omnibus bill. Over the past few years expenditures have been averaging \$42M/year.	•2% or less •Ag loans are a minimum of 4%	

Water Commission Cost-Share Policy Review: Timeline & Milestones

Tasks	2021	2022											2023	
	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan
Introduce And Discuss The First Set Of Cost-Share Policy Issues And Process.														
Introduce Remaining Cost-Share Policy Issues And Discuss Those Previously Presented.														
Ongoing Commissioner Input And Staff Drafting Of Policy Language.														
Commission Review Of Draft Policy Modifications And Approval To Release For Public Review.														
Commissioner-Hosted Basin Meetings - Draft Policy Presented And Available For Public Review And Comment.														
Incorporation Of Changes And Modifications In Response To Public Comments.														
Commissioner Review/Discussion Regarding Final Draft Policy Language.														
Commission Approval Of Policy Modifications.														
Present To Interim Legislative Water Topics As Requested.														
Begin Implementation Of New Policy.														

Process Milestones

Remaining Milestones With Potential Dates
February 23, SWC Meeting - Discuss timeline and milestones and seek input regarding additional cost-share issues for consideration in March.
March 17, SWC Pre-Meeting - Commissioner workshop with discussion and direction to staff regarding previously presented, and remaining policy issues.
May 12, SWC Pre-Meeting - Present and discuss draft policy language.
June 7, SWC Meeting - SWC consideration of draft policies for public comment and review.
June 15, Through July - Public comment period.
June and July - Commissioner-hosted basin meetings with opportunities for public comment and discussion on policy issues.
September 15, SWC Pre-Meeting - Commission review and discussion regarding policy language in response to public comments.
November 10, SWC Pre-Meeting - Review and discussion of final draft for consideration at December SWC meeting.
December 9, SWC Meeting - Commission consideration of new policy document for final approval.

Revised: February

Flood Control, Conveyance, & General Water Purpose Funding Projects - December 2021 SWC Meeting

Issue	Description	Notes
CLOMR Acquisition	In the past, flood control projects have been delayed while waiting for acquisition of a Conditional Letter of Map Revision (CLOMR) from FEMA. This in turn has resulted in stranded cost-share assets and increased carryover totals. The Commission has more recently asked sponsors to acquire a CLOMR during pre-construction efforts - before cost-share for construction is considered. This practice is not currently supported by existing policy.	Approved at December 2021 SWC meeting.
HMA Program Requirements	NDDDES coordinates distribution of federal Hazard Mitigation Assistance (HMA) program funding in North Dakota. Currently, HMA consists of three mitigation programs – including floods. These programs are the Hazard Mitigation Grant Program (HMGP), Building Resilient Infrastructure and Communities (BRIC), and Flood Mitigation Assistance (FMA). Current SWC policy requires that sponsors seeking cost-share under the Flood Recovery Property Acquisition Program must demonstrate how they are not eligible for federal HMGP to receive SWC funding. Additional discussion pertaining to the BRIC and FMA programs being added to policy might encourage more interest in all HMA programs.	A more efficient approach might be to incentivize through the non-federal cost-share percentage.
Watershed-Level Snag and Clear	Snagging and clearing cost-share requests are submitted by sponsors to cover stretches or segments of rivers. In some cases, this is done to stay under the administrative approval threshold of \$75,000, or the economic analysis \$200,000 threshold. In addition, there are stretches of rivers that are submitted for cost-share from year-to-year. Interest has been expressed by members of the legislature that snagging and clearing projects be looked at from the perspective of the entire river (a watershed planning approach).	Part of ongoing discussions with existing cost-share requests.
Economic Analysis (EA) & Federal Certification Requirements	The fundamental issue for the Commission to consider - is it the state's role to provide cost-share assistance to protect communities from future flood damages, or is it the state's role to provide cost-share to ensure federally accredited flood protection to avoid forced place flood insurance requirements? Communities seeking to pursue flood damage reduction projects are often doing so to reach compliance with FEMA standards to avoid federal flood insurance requirements. In some cases, they have existing levees, floodwalls, or other flood control works in place that provide physical protection of assets but are insufficient (i.e. federally required freeboard) to meet legacy FEMA mapping standards. When the Commission considers results of an EA in cases when any level of flood control works are already in place, there are two ways that EA could be considered: 1) the existing works are considered to offer their current level of protection, and new benefits are only attributed to demonstrable improvements (this is the standard in EA guidance used by federal agencies); and 2) the improvements are considered a continuation of the original flood control works, and current levels of protection offer no benefits.	Part of ongoing discussions with existing cost-share requests.

Local Assessment Contributions Under Resolutions of Necessity	Rural flood control (drainage) projects that proceed under a “resolution of necessity” must demonstrate that “...the cost of, or obligation for, the cleaning and repair of any drain exceeds the total amount that can be levied by the board in any six-year period, the board shall obtain an affirmative vote of the majority of the landowners as determined by section 61-21-16 before obligating the district for the costs.” Though required by statute, current policy does not require that this be confirmed as part of the cost-share application process.	This could be modified as part of the SB 2208 study during interim. Modifications before resolution from that study aren't recommended.
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Water Supply Purpose Funding Projects - December 2021 SWC Meeting		
Issue	Description	Notes
Expansion of Municipal Water Systems	There have been concerns raised that cost-share grants directed toward expansion of municipal water supply systems into undeveloped green-space contributes toward longer-term financial burdens on communities to support the growth that accompanies that infrastructure. Under the current Water Commission Project Prioritization Guidance, these types of projects are considered a moderate (higher) priority than improvement projects that could be related to infilling, and main street improvements. Under current cost-share policy, both types of projects would be cost-shared at the same level.	The “Development Calculator,” produced by ND Commerce could be a tool used by sponsors with encouragement from DWR to help address this issue. Incentives for infilling and being Main Street Initiative communities are other options for consideration.
Fire Flows	The Water Commission is more frequently being asked to provide cost-share, in part, to address fire flows in communities that are improving or replacing aging infrastructure. This results in increased project costs and cost-share. The fundamental question for this issue - is it the state's role to provide cost-share to support fire flows?	Part of ongoing discussions with existing cost-share requests.

Other Cost-Share Policy-Related Considerations - January 2022 SWC Meeting

Issue	Description	Notes
Non-federal Cost-Share Percentages	Current policy requires cost-share percentages to be readjusted to 50% of the non-federal share in cases where there is federal cost-share participation in flood control or retention projects. It has been discussed that this practice might discourage sponsors from seeking federal cost-share in some circumstances.	It has been discussed that cost-share percentages remain the same - regardless of federal involvement.
Application Procedures/Timing For LCCA & EA	The amount of time available to properly review LCCA and EA is sometimes quite short for the amount of technical attention required. This, combined with LCCA and EA being submitted with minimal and/or subpar information in some cases, requiring multiple follow-up contacts, creates a very challenging situation for staff to prepare necessary reports for SWC members. In addition, with the recently implemented requirement to include LCCA with pre-construction requests and updates for construction, the number of LCCA to be reviewed has doubled.	Options: 1) Do not address at this time. 2) Revert back to \$1M threshold to reduce the number of EAs being processed. 3) Require <i>completed</i> EA and LCCA with applications that have been approved by staff.
Capital Improvement Fund Requirements	The SWC currently requires water supply project sponsors to fill out and provide Capital Improvement Plan SFN 61938. Other project purposes are not currently subject to this requirement. NDCC 61-02-01.4 says "The Commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as [a] condition of funding an extraordinary maintenance project." Should all project purposes be required to submit proof of a capital improvement fund?	If the intent of existing Century Code is for this requirement to apply to only water supply projects, no further changes are needed.
Contingency Percentages	Project cost estimates provided by sponsors with cost-share applications include the addition of contingencies to account for various unknowns. Currently, the Commission requests contingencies be capped at 10 percent of total project costs when estimating allowable cost-share. This practice is not currently supported by existing policy.	Of note, the Secretary can approve cost-share up to \$75,000, which allows adjustments above the 10 percent if needed in the various percentage levels.
Invoice Deadlines	To reduce ongoing challenges with the agency's carryover balance, staff try to encourage project sponsors to request reimbursements in a timelier manner. In some cases, the agency receives invoices that are over two-years old. If invoices were not eligible for reimbursement after a given timeframe, this might encourage more timely requests for reimbursement and reductions in agency carryover balances.	One year would be a starting option for discussion.
Maximum Grant Share	In some instances, project sponsors request, and receive cost-share assistance, from multiple entities. Current policy does not identify a maximum allowable grant percentage from all sources.	The other option is a minimum required contribution percentage from local sponsors.
MSI Rewards	For those communities that have committed to the Governor's Main Street Initiative (MSI), there could be incentives added into policy to reward those communities.	Discussed at December 2021 meeting.
Project Review Requirements & Recommendation Criteria	N.D.C.C. 61-02-14.3 requires project sponsors to provide a progress report to the Commission at least every four years if the term of the project exceeds four years. In addition, HB 1020 will result in a new section of N.D.C.C. 61-02 that will require four-year update projects be presented to the Interim Legislative Water Topics Overview Committee on a quarterly basis. At the Commission's February 2021 meeting, the Commission changed the four-year review requirement to two years, but that has since been deferred in response to the number of reviews that would be required.	Current statute requires reviews after four years - so it is recommended to revert back to that standard. This discussion could also include development of criteria for extension denials or approvals, and the ability of the Director to make decisions for those projects with remaining unpaid balances of \$75,000 or less.

Shovel Ready Or Construction Funding Eligible Definition(s)	There is frequent discussion regarding the issue of directing cost-share assistance toward “shovel ready” projects before those that are not “shovel ready.” This issue was largely addressed with the modification of policy to implement a “two-tiered” funding process (pre-construction costs first, followed by construction costs).	Addressed as part of two-tier process. WebGrants will also now require plans and specs prior to sponsors submitting construction requests.
Snag and Clear Benefits In EA	Snagging and clearing projects have not traditionally returned benefit to cost ratios that are greater than one. There has been interest expressed by Commissioners, project sponsors, and consultants, that this be reviewed.	This is more of a technical non-policy related issue, but within discussions related to adjusting the threshold for when EA is required (currently \$200K or greater total project cost), that could impact the number of snag and clear projects that are subject to EA requirements.