

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

June 1, 2010

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

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Doug Goehring, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF DRAFT MINUTES
OF MARCH 11, 2010 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the March 11, 2010 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Foley, seconded by Commissioner Thompson, and unanimously carried, that the draft minutes of the March 11, 2010 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF APRIL 5, 2010 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the April 5, 2010 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Foley, seconded by Commissioner Thompson, and unanimously carried, that the draft minutes of the April 5, 2010 State Water Commission audio conference call meeting be approved as prepared.

**DALE L. FRINK - NORTH DAKOTA
STATE ENGINEER, AND CHIEF
ENGINEER-SECRETARY TO THE
STATE WATER COMMISSION -
RETIREMENT, EFFECTIVE JUNE 30, 2010**

Secretary Frink announced his retirement, effective June 30, 2010, after 39 years with the North Dakota State Water Commission, including 9 years as North Dakota's 16th State Engineer, and Chief Engineer-Secretary to the State Water

Commission. Secretary Frink stated that he has enjoyed his tenure with the Commission and "that it has been an honor and a privilege to serve as the State Engineer". Secretary Frink's retirement memorandum to the Commission, dated May 25, 2010, is attached hereto as **APPENDIX "A"**.

**RESOLUTION OF APPRECIATION
TO DALE L. FRINK, NORTH DAKOTA
STATE ENGINEER, AND CHIEF
ENGINEER-SECRETARY TO THE
STATE WATER COMMISSION
(SWC Resolution No. 2010-06-522)**

A resolution of appreciation to Dale L. Frink was presented for the State Water Commission's consideration. Secretary Frink has admirably served the people of the State of North Dakota as an employee of the State Water Commission for 39 years, including 9 years as

North Dakota's 16th State Engineer, and Chief Engineer-Secretary to the State Water Commission. Secretary Frink announced his retirement, effective June 30, 2010.

It was moved by Commissioner Olin, seconded by Commissioner Foley, and unanimously carried, that the State Water Commission approve Resolution No. 2010-06-522, Resolution of Appreciation to Dale L. Frink. SEE APPENDIX "B"

TODD SANDO, P.E., ASSISTANT STATE ENGINEER - DESIGNATED AS INTERIM NORTH DAKOTA STATE ENGINEER, AND CHIEF ENGINEER-SECRETARY TO THE STATE WATER COMMISSION, EFFECTIVE JULY 1, 2010

It was the recommendation of Governor Hoeven that the State Water Commission designate Todd Sando, Assistant State Engineer, as the interim North Dakota State Engineer, and the Chief Engineer-Secretary to the State Water Commission, effective July 1, 2010. Mr. Sando is designated to serve in this

position until such time as the State Water Commission fills the position of the State Engineer vacated by Dale Frink.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission designate Todd Sando, P.E., Assistant State Engineer, as the interim North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission , effective July 1, 2010.

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

Governor Hoeven outlined the process for the selection of the North Dakota State Engineer, and recommended the State Engineer's search committee consist of representation from the State Water Commission and the Office of the Governor. Commission member, Jack Olin, was selected as the committee chair. Also serving on the committee are Commission members Robert Thompson and Arne Berg, and representation from the Governor's office. Governor Hoeven said it is his intent that the State Engineer's position be filled as soon as possible.

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

In the 2009-2011 biennium, the State Water Commission has two line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending March 31, 2010, reflecting 38 percent of the 2009-2011 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget amounts. **SEE APPENDIX "C"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "D"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the general fund project dollars. The total amount allocated for projects is \$188,321,024, leaving a balance of \$9,506,375 available to commit to projects.

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

Oil extraction tax deposits into the Resources Trust Fund total \$42,983,047 and are currently \$4,142,094, or 10.7 percent above budgeted revenues. The April, 2010 revenue, received in May, 2010, was \$2,000,000 above budget.

Secretary Frink and Mr. Laschkewitsch responded to questions from Governor Hoeven relating to the Resources Trust Fund revenues. Governor Hoeven asked that a report relating to the bonds be provided at the Commission's next meeting.

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

**STATE WATER COMMISSION COST
SHARE POLICY COMMITTEE REPORT
(SWC Project No. 1753)**

The State Water Commission's cost share policy committee and others met on June 1, 2010. Items of discussion included expanding the definition of

"Studies, Reports, Analyses, and Mapping Projects"; cost share for FEMA flood reduction levee system certification analysis and FEMA home buyouts; cost share for culvert inventories and studies; and the time period for submission of cost share requests.

**CITY OF OXBOW FLOOD CONTROL
IMPROVEMENTS - APPROVAL OF
CONDITIONAL STATE COST
PARTICIPATION (\$188,400)
(SWC Project No. 1966)**

A request from the City of Oxbow was presented for the State Water Commission's consideration for state cost participation for the construction of a non-federal permanent emergency flood fight barrier system for the city. The project

has been identified as a necessity for the safety of the city's resident's by limiting the measures needed to fight a flood.

The proposed project consists of constructing permanent embankments and control structures within the city to help fight the Red River during a flood to prevent or minimize damages to public and private property. Flood fighting barrier systems, either temporary or permanent, are typically constructed when it is not feasible to protect the entire community due to economic considerations.

The City of Oxbow is adjacent to the Red River and is known for its golf course residential area and park system. The proposed embankments will be constructed on open ground (Highway 81 and Riverbend Road), between houses (Schnell Drive), and between existing high ground (golf course) cutting off flows through low lying areas within the city. The areas identified are located in Sections 13 and 24, Pleasant Township, Cass County. The construction of these embankments is not intended to remove the residents of Oxbow from the floodplain but to cut down on the amount of temporary measures required of the city in a flood fight. Due to the limited resources of the city, the cost of constructing a flood control levee system that can be accredited by FEMA for flood insurance purposes is not feasible. Costs can be saved by not designing and constructing a levee system as described per 44 CFR.

The project engineer's total estimated cost of the project is \$440,000, of which \$314,000 is determined as eligible for state cost participation as a flood control project at 60 percent of the eligible costs (\$188,400). Approval of the construction permit is pending receipt of the final engineering plans. The request before the State Water Commission is for a 60 percent state cost participation in the amount of \$188,400.

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve state cost participation as a flood control project at 60 percent of the eligible costs, not to exceed an allocation of \$188,400 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the City of Oxbow's 2010 construction of a non-federal permanent emergency flood fight barrier system.

It was moved by Commissioner Thompson and seconded by Commissioner Goehring that the State Water Commission approve conditional state cost participation as a flood control project at 60 percent of the eligible costs, not to exceed an allocation of \$188,400 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the City of Oxbow's 2010 construction of a non-federal permanent emergency flood fight barrier system. This action is contingent upon the availability of funds, satisfaction of the required permits, that a minimum levee elevation of two feet above the preliminary 100-year flood elevation is maintained, and passage of a city ordinance specifying the responsibility for emergency closure procedures, operation and maintenance of the system, and a guarantee/proof of easement/access permission.

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

***McCLUSKY CANAL MILE MARKER 7.5
2010 IRRIGATION PROJECT, PHASE 1 -
APPROVAL OF STATE COST
PARTICIPATION (\$1,310,931)
(SWC Project No. 1968)***

The McClusky Canal is a 74-mile long canal designed to transport 1,950 cubic feet of water per second for the irrigation of 250,000 acres and provide water for municipal and rural systems. The Dakota Water Resources Act of 2000

authorizes approximately 24,000 acres of irrigation along the canal.

The Garrison Diversion Conservancy District determined interest in an irrigation project and selected a 7,000-acre project located north of the McClusky canal near mile marker 7.5 as the preferred project. The total cost for the water delivery system to these 7,000 acres is estimated to be \$8,907,000, or approximately \$1,255 per acre.

According to a report developed by the North Dakota State University titled, *A Reevaluation of Garrison Unit Irrigation*, development of the authorized area will create up to 403 new jobs in the region and increase business activity by \$7 to \$10 million annually in 1991 dollars. The overall profitability will be highly dependent on the mix of crops grown, future commodity prices, and the federal farm program. Crop rotations that include soybean, dry beans or potatoes are projected to be profitable, whereas crop rotations that are exclusively corn, malting barley and alfalfa do not appear to be profitable.

The total cost of Phase 1 of the project to serve approximately 2,200 acres is estimated at \$4,666,289, of which \$2,621,862 (off-farm costs) has been determined eligible for state cost participation. A request from the Garrison Diversion Conservancy District was presented for the State Water Commission's consideration for a 50 percent state cost participation to complete Phase 1 (\$1,310,931).

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation in 50 percent of the eligible costs in the McClusky Canal mile marker 7.5 2010 irrigation project, not to exceed an allocation of \$1,310,931 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

It was moved by Commissioner Goehring and seconded by Commissioner Vosper that the State Water Commission approve state cost participation in 50 percent of the eligible costs in the McClusky Canal mile marker 7.5 2010 irrigation project, not to exceed an allocation of \$1,310,931 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020). This action is contingent upon the availability of funds.

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

**RED RIVER VALLEY WATER
SUPPLY PROJECT - APPROVAL
OF ADDITIONAL STATE COST
PARTICIPATION (\$200,000) FOR
DEVELOPMENT OF PREFERRED
ALTERNATIVE
(SWC Project No. 1912)**

On March 17, 2008, the State Water Commission approved an allocation not to exceed \$1,800,000 in the 2007-2009 biennium to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project. This action was contingent upon

receipt of the Record of Decision from the U.S. Department of Interior and/or authorization by Congress before state funds were committed. The State Water Commission modified this position by allocating \$1,000,000 (September 30, 2008 - \$630,000, and March 23, 2009 - \$370,000) to the project after it became clear that neither the Record of Decision nor congressional authorization would occur in the near future.

A report to congress was transmitted by the Secretary of the Interior selecting the GDU import to the Sheyenne River alternative as the proposed project to meet the water needs of the Red River valley. The Secretary of the Interior determined that the proposed treatment would comply with the Boundary Waters Treaty of 1909. Since the proposed project uses Missouri River water, congressional authorization is required before construction can begin on the project.

On June 23, 2009, the State Water Commission approved an additional \$3,000,000 in the 2009-2011 biennium for the continued development of the preferred alternative for the Red River Valley Water Supply project to support the 2009 work plan identified tasks. This effort will be completed in June, 2010, with the exception of field delineation of wetlands and groundwater monitoring. At this point, all of the documents will be completed to a level that represents 30 percent design.

Dave Koland, general manager for the Garrison Diversion Conservancy District, explained that although there has been coordination with the federal and state agencies and other stakeholders on the major issues, there have been several value judgments made by the Garrison Diversion Conservancy District as these documents were developed that both increased and decreased the costs of the project.

Mr. Koland also stated that the next major effort is the final design process, which should be a technical, quality-controlled engineering process with few changes to the general scope. He indicated the importance to have full concurrence from the agencies and stakeholders that the decisions made up to the 30 percent design will provide the best value for the project, therefore, it is the appropriate time to complete a value engineering study on the project. Mr. Koland explained that a value engineering process will not only provide a good review, but it is also required by the Bureau of Reclamation on a project of this size. The value engineering process is estimated to cost \$220,000 and must be accomplished by a certified value specialist in order to satisfy the Bureau's requirements. A request from the Garrison Diversion Conservancy District was presented for the State Water Commission's consideration for additional funding of \$200,000 in the 2009-2011 biennium for continued development of the preferred alternative for the Red River Valley Water Supply project to support the value engineering study.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed an additional \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H. B. 1020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project to support the value engineering study.

It was moved by Commissioner Vosper and seconded by Commissioner Olin that the State Water Commission approve an allocation not to exceed an additional \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H. B. 1020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project to support the value engineering study. This action is contingent upon the availability of funds.

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

Due to commitments, Governor Hoeven left the meeting at 4:30 P.M., Lt. Governor Dalrymple presided over the State Water Commission meeting.

***MICHIGAN SPILLWAY PROJECT
(NELSON COUNTY) - CONDITIONAL
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$738,304)
(SWC Project No. 1932)***

A request from the Nelson County Water Resource District was presented for the State Water Commission's consideration for additional state cost participation for the construction of a rural flood control assessment drain,

referred to as the Michigan Spillway Project, in an effort to address ongoing high water levels in the areas to the north and northwest of the City of Michigan. Like other areas in the Devils Lake basin, north central Nelson county continues to fight problems associated with long-term high water levels. These high water levels are inundating many acres of agricultural land, flooding roadways in the area, and causing drainage issues for the City of Michigan.

The District had originally planned on installing a gravity system that would drain the flood waters into Dry Run Creek through Sarnia Dam and into the Middle Branch Forest River upstream of Matejcek Dam. Because of concerns that the gravity drain would allow for the movement of carp from the Forest River into the Devils Lake basin, an area which is free of carp, it was determined that a gravity system would not be permissible.

Through discussions with the North Dakota Game and Fish Department, it was decided that a system which utilizes pumping as a means of moving the water, rather than an open ditch gravity system, would be the only way to insure that carp were not allowed access to the Devils Lake basin via this project.

Another existing drain in this area, referred to as Enterprise Drain, uses three pumps for a combined total output of 27 cubic feet per second (cfs) which moves water to a point on Dry Run Creek. Enterprise Drain can pump a total of 27 cfs when there is adequate head at the pump site, but the system is usually limited to the operation of 2 of the 3 pumps or a flow rate of 18 cfs because of an inadequate pumping reservoir. It was decided to reroute the project to combine the new Michigan Spillway Project with the older Enterprise Drain and install a new larger pump station capable of pumping 50 cfs. The proposed new route will be located in Sections 34, 35, 26, 23, and 13, Township 154 North, Range 59 West (Enterprise Township), and in Sections 18, 19, and 20, Township 154 North, Range 58 West (Sarnia Township), all in Nelson County.

Application to Drain No. 3519 is currently being processed. The constructed drain will be 8.1 miles in length with a drainage area of 35,400 acres. It will be constructed with a maximum cut of 22 feet, 3:1 side slopes with 4:1 along roadsides, and a 12 to 16 foot bottom width. The project work consists of 402,000 cubic yards of excavation, 1,588 feet of corrugated metal pipe for road crossings and field drains, 1,700 feet of 71" x 47" CMP at a location just upstream of the pump station to accommodate several approaches for an adjacent farmstead, and a canal gate will be placed in the culvert between Sections 26 and 35 to serve as a control structure. The District will acquire a buffer 100 feet wide on either side of the channel.

On August 30, 2005, the State Water Commission conditionally approved a total allocation of \$461,096, of which \$311,696 was allocated from the funds appropriated to the Commission in the 2005-2007 biennium, and an additional allocation of \$150,000 from the funds legislatively earmarked during the 2005 session for the water-related damage to infrastructure in Nelson county (H.B. 1021), for construction of the City of Michigan's spillway rural flood control assessment drain. During the 2009-2011 session, the Legislature earmarked an additional \$500,000 specifically for the Michigan Spillway project.

Because of the need to convert the project from a gravity feed system to a pump system as well as the realignment, the project engineer's revised cost estimate is \$2,250,000. Of this amount, the state's obligation is \$1,587,781, and Nelson county is responsible for \$662,219. The request from the Nelson County Water Resource District was for an additional allocation of \$738,304 (state obligation of \$1,587,781, less \$311,696 approved on August 30, 2005 and \$537,781 from legislative earmarks).

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve an additional allocation of \$738,304 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Nelson County Water Resource District to support the Michigan Spillway project. The Commission's affirmative action would increase the total state obligation to \$1,587,781.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission conditionally approve an additional allocation of \$738,304 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Nelson County Water Resource District to support the Michigan Spillway project. This action is contingent upon the availability of funds, issuance of the required drain permit, attainment of a positive assessment vote, and approval of the project's final design.

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

**CITY OF PARSHALL WATER SUPPLY -
APPROVAL OF ADDITIONAL 2009-2011
BIENNIUM STATE FUNDS (\$200,000)
(SWC Project No. 237-03)**

The City of Parshall has experienced water quality and quantity issues due to the fluctuating water levels of Lake Sakakawea. To address the issues, the City and the Three Affiliated Tribes are

developing a joint water supply for eastern Mountrail county including capacity for off-reservation rural water systems. The proposed project consists of a new water supply intake location on Lake Sakakawea and a new water treatment plant at an original estimated cost of \$12,000,000. The federal Water Resources Development Act has an authorization of \$8,500,000 for the project; the local non-federal share would amount to \$3,500,000.

On June 23, 2008, the State Water Commission approved a 50 percent grant of the non-federal requirement, not to exceed an allocation of \$1,750,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) for construction of a new water supply intake and water treatment plant.

The revised project engineer's cost estimate is \$13,370,000, which is a result of the bids coming in higher than estimated. The city received additional federal funding of \$863,000, leaving an unfunded balance of \$507,000. A request from the City of Parshall was presented for the State Water Commission's consideration for a 50 percent grant of the unfunded local non-federal share (\$253,500) for construction of a new water supply intake and water treatment plant.

It was the recommendation of Secretary Frink that the State Water Commission approve a 50 percent grant, not to exceed an additional allocation of \$253,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Parshall for construction of a new water supply intake and water treatment plant. The Commission's affirmative action would increase the total state grant to \$2,003,500.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve a 50 percent grant, not to exceed an additional allocation of \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Parshall for construction of a new water supply intake and water treatment plant.

This action is contingent upon the availability of funds, satisfaction of the federal Municipal, Rural and Industrial (MR&I) Water Supply program requirements, and subject to future revisions.

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

***DEFERRAL OF STATE GRANT
FOR CITY OF CROSBY/BURKE,
DIVIDE AND WILLIAMS WATER
SUPPLY ASSOCIATION
(SWC Project No. 237-03)***

A request was presented for the State Water Commission's consideration for state cost participation regarding potential regional water service from the Ray and Tioga (R&T) Water Supply Association to serve the cities of

Wildrose and Crosby, and the Burke, Divide, and Williams (BDW) Water Supply Association. Under the proposed project, a 12-inch pipeline from R&T to Crosby would meet the projected long-term regional water needs.

The city of Wildrose is under a consent agreement with the North Dakota Department of Health to have their arsenic violation resolved by December 31, 2010. In order for Wildrose to deliver sufficient water from R&T to serve Crosby and BDW, the 6-inch transmission line designed to meet Wildrose's needs would need to be increased to a 12-inch line to meet the projected long-term regional needs. The city of Crosby is holding a citywide election on July 20, 2010 to ask voters to approve the purchase of water from an outside source. The estimated project cost for a water supply from R&T to serve the cities of Wildrose and Crosby, and the BDW is \$6,548,094. The request before the State Water Commission is for a 59 percent grant of the eligible costs, not to exceed \$2,735,000, for the Crosby/BDW regional water supply project.

Because of unresolved issues, it was the consensus of the State Water Commission to defer action at this meeting on the funding request.

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

The following Southwest Pipeline Project status report was provided:

Oliver-Mercer-North Dunn Regional Service Area:

Contract 2-8A, main transmission pipeline from Oliver-Mercer-North Dunn water treatment plant to Hazen, consists of 23 miles of pipeline and related appurtenances. The pipeline will provide water service from the

Oliver-Mercer-North Dunn water treatment plant to the city of Hazen, city of Zap, Beulah interim service area, and provide transmission flow for most of Oliver and Mercer counties.

Bids were opened on contract 2-8A on June 25, 2009. The bids were reviewed and the contract was awarded to Dave Titus Excavating, Inc., Bismarck, ND, in the amount of \$4,204,643. Approximately 7 miles of the 23 miles of pipeline on the contract remain to be installed as of May 14, 2010. The substantial completion date is June 1, 2010.

Contract 2-8B, main transmission line from Hazen to Stanton and Beulah to Center elevated tank. Bids were opened for contract 2-8B on May 12, 2010. The State Water Commission will consider award of the contract under a separate item on June 1, 2010. The easement work has begun on the alignment and is progressing acceptably.

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

Wigen Water Technologies will design, construct and deliver the membrane system including the skid containing the membrane module, related piping, valves, meters, and controls.

Toray Industries, Inc., a Japanese chemical company, will supply the membrane modules. Toray was involved with Wigen in preparing the bid, and will be part of the design process. The current plan is to bid the water treatment plant in May or June, 2010, which could allow the treatment of water in late 2011 or early 2012.

Contract 3-1D, Oliver-Mercer-North Dunn water treatment buildings and membrane equipment installation. Design continues on the water treatment plant. The water treatment process design is complete as is the structural design. The design has been reviewed by an architect to ensure compliance with applicable building codes and streamline the process. AECOM is working on the electrical and mechanical design. Work is progressing on the concentrate disposal line which will take the reject water from the reverse osmosis units back to the lake. It is also intended to build an auxiliary concentrate evaporation pond to use while the concentrate disposal line is down for maintenance.

Contract 5-15A, Zap potable reservoir. Contract 5-15A was bid on May 19, 2010. The State Water Commission will consider award of the contract under a separate item on June 1, 2010.

Medora-Beach Regional Service Area:

Recent drawings have been completed for the contracts bid in 2008 and constructed in 2008 and 2009. Final punch lists are being completed and quantities are being finalized with the contractors. The contracts should be closed out in the near future. Seeding is underway on the Killdeer Mountains and Grassy Butte service areas. Ten (10) bids were received for the seeding contract and the contract was awarded to Piper Land Resource Management, Davenport, N.D. The average seeding costs are \$164 per acre.

Oil Industry Water Use:

The State Water Commission staff and legal counsel approved a water service agreement with Missouri Basin Well Service to sell water to a depot near Sentinel Butte. Water will only be available to this site at a rate of 50 gallons per minute due to other demands on the distribution system in the area. The depot location goes before the zoning committee on June 21, 2010.

Contract 4-1D, Dodge water depot contract, was bid in April, 2010, and awarded to Mike's Excavation, Dickinson, N.D. The submittals have been received and the substantial completion date is June 15, 2010. This site will have capacity of 1,000 gallons per minute. The zoning, land lease, and design for this depot are complete and construction will commence upon execution of the water service contract.

A meeting was held on May 12, 2010 with State Water Commission staff, representatives of the Southwest Water Authority, representatives from the Department of Mineral Resources, Petroleum Council, and industry to discuss additional water supplies for the oil industry. A matrix comparing water availability and costs will be developed for delivery of water from the new water treatment plant to near Killdeer. A main transmission line, contract 2-8E, is planned to deliver water to the Killdeer Mountains area and north Dunn County regardless of oil activity. The option under consideration will be to move construction of that section of pipeline from the 2013-2015 biennium ahead to coincide with completion of the treatment plant and upgrade the capacity to serve oil industry needs. Many factors including, but not limited to water treatment plant capacity, intake capacity, pumping capacity, reservoir capacity, and funding sources will need to be taken into account to determine possible schedules and costs.

**SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
REGIONAL SERVICE AREA, MAIN
TRANSMISSION LINE FROM HAZEN
TO STANTON AND BEULAH TO CENTER
TANK - AUTHORIZE AWARD OF
CONTRACT 2-8B
(SWC Project No. 1736)**

On May 12, 2010, bids were opened for Southwest Pipeline Project contract 2-8B, Oliver-Mercer-North Dunn regional service area, main transmission line from Hazen to Stanton and Beulah to Center elevated tank, consisting of furnishing and installing 33 miles of 14-inch to 6-inch PVC gasketed pipe, one pressure reducing valve vault, one prefabricated meter vault, one prefabricated VFD booster station, connection to the city of Stanton, and other related appurtenances. Twelve (12) bids were received and opened, the apparent low bid was \$3,888,095.00 submitted by Kamphuis Pipeline Co., Grand Rapid, MI. The project engineer's estimate in the preliminary engineering report was \$4,757,362.50. The contract will be funded with the federal fiscal year 2010 Municipal, Rural and Industrial (MR&I) Water Supply program allocation to the Southwest Pipeline Project.

Kamphuis Pipeline Co. has worked with Bartlett & West Engineering in South Dakota and has extensive pipeline installation experience on other regional water systems. The project appears to have benefitted from a highly competitive market with an unusually high number of bidders, which is fortunate as PVC pipe prices are significantly higher than in 2009.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Kamphuis Pipeline Co. appears to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsible and responsive bid. It was the recommendation of the project engineer to award contract 2-8B to Kamphuis Pipeline Co., Grand Rapid, MI. The award of the contract and notice to proceed are dependent on the completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 2-8B, Oliver-Mercer-North Dunn regional service area, main transmission line from Hazen to Stanton and Beulah to the Center elevated tank, to Kamphuis Pipeline Co., Grand Rapids, MI, based on their base bid in the amount of \$3,888,095.00.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 2-8B, Oliver-Mercer-North Dunn

regional service area, main transmission line from Hazen to Stanton and Beulah to the Center elevated tank, to Kamphuis Pipeline Co., Grand Rapids, MI, based on their base bid in the amount of \$3,888,095.00. This action is contingent upon completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and a legal review.

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

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
REGIONAL SERVICE AREA,
ZAP POTABLE RESERVOIR -
AUTHORIZE AWARD OF
CONTRACT 5-15A
(SWC Project No. 1736)***

On May 19, 2010, bids were opened for Southwest Pipeline Project contract 5-15A, Oliver-Mercer-North Dunn regional service area, Zap potable reservoir. The contract generally consists of furnishing and installing a single 1,450,000 gallon welded steel or glass-coated bolted steel water storage reservoir complete

with inlet/outlet piping, underdrain system, drain and overflow discharge piping, foundation site work, outlet structure, and other appurtenant items. The reservoir size is 94 feet in diameter by 28 feet high and will be located at the site of the Oliver-Mercer-North Dunn water treatment plant and current raw water reservoirs. The reservoir will serve as the clearwell for the treatment plant and will be funded with the federal fiscal year 2009 Municipal, Rural and Industrial (MR&I) Water Supply program allocation to the Southwest Pipeline Project.

Four bids were received and opened, three for a welded steel tank and one for a glass-lined, bolted reservoir. The apparent low bid was received from Maguire Iron, Inc., Sioux Falls, S.D., based on bid schedule No. 1 for a welded steel reservoir in the amount of \$1,175,000. The project engineer's estimates for the welded steel water storage reservoir was \$1,582,000, and the glass-coated bolted steel water storage reservoir was \$1,492,000.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Maguire Iron, Inc., Sioux Falls, S.D., appears to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsible and responsive bid. It was the recommendation of the project engineer to award contract 5-15A to Maguire Iron, Inc., Sioux Falls, S.D. The award of the contract and notice to proceed are dependent on the completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 5-15A, Oliver-Mercer-North Dunn regional service area, Zap potable reservoir, to Maguire Iron, Inc., Sioux Falls, S.D., based on their bid schedule No. 1 for construction of a welded steel reservoir in the amount of \$1,175,000.

It was moved by Commissioner Foley and seconded by Commissioner Goehring that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 5-15A, Oliver-Mercer-North Dunn regional service area, Zap potable reservoir, to Maguire Iron, Inc., Sioux Falls, S.D., based on their bid schedule No. 1 for construction of a welded steel reservoir in the amount of \$1,175,000. This action is contingent upon completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and a legal review.

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

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
STATUS REPORT
(SWC Project No. 237-04)**

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

Manitoba and Missouri Lawsuit: The final federal and state filings requesting a summary judgment were submitted on November 13, 2009. The court requested additional information from the federal government on an issue if the injunction had been followed. Filings were completed to address that issue. The State filed an unopposed motion on February 24, 2010 to modify the injunction to allow design work inside the Minot water treatment plant that is needed for current operation as well as design for connection to NAWS.

On March 5, 2010, U.S. District Judge Rosemary Collyer issued a decision to continue the injunction on the NAWS project. Judge Collyer had previously allowed construction of the pipeline, but not the treatment facilities. The NAWS project is opposed by officials in the Canadian Province of Manitoba, who filed suit in 2002, over the potential of the transfer of aquatic life between the basins. The State of Missouri is also part of the lawsuit, claiming that the NAWS project would adversely affect water flow to their state. Judge Collyer has asked the Bureau of Reclamation to further address two issues, the depletion analysis of the Missouri River and the consequences of biota transfer to the Hudson Bay

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including Canada. The additional environmental studies will significantly delay providing Missouri River water to the Minot region. The Bureau of Reclamation has 60 days to file an appeal on the decision.

As a result of the March 5, 2010 order, the Bureau of Reclamation will need to complete additional environmental work. Public notice of a supplemental environmental impact statement will be issued in the federal register and public scoping will be the start of the process.

On March 18, 2010, the federal court granted the state's earlier motion to modify the injunction and allowed the state to complete design work on the piping and filtration system in the Minot water treatment plant. The design work will be completed in October, 2010. A request will need to be filed in the federal court to allow construction of this project. The work needs to be completed during the winter when the system has lower water demands.

On April 2, 2010, both the federal and state filed requesting reconsideration of the first part of the order dealing with water withdrawals, and federal requested the filings against the Corps of Engineers be dismissed from the case. On April 14, 2010, the State of Missouri filed in opposition to both the state and federal request for partial reconsideration, Manitoba did not file. By May 7, 2010, both state and federal filed responding to Missouri's opposition. The federal court is reviewing the filings.

Design and Construction Contracts:

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant. On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58, to John T. Jones Construction, Fargo, ND. The contract substantial completion date was December 14, 2009, and the final completion date was February 1, 2010. These dates were not met. The pump station and back wash pumps have been commissioned, and the pump station has been operational since December, 2009. Substantial completion has not been provided as there are outstanding issues. A punch list has been generated and provided to the contractor. The first mediation concluded unresolved; a second mediation involving the lack of valve actuators delaying commissioning was completed on April 19, 2010, and a memorandum of understanding has been executed addressing the first and second issues. The contractor's schedule was to complete the remaining work by the end of May, 2010 with the exception of the automatic transfer switch for the generator, which is a state requested change that is being scoped.

Contract 2-2C: The contract work covers 52 miles of 10"-12" inch pipeline for the Kenmare-Upper Souris pipeline. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. Water service to Kenmare was started on December 7, 2009, and water service to the Upper Souris Water District at the Donnybrook turnout started on December 22, 2009. The seedbed preparation and seeding will be completed in June, 2010, with contract closeout to follow.

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

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir near Kenmare. The concrete pedestal was completed, and the tank was lifted into place on November 18, 2009. Coating on the floor will begin in mid-June, 2010, and the roof portion needs additional cleanup prior to coating. The electrical work inside the tank is about 75 percent complete. The substantial completion is July 1, 2010, with final completion on or before August 1, 2010.

Contract 2008-1: The NAWS portion of the All Seasons contract includes 13 miles of 6" and 10" pipeline between the All Seasons water treatment plant and Gardena, ND. The contract was awarded to Swanberg Construction, Grand Forks, ND; the engineering related work for this project is estimated at \$112,500. The NAWS portion of this line has been in service since September of 2009. Seeding should be completed in June, 2010, and contract closeout is expected following seeding.

Contract 2-2E: This contract covers connections of the community of Burlington and the West River Water and Sewer District to the NAWS pipeline. The contract was awarded to Steen Construction & Associates, Inc., Stanley, ND, on November 13, 2009, in the amount of \$471,782. Water service to Burlington and West River Water District could begin in July, 2010.

Contracts 2-3A and 2-3B: This project was originally planned to include 32 miles of pipeline north of Minot connecting the Minot north hill, Minot Air Force Base, and the Upper Souris Water District which in turn will serve the cities of Glenburn and Lansford. The 60 percent design review was completed on May 5, 2010. The contract 2-3A portion of the larger pipe south of the Minot Air Force Base is being split from the smaller 16"-18" pipe planned for north of the Base connecting the Upper Souris Water District, which is now contract 2-3B. The 30 percent de-

sign review for contract 2-3B was completed on April 22, 2010. Houston Engineering is contacting landowners to finalize the route and the turnout locations. The bid openings for contracts 2-3A and 2-3B are anticipated in the fall of 2010.

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

Water Service Contracts Update:

The State Water Commission finalized and executed water service contracts with West River Water District and Burlington in May, 2010.

Operation and Maintenance Update:

The State Water Commission is advertising for a NAWS distribution system operator. The vacancy announcement closes on June 11, 2010.

***NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
CONTRACT 4-2A, MINOT HIGH
SERVICE PUMP STATION
(SWC Project No. 237-04)***

Northwest Area Water Supply (NAWS) project contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant, as well as

the demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under contract 2-2A and the existing Minot water distribution system.

On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58 to John T. Jones Construction, Fargo, N.D., and the notice to proceed was executed on May 20, 2008. The contract substantial completion date was December 14, 2009, and the final completion date was February 1, 2010.

The contractor submitted a \$500,000 claim, which was denied by Houston Engineering. A mediation session was held on May 4, 2009 which resulted in a timeframe for requesting and answering additional questions. A second mediation session was held on August 24, 2009, and no agreement was reached although the parties continued discussion. The settlement agreement was under negotiation and was presented to the State Water Commission on December 11, 2009, however, the settlement agreement was not executed within the Commission's timeframe. A notice was issued that the mediation was unsuccessful.

The provisions currently being negotiated for a settlement agreement with John T. Jones Construction to resolve the claims on NAWS contract 4-2A were discussed. Upon all parties reaching agreement to the settlement provisions to resolve the claims, the agreement will be presented for the State Water Commission's consideration.

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

As of June 1, 2010, the current water surface elevation for Devils Lake is 1451.74 feet msl and Stump Lake is 1451.54 feet msl. The combined storage

of Devils Lake and Stump Lake for June 1, 2010 was 3.65 million acre-feet of water with a total surface area on both lakes of 178,300 acres.

The National Weather Service provided the following long-range probabilistic forecast for Devils Lake and Stump Lake. The estimated values are valid for the time period of May 12, 2010 through September 30, 2010. The volume of water required to raise the lake to each level from the January, 2010 water is also provided:

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

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Elevation, feet msl	1451.7	1451.8	1452.5
Volume, acre-feet	290,400	308,000	437,000

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

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

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

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

The emergency rule allowing Devils Lake releases to the Sheyenne River with sulfate concentrations of 750 mg/L expired in January, 2010, and was reinstated in May, 2010. Considerable knowledge was acquired from the extensive sulfate data gathered in the upper Sheyenne River due to the outlet operations. This has enabled the North Dakota Department of Health to propose a change to the water quality standards on the Sheyenne River to 750 mg/L above Baldhill Dam, and a limit of 450 mg/L below Baldhill Dam. This change would allow greater releases from Devils Lake since the sulfate concentrations were approximately 580 mg/L in 2009. It would also effectively move the compliance point below Baldhill Dam, which would indicate that the outlet would have to be operated to meet the standard below Baldhill Dam rather than at a point just downstream of the outlet.

A hearing was held by the Department in February, 2010, and the period of public comment ended on March 1, 2010 regarding the change. Concerns were expressed regarding the possible effects of the 250 cubic feet per second flow on the mussel population in the Sheyenne River. A work group has been comprised to address the mussel study. For other organisms, an Environmental Protection Agency (EPA) environment and assessment program for the western states will be completed on the Sheyenne River.

The U.S. Geological Survey is creating a model for the Sheyenne River and Lake Ashtabula for monitoring and management of the sulfate concentrations. The models will assist the State Water Commission staff in adjusting the discharge to comply with the water quality standards set forth by the Department of Health.

On August 18, 2009, the State Water Commission approved an allocation not to exceed \$16,500,000 for the expansion of the Devils Lake outlet to 250 cubic feet per second (cfs) using the Round Lake alternative. Because of the critical construction time frame, on November 12, 2009, the State Water Commission authorized the secretary to the Commission to execute the Devils Lake outlet expansion contracts, with bid contingencies of 20 percent, and contingent upon a legal review of the contract documents.

The upgrading of the state outlet to 250 cubic feet per second is near completion. It is anticipated the existing 2 - 50 cfs pumps at Round Lake and the Josephine locations will be operational in early June, which will allow the existing pumps to run to the 100 cfs capacity until mid-June when the 2 - 75 cfs pumps at each location can be operated providing a 250 cfs maximum capacity. The drainage permit for the upgraded outlet has been reviewed by the Devils Lake water boards, and is being processed by the State Engineer.

**NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT - SHEYENNE
RIVER BIOLOGICAL ASSESSMENT -
U.S. GEOLOGICAL SURVEY (\$197,510),
VALLEY CITY STATE UNIVERSITY (\$2,700)
(SWC Project No. 416-10)**

In 2004, prior to operating the Devils Lake outlet, the North Dakota Department of Health requested a biological assessment to establish the environmental baseline conditions of the Sheyenne River. The Devils Lake outlet has been operating for several years, and

based on discussions with the Department, another biological assessment is required to collect additional environmental data to document and analyze the environmental conditions and parameters of the Sheyenne River.

The biological assessment will consist of sampling and a biological analysis of four sites on the Sheyenne River: 1) upstream of the insertion point; 2) downstream of the insertion point (approximately one mile); 3) just upstream of Lake Ashtabula; and 4) near the confluence of the Red River. Three reaches of the river will be sampled within each site and each assessment will include three biological assemblages involving macro invertebrates, fish, and periphyton, in addition to a physical habitat assessment. The field procedures will follow the Environmental Protection Agency's monitoring and assessment program for the western states. Data from each river reach will also be analyzed for chemical and physical constituents.

Because the State Water Commission does not have the technical expertise in-house to conduct this type of biological survey and analysis, the United States Geological Survey has agreed to conduct the field survey and develop the assessment at an estimated cost of \$197,510. The macro-invertebrate identification will be contracted with Valley City State University at an estimated cost of \$2,700. The total estimated cost of the Devils Lake outlet/Sheyenne River biological assessment is \$200,210. It is anticipated the final report will be available in early 2011. A request was presented for the State Water Commission's consideration for state cost participation for the Devils Lake outlet/Sheyenne River biological assessment in the amount of \$200,210.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation for a total allocation not to exceed \$200,210 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to the United States Geological Survey (\$197,510) and to Valley City State University (\$2,700) to conduct the Devils Lake outlet/Sheyenne River biological assessment.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve state cost participation for a total allocation not to exceed \$200,210 from the funds appropriated to the State Water Commission in the 2009-2011

biennium (H.B. 1020) to the United States Geological Survey (\$197,510) and to Valley City State University (\$2,700) to conduct the Devils Lake outlet/Sheyenne River biological assessment. This action is contingent upon the availability of funds.

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

**GARRISON DIVERSION
CONSERVANCY DISTRICT
REPORT
(SWC Project No. 237)**

The Dakota Water Resources Act of 2000 authorized the Secretary of the Interior to conduct a comprehensive study of the water quantity and quality needs of the Red River valley in North

Dakota and possible options for meeting those needs. The Act identified two project-related studies: the *Report on Red River Valley Water Needs and Options*, and the *Red River Valley Water Supply Project Environmental Impact Statement (EIS)*. The Bureau of Reclamation completed the *Report on Red River Valley Water Needs and Options*. The State of North Dakota and the Bureau jointly prepared the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The draft EIS was released in December, 2005, public hearings were held in February and March, 2006, and all studies have been completed. The final EIS was available to the public on December 28, 2007. The Record of Decision was scheduled to be issued 30 to 90 days from the date that the final EIS was available to the public, however, the U.S. State Department requested that the Bureau of Reclamation delay signing the Record of Decision until discussions with Canada have been concluded.

A supplemental draft EIS was completed with the comment period ending on April 25, 2007. Additional study efforts included biota plant failure analysis by the United States Geological Survey (USGS), water quality monitoring by the USGS, impact analysis of Missouri River depletions under drought conditions by the Corps of Engineers, and a cumulative impact analysis of ground-water depletions in Minnesota by the USGS.

The April/May, 2010, status reports relating to the specific efforts of the Red River Valley Water Supply project, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, which are attached hereto as **APPENDIX "E"**.

**APPROVAL OF CONDITIONAL
WATER PERMIT APPLICATION
NO. 6124, INTERNATIONAL
WESTERN COMPANY, FORT
WORTH, TX, FOR INDUSTRIAL
USE FROM LAKE SAKAKAWEA
(SWC Water Permit No. 6124)**

On December 15, 2009, International Western Company, Fort Worth, Texas, applied to the Office of the State Engineer for conditional water permit application No. 6124 to divert 18,000 acre-feet of water annually from five points of diversion on Lake Sakakawea in McKenzie and Mountrail counties, at a maximum pumping rate of 12,600 gallons per minute for industrial use.

North Dakota Century Code 61-04-06 states in part, "If an application is approved, the state engineer shall issue a conditional water permit allowing the applicant to appropriate water. Provided, however, the commission may, by resolution, reserve unto itself final approval authority over any specific water permit in excess of five thousand acre-feet (6,167,409.19 meters)."

The proposed industrial use under conditional water permit application No. 6124 is to provide water for drilling and hydro-facing of oil wells. Recent estimates indicate the completion of from between 1,500 to 1,800 oil wells per year for the next 10 to 15 years. Water use is estimated from between 1.5 to 4.0 million gallons of water per well. The aquifers in western North Dakota cannot provide ground water to meet this estimated demand. The only reliable water source in western North Dakota in terms of both quantity and quality to meet this estimated demand is Lake Sakakawea/Missouri River. The maximum estimated daily oil field demand is about one-tenth of one percent of the daily flow at Bismarck.

Secretary Frink stated that in order to reduce stress on western North Dakota's limited ground-water resources, the appropriation of water for large-scale industrial use should come from Lake Sakakawea/Missouri River. Therefore, it was the recommendation of Secretary Frink that the State Water Commission approve conditional water permit application No. 6124, International Western Company, Fort Worth, Texas, for the annual appropriation of 18,000 acre-feet of water, at a maximum pumping rate of 12,600 gallons per minute, from the following points of diversion located on Lake Sakakawea:

- 1) NW1/4 of Section 31, Township 151 North, Range 93 West-Mountrail Co.
- 2) NE1/4 of Section 36, Township 151 North, Range 94 West-Mountrail Co.
- 3) NE1/4 of Section 35, Township 153 North, Range 93 West-Mountrail Co.
- 4) SE1/4 of Section 26, Township 153 North, Range 93 West-Mountrail Co.
- 5) NE1/4 of Section 31, Township 154 North, Range 94 West-McKenzie Co.

It was moved by Commissioner Hanson and seconded by Commissioner Berg that the State Water Commission approve conditional water permit application No. 6124, based upon the recommendation of the State Engineer, to International Western Company, Fort Worth, Texas, for the annual appropriation of 18,000 acre-feet of water, at a maximum pumping rate of 12,600 gallons per minute, from the points of diversion listed in the recommendation located on Lake Sakakawea; and, authorize the State Engineer to issue conditional water permit No. 6124.

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

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

On May 11, 2010, the system storage in the six mainstem reservoirs was 59.4 million acre-feet (MAF), 4.2 MAF above the average system storage for the end of April and 5.6 MAF more than in 2009. The record minimum system storage for the end of April was 35.3 MAF in 2005, and the maximum system storage for the end of April was 67.1 MAF in 1997. The Corps of Engineers' runoff forecast above Sioux City for 2010 is 26.5 MAF, 107 percent of normal. This results in a forecast that the system storage will peak at 54.2 MAF at the end of the year. The record low end of year system storage was 34.0 MAF in 2007; the maximum end of year system storage was 60.95 MAF in 1975.

Lake Sakakawea was at an elevation of 1839.2 feet msl on May 11, 2010, 8.5 feet higher than in 2009 and 6.7 feet above its average end of April elevation. The record minimum end of April elevation was 1806.6 feet msl in 2005, and the record maximum end of April elevation was 1847.5 feet msl in 1997. Lake Sakakawea is forecast to peak at elevation of 1841.5 feet msl at the end of June.

The elevation of Lake Oahe was 1616.3 feet msl on May 11, 2010, which is 12.0 feet higher than in 2009 and 6.7 feet higher than its average end of April elevation. Lake Oahe is forecast to peak at elevation 1616.6 feet msl at the end of June. The record minimum end of April elevation for Lake Oahe was 1574.7 feet msl in 2005, and the record maximum end of April elevation for Lake Oahe was 1617.9 feet msl in 1997.

Fort Peck Lake was at an elevation of 2225.4 feet msl on May 11, 2010, which is 10.1 feet higher than in 2009 and 2.9 feet below its average end of April elevation. The forecast calls for Fort Peck to peak at elevation of 2225.5 feet msl at the end of June.

The mountain snowpack peaked in the reach above Fort Peck at 77 percent of the normal accumulation on April 14, 2010, and in the reach between Fort Peck and Garrison at 79 percent of the normal peak accumulation on May 9, 2010. The mountain snowpack normally peaks near April 15 and 80 percent normally remains on May 15.

The Corps of Engineers' basic forecast, 26.5 MAF of runoff, shows full service flows for navigation, and no navigation season shortening. The actual length of the navigation season and service level will be determined by the amount of water in storage on July 1, 2010.

The Missouri River Implementation Committee (MRRIC) met on April 27-29, 2010 in Bismarck. Authorized by Congress in the 2007 Water Resources Development Act, the committee is to make recommendations and provide guidance on: 1) a study of the Missouri River and its tributaries known as the Missouri River Ecosystem Recovery Plan (MRERP); and 2) activities in the existing Missouri River Recovery and Mitigation Program (MRRMP). At its April, 2010 meeting, MRRIC addressed a recommendation to the Corps of Engineers on the 2011 fiscal year recovery program work plan funding and how MRRIC and the Corps should interact on a longer time line. The next MRRIC meeting will be in July, 2010 in Wyoming.

Title I, Section 108 of the Omnibus Appropriations Bill, signed into law on March 11, 2009, authorizes the Corps of Engineers to conduct a study of the Missouri River projects located within the Missouri River basin, at a total cost of \$25,000,000, to review the original project purposes based on the Flood Control Act of 1944 to determine if changes to the authorized project purposes and existing federal water resource infrastructure may be warranted. The Missouri River Authorized Purposes Study (MRAPS) will be undertaken at the full federal expense. The Corps began the scoping phase of the MRAPS process on May 25, 2010 in Mobridge, S.,D. Thirty (30) public scoping meetings and 11 tribal meetings are planned throughout the basin. Scoping meetings in North Dakota are scheduled on June 16 in Williston, June 17 in Bismarck, and June 18 in Fargo. The public scoping comment period will end on September 20, 2010.

The U.S. Army Corps of Engineers is considering a water allocation study of the Missouri River main stem reservoirs in North Dakota, and the Omaha District plans to suspend issuing water access permits until the completion of study, which would take several years.

On May 19, 2010, Governor Hoeven called on the U.S. Army Corps of Engineers to authorize the Omaha District to continue its long-standing policy of issuing access easements on the main stem reservoirs in North Dakota, even if the easements are issued concurrently with the District's proposed water allocation study of the Missouri River. In Governor Hoeven press release, he said "I am concerned that important water projects throughout North Dakota could be delayed or stopped during this period. Clearly, such a step would have an adverse effect on North Dakota's rural and municipal water supplies, as well as on industrial uses such as oil recovery activities."

The Corps' plan also includes a provision to charge the state a fee for water storage and consumption, an unprecedented practice in the state's relationship with the Corps. Governor Hoeven said "The Missouri River, the Yellowstone River, and their tributaries are a public trust, owned by the State of North Dakota for the people of North Dakota. The Corps, by compelling such a fee, would force the state to access water from the rivers rather than from the reservoirs. Any such fee should be rejected." The Assistant Secretary of the Army (Civil Works) responded to Governor Hoeven's concerns in a letter dated May 21, 2010, which is attached hereto as **APPENDIX "F"**.

It was the consensus of the State Water Commission members that the secretary to the Commission submit a letter to the Corps of Engineers supporting Governor Hoeven's concerns to the Corps' proposals. (*Note: On June 21, 2010, Governor Hoeven responded to the Assistant Secretary of the Army, Washington, DC, which is attached hereto as **APPENDIX "G"**.*)

**2011 STATE WATER MANAGEMENT
PLAN - NORTH DAKOTA 2011-2013
WATER DEVELOPMENT REPORT
(SWC Project No. 322)**

The Planning and Education division of the State Water Commission initiated the process of developing an update to the State Water Management Plan last published in 2009. Project information collected for the 2011-2013 biennium report will be used in the State Water Commission's budgeting process later this summer, and the Water Development Report will be presented to the 62nd Legislative Assembly in 2011 to document the state's water development needs.

Water projects can take several years to move from concept, design, and final implementation, therefore, it is essential to become more aware of potential projects as early as possible. The new plan will address the immediate needs expected in the 2011-2013 timeframe as well as potential developments expected or desired in the next 10-15 years. It is intended to be a realistic vision of water management with emphasis on regional and local projects that are consistent with the plan's goals and objectives. Plan update components include identi-

fying water development needs and funding requirements for future water development projects and programs, and progress reports on water development efforts from current and previous bienniums.

Because a comprehensive overview of the state's current and future water needs and issues is critical, part of this effort included survey forms that were provided to potential water project sponsors including cities, county water resource districts, joint water resource districts, and regional water system managers. The project information data will be used to comprehensively identify North Dakota's potential water projects that will be pursued to construction in the near future, the time frame of expected implementation, and estimated funding requirements. To date, information has been received on 180 water projects, most of which could potentially come to the State Water Commission in the next biennium

**RESOLUTION OF CONDOLENCE
TO FAMILY OF FORMER NORTH
DAKOTA GOVERNOR ARTHUR A. LINK
(SWC Resolution No. 2010-06-523)**

A resolution of condolence to the family of former Governor Arthur A. Link was considered by the State Water Commission. Mr. Link served the people of North Dakota with great distinction in

several capacities beginning on his local township board and including two terms as North Dakota's 27th Governor (1973-1981), a term in the United States House of Representatives, and as a long-time state legislator. Mr. Link was an unwavering and very successful advocate for the wise use of North Dakota's natural resources benefitting all citizens of North Dakota. Mr. Link passed on June 1, 2010 at the age of 96.

It was moved by Commissioner Swenson, seconded by Commissioner Thompson, and unanimously carried, that the State Water Commission approve Resolution No. 2010-06-523, Resolution of Condolence to the family of former Governor Arthur A. Link. SEE APPENDIX "H"

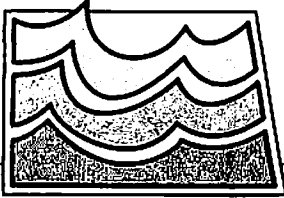
There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the meeting at 5:30 P.M.



John Hoeven, Governor
Chairman, State Water Commission

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


June 1, 2010 - 29



North Dakota State Water Commission

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

TO: Governor John Hoeven
State Water Commission Members

FROM:  Dale L. Frink, State Engineer, and Chief Engineer-Secretary

SUBJECT: Retirement, Effective June 30, 2010

DATE: May 25, 2010

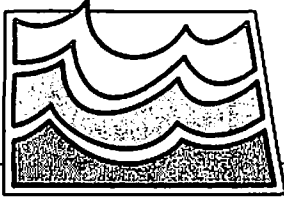
After 39 years with the North Dakota State Water Commission, including 9 years as North Dakota State Engineer, I have decided to retire effective June 30, 2010. I have enjoyed my tenure with the Commission, and it has been an honor and a privilege to serve as the State Engineer. The staff at the State Water Commission are fantastic and I have always been impressed with their professionalism and dedication.

The past 9 years as State Engineer have been very exciting. Due, in part, to the Bakken oil development, we have been able to significantly increase funding for all types of water projects across the state. It has been thrilling to be a part of many projects that have progressed from conception to completion. These projects will provide great benefits for many generations of North Dakotans.

My entire career has had some involvement with the Southwest Pipeline Project. It has become a great success story for the entire state. Grand Forks, Wahpeton, West Fargo, and Minot have completed flood control projects that really have made a difference. Municipal, rural and industrial (MR&I) projects have seen unprecedented development and expansion. While we have made significant progress, many water issues and needs remain. I truly believe that projects such as the Northwest Area Water Supply (NAWS), the Red River Valley Water Supply, and the Fargo/Moorhead Flood Control will be developed.

Lastly, I would like to thank the State Water Commission for the opportunity to serve as State Engineer. You have been a great group to work with and I truly thank you for your support and guidance.

June 1, 2010



North Dakota State Water Commission

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RESOLUTION NO. 2010-06-522

In Appreciation to Dale L. Frink

WHEREAS, Dale L. Frink began his career with the State Water Commission in 1971 and has ably served the people of North Dakota for over 39 years in progressively challenging capacities beginning with the West River Diversion Study and ultimately leading to the position of State Engineer in June, 2001; and

WHEREAS, Dale has provided critical leadership in major water supply projects and programs including the Southwest Pipeline Project, Northwest Area Water Supply Project, and numerous municipal, rural and industrial water supply projects that meet the current and future needs of thousands of homes, communities and industries in every corner of North Dakota; and

WHEREAS, in his regulatory role, Dale has worked tirelessly to ensure the health and well-being of all citizens through the careful application of rules and statutes governing water rights, sovereign lands management, and the construction and maintenance of numerous water management projects; and

WHEREAS, Dale's efforts in working with the Commission, Governor, Legislature, and people across the state assisted in securing the funding necessary to advance many priority water management projects and programs; and

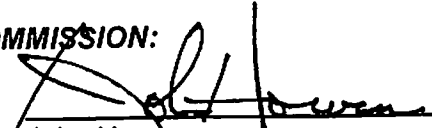
WHEREAS, the quality of Dale's representation of North Dakota interests in numerous regional and national water organizations has earned him the respect and admiration of his peers; and

WHEREAS, Dale is retiring as North Dakota's 16th State Engineer and Chief Engineer-Secretary to the State Water Commission on June 30, 2010.

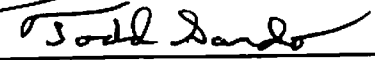
NOW, THEREFORE, BE IT RESOLVED that Governor John Hoeven and the members of the North Dakota State Water Commission, assembled this 1st day of June, 2010, in Bismarck, North Dakota, hereby convey their gratitude and appreciation to Dale L. Frink for his admirable and dedicated service to the people of the State of North Dakota as an employee of the State Water Commission, and as North Dakota's State Engineer; and

BE IT FURTHER RESOLVED that we wish Dale, his wife, Judy, and their family, the best of health and happiness in their future endeavors.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:



John Hoeven
Governor Chairman



Todd Sando
Assistant State Engineer

June 1, 2010

STATE WATER COMMISSION
ALLOCATED PROGRAM EXPENDITURES
FOR THE PERIOD ENDED MARCH 31, 2010
BIENNIUM COMPLETE: 38%

PROGRAM	SALARIES/ BENEFITS	OPERATING EXPENSES	GRANTS & CONTRACTS	17-May-10 PROGRAM TOTALS
ADMINISTRATION				
Allocated	1,812,056	1,212,732		3,024,788
Expended	648,340	344,781		993,121
	36%	28%		33%
			Funding Source:	
			General Fund:	958,438
			Federal Fund:	34,683
			Special Fund:	0
PLANNING AND EDUCATION				
Allocated	1,192,175	208,511	99,000	1,499,686
Expended	429,738	52,443	35,079	517,260
Percent	36%	25%	35%	34%
			Funding Source:	
			General Fund:	412,051
			Federal Fund:	67,843
			Special Fund:	37,366
WATER APPROPRIATION				
Allocated	3,633,879	483,162	1,078,935	5,195,976
Expended	1,299,071	140,059	142,613	1,581,743
Percent	36%	29%	13%	30%
			Funding Source:	
			General Fund:	1,438,830
			Federal Fund:	0
			Special Fund:	143,113
WATER DEVELOPMENT				
Allocated	5,041,486	4,837,457	225,000	10,103,943
Expended	1,781,575	1,674,540	193,745	3,649,859
Percent	35%	35%	86%	36%
			Funding Source:	
			General Fund:	1,636,118
			Federal Fund:	1,061,933
			Special Fund:	951,808
STATEWIDE WATER PROJECTS				
Allocated			203,185,070	203,185,070
Expended			24,072,356	24,072,356
Percent			12%	12%
			Funding Source:	
			General Fund:	0
			Federal Fund:	0
			Special Fund:	24,072,356
ATMOSPHERIC RESOURCE				
Allocated	854,950	712,830	4,694,692	6,262,472
Expended	312,062	138,184	433,660	883,905
Percent	37%	19%	9%	14%
			Funding Source:	
			General Fund:	260,702
			Federal Fund:	0
			Special Fund:	623,204
SOUTHWEST PIPELINE				
Allocated	400,498	1,665,314	37,556,958	39,622,770
Expended	144,583	719,956	2,711,910	3,576,449
Percent	36%	43%	7%	9%
			Funding Source:	
			General Fund:	0
			Federal Fund:	128,573
			Special Fund:	3,447,875
NORTHWEST AREA WATER SUPPLY				
Allocated	530,958	6,229,700	50,289,114	57,049,772
Expended	159,657	1,530,550	11,297,159	12,987,366
Percent	30%	25%	22%	23%
			Funding Source:	
			General Fund:	0
			Federal Fund:	7,517,718
			Special Fund:	5,469,647
PROGRAM TOTALS				
Allocated	13,466,002	15,349,706	297,128,769	325,944,477
Expended	4,775,025	4,600,513	38,886,522	48,262,059
Percent	35%	30%	13%	15%
FUNDING SOURCE:	ALLOCATION	EXPENDITURES	REVENUE	
GENERAL FUND	14,124,223	4,705,938	GENERAL FUND:	148,662
FEDERAL FUND	67,070,358	8,810,751	FEDERAL FUND:	8,493,440
SPECIAL FUND	244,749,896	34,745,370	SPECIAL FUND:	32,634,389
TOTAL	325,944,477	48,262,059	TOTAL:	41,276,491

June 1, 2010

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

Mar-10

	BUDGET	SWC/SE APPROVED	OBLIGATIONS EXPENDITURES	REMAINING UNOBLIGATED	REMAINING UNPAID
CITY FLOOD CONTROL					
FARGO/RIDGEWOOD	2,084,750	2,084,750	2,033,809	0	50,941
FARGO	45,000,000	45,000,000	0	0	45,000,000
FARGO/MOOREHEAD STUDY	300,000	300,000	0	0	300,000
GRAFTON	7,175,000	7,175,000	0	0	7,175,000
MRI	37,505,101	37,420,657	5,275,444	84,444	32,145,213
IRRIGATION DEVELOPMENT	1,294,439	294,439	51,411	1,000,000	243,028
GENERAL WATER MANAGEMENT					
OBLIGATED	19,400,875	19,400,875	3,076,488	0	16,324,387
UNOBLIGATED	8,421,931			8,421,931	0
MISSOURI RIVER MANAGEMENT	372,000	372,000	0	0	372,000
FLOOD CONTROL					
BALDHILL DAM	92,832	92,832	0	0	92,832
RENWICK DAM	1,478,190	1,478,190	0	0	1,478,190
UPPER MAPLE RIVER DAM	112,500	112,500	0	0	112,500
RED RIVER WATER SUPPLY	3,000,000	3,000,000	1,007,546	0	1,992,454
DEVILS LAKE					
BASIN DEVELOPMENT	102,000	102,000	11,692	0	90,308
DIKE	25,350,000	25,350,000	2,630,000	0	22,720,000
OUTLET	16,661,325	16,661,325	2,526,423	0	14,134,902
OUTLET OPERATIONS	3,000,000	3,000,000	924,882	0	2,075,118
NELSON COUNTY	636,064	636,064	8,492	0	627,572
WEATHER MODIFICATIONS	225,000	225,000	0	0	225,000
SOUTHWEST PIPELINE PROJECT	14,782,474	14,782,474	3,377,903	0	11,404,571
NORTHWEST AREA WATER SUPPLY	10,832,918	10,832,918	222,237	0	10,610,681
TOTALS	197,827,399	188,321,024	21,146,327	9,506,375	167,174,697

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

PROGRAM OBLIGATION

Approve SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Mar-10 Balance
City Flood Control:							
SWC	1927	5000	Fargo/Ridgewood Flood Control Project	6/22/2005	2,084,750	2,033,809	50,941
SWC	1928	5000	Fargo Flood Control Project	6/23/2009	45,000,000	0	45,000,000
SWC	583	5000	Fargo/Moorhead Study	3/29/2010	300,000	0	300,000
SWC	1771	5000	Grafton Flood Control Project	3/11/2010	7,175,000	0	7,175,000
Subtotal City Flood Control					54,559,750	2,033,809	52,525,941
MRI Advances:							
SWC	2373-04	5000	Lakota WS (Tri-Co WD)	7/17/2007	118,135	0	118,135
	2373-09	5000	South Central RWD (Phase II)	6/23/2008	2,350,000	0	2,350,000
	2373-13	5000	All Seasons Rural Water - (Upham)	7/17/2007	128,000	34,839	93,161
	2373-15	5000	North Central Rural Water Consortium (S. Benson Cou	12/7/2007	916,000	25,759	890,241
	2373-15	5000	North Central Rural Water Consortium (Anamoose/Ber	6/23/2008	3,295,000	0	3,295,000
	2373-27	5000	Trail Regional Rural Water (Phase I)	1/25/2008	3,167,000	2,439,192	727,808
	2373-16	5000	Trail Regional Rural Water (Phase II)	6/23/2008	2,137,748	1,218,834	918,914
	2373-24	5000	Trail Regional Rural Water (Phase III)	8/18/2009	1,300,000	239,297	1,060,703
MRI Grants:							
	2373-19	5000	City of Washburn Water Supply	4/28/2009	1,500,000	443,269	1,056,731
	2373-17	5000	City of Parshall	6/23/2008	1,666,774	219,067	1,447,707
	2373-18	5000	Ray-Tioga Water Supply	12/17/2008	4,200,000	459,909	3,740,091
	2373-25	5000	McKenzie Phase II	6/23/2009	1,500,000	0	1,500,000
	2373-28	5000	McKenzie Phase IV	3/11/2010	3,500,000	0	3,500,000
	2373-26	5000	Valley City Water Treatment Plant	8/18/2009	9,200,000	0	9,200,000
HB No. 1305 Permanent Oil Tax Trust Fund							
	2373-21	5000	Burke, Divide, Williams Water District	6/23/2009	985,000	62,887	922,113
	2373-22	5000	Ray & Tioga Water Supply Association	6/23/2009	864,000	98,552	765,448
	2373-23	5000	City of Wildrose	6/23/2009	593,000	33,838	559,162
Subtotal MRI					37,420,657	5,275,444	32,145,213
Irrigation Development:							
SWC	1389	5000	BND AgPace Program	10/23/2001	194,439	26,411	168,028
SWC	AOC/IRA	5000	ND Irrigation Association	7/20/2009	100,000	25,000	75,000
Subtotal Irrigation Development					294,439	51,411	243,028
General Water Management							
Hydrologic Investigations:							
SWC	862	3000	Arlotta Herman	4/7/2008	1,100	1,100	0
	1400/7	3000	Houston Engineering Water Permit Application Review	4/2/2009	1,584	800	784
	1400/8	3000	Houston Engineering Water Permit Application Review	6/2/2009	7,500	7,473	27
	1400/9	3000	Houston Engineering Water Permit Application Review	1/1/2010	6,500	6,386	115
	1690	3000	Mary Lou McDaniel	5/6/2009	1,733	1,733	0
	1703	3000	Neil Flaten	4/7/2008	2,087	2,087	(0)
	1707	3000	Neil Flaten	4/7/2008	1,615	1,615	(0)
	1714	3000	David Robbins	5/7/2009	593	593	0
	1761	3000	Gloria Roth	5/6/2009	525	525	0
	1761	3000	Fran Dobits	4/7/2008	837	837	0
	1393	3000	US Geological Survey, US Dept. Of Interior StreamSta	7/16/2009	39,008	8,670	30,338
	1395A	3000	US Geological Survey, US Dept. Of Interior Stream Ga	11/12/2009	381,980	95,495	286,485
	1395	3000	US Geological Survey, US Dept. Of Interior Water Qua	10/21/2009	13,205	0	13,205
	1395D	3000	US Geological Survey, US Dept. Of Interior Eaton Irrig:	10/1/2009	15,300	15,300	0
Hydrologic Investigations Obligations Subtotal					63,082	31,818	31,263
Remaining Hydrologic Investigations Authority					816,919		
Hydrologic Investigations Authority Less Payments							
General Projects Obligated					17,994,349	2,407,348	15,587,001
General Projects Completed					526,526	526,526	0
Subtotal General Water Management					19,400,875	3,076,488	16,324,387

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

PROGRAM OBLIGATION

Approve SWC By No		Dept		Initial Approved Date	Total Approved	Total Payments	Mar-10 Balance
Missour River Management:							
SWC	1943	5000	Missouri River Siltation Assessment Study	10/12/2006	30,000	0	30,000
SWC	1963	5000	Beaver Bay Embankment Feasibility Study	8/10/2009	342,000	0	342,000
<i>Subtotal</i>					372,000	0	372,000
Flood Control:							
SWC	300	5000	Baldhill Dam Flood Pool Raise	4/30/1998	92,832	0	92,832
SWC	849	5000	Renwick Dam Rehabilitation	6/23/2008	1,478,190	0	1,478,190
SWC	1878-02	5000	Upper Maple River Dam Project Dev & Preliminary Eng	9/29/2008	112,500	0	112,500
<i>Subtotal Flood Control</i>					1,683,522	0	1,683,522
SWC	1912	5000	Red River Valley Water Supply Project - GDCCD	3/17/2008	3,000,000	1,007,546	1,992,454
<i>Subtotal</i>					3,000,000	1,007,546	1,992,454
Devils Lake Basin Development:							
SWC	416-01	5000	2009-11 Devils Lake Basin Joint Water Resource Man:	6/23/2009	60,000	0	60,000
SWC	416-02	5000	City of Devils Lake Levee System Extension & Raise	12/6/2002	25,350,000	2,630,000	22,720,000
SWC	416-05	2000	2009-11 Devils Lake Outlet Awareness Manager	6/23/2009	42,000	11,692	30,308
SWC	416-07	5000	Devils Lake Outlet	2/20/2002	16,661,325	2,526,423	14,134,902
SWC	416-10	4700	Devils Lake Outlet Operations	8/18/2009	3,000,000	924,882	2,075,118
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment Drain	8/30/2005	620,711	8,492	612,219
SWC	1131*	5000	Nelson County Central Hamlin Rural Flood Control	9/17/2009	8,940	0	8,940
SWC	1131	5000	Nelson County Channel Maintenance & Misc	9/17/2009	6,413	0	6,413
<i>Devils Lake Subtotal</i>					45,749,389	6,101,489	39,647,900
SWC		7600	Weather Modification	7/1/2009	225,000	0	225,000
SWC	1736	8000	Southwest Pipeline Project	7/1/2009	14,782,474	3,377,903	11,404,571
SWC	2374	9000	Northwest Area Water Supply	7/1/2009	10,832,918	222,237	10,610,681
TOTAL					188,321,024	21,146,327	167,174,697

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

GENERAL PROJECT OBLIGATIONS

Approved SWC				Initial	Total	Total	Mar-10
By	No	Dept		Approved Date	Approved	Payments	Balance
SWC	249	5000	2009 Mott Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SE	269	5000	2010 Fordville Dam Emergency Action Plan/GF CO.	3/3/2010	9,600	0	9,600
SWC	281	5000	2007-09 Three Affiliated Tribes/Fort Berthold Irrigation Study	3/23/2009	80,000	0	80,000
SWC	322	5000	2009-11 Red River Basin Mapping Initiative/Tri-College LiDAR	6/23/2009	300,000	200,000	100,000
SWC	322	5000	2009-11 Long-Term Red River Flood Control Solutions Study	6/23/2009	500,000	69,112	430,888
SWC	322	5000	ND Water: A Century of Challenge	2/22/2010	34,300	0	34,300
SWC	327	5000	2009-11 White Earth Dam EAP	8/18/2009	25,000	0	25,000
SE	353	5000	2009-11 Cedar Lake Dam, Emergency Action Plan	7/15/2009	9,600	0	9,600
SE	394	5000	2007-09 Odland Dam Spillway Rehabilitation	8/25/2008	16,700	0	16,700
SWC	528	5000	2009 McGregor Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SE	560	5000	2009 Blacktail Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SE	568	5000	2008 Sheyenne River Snagging & Clearing Project	4/11/2008	5,000	0	5,000
SWC	568	5000	2009-11 Southeast Cass WRD Sheyenne River Snagging & Clearing Project	12/11/2009	165,000	0	165,000
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	12/11/2009	47,500	0	47,500
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	3/11/2010	47,500	0	47,500
SWC	568	5000	2009-11 SE Cass Sheyenne River Snagging & Clearing	3/11/2010	175,473	0	175,473
SE	586	5000	2009 Short Creek Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SWC	620	5000	2008 Mandan Flood Control Protective Works (Levee)	9/29/2008	125,396	0	125,396
SWC	642-05	5000	2007-09 Sweetbriar Creek Dam Project	3/6/2009	683,400	50,296	633,104
SWC	660	5000	2009-11 City of Manan - Lower Heart River Bank Stabilization	12/11/2009	63,808	0	63,808
SE	662	5000	2009 WCWRD'S Park River Snagging & Clearing Project	6/30/2009	1,948	0	1,948
SWC	847	5000	Maple River - Retention Study Rush River Joint WRD	8/15/2002	25,000	0	25,000
SWC	847	5000	2007-09 Swan Creek FC Diversion Ditch	6/23/2008	1,640,992	965,239	675,753
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 5 Emergency Action Plan	7/20/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 8 Emergency Action Plan	8/7/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan-Buffero Detention Dam No. 12 Emergency Action Plan	10/18/2009	20,000	0	20,000
SE	847	5000	2009-11 Absaraka Dam Safety Analysis	8/31/2009	5,719	0	5,719
SWC	847	5000	2009-11 Swan Creek Diversion Channel Improvement Reconstruction	12/11/2009	76,528	0	76,528
SE	870	5000	2009-11 Crown Butte Dam Emergency Action Plan	7/10/2009	9,600	0	9,600
SWC	928/988/1	5000	2008 Southeast Cass WRD Bois, Wild Rice, & Antelope	6/23/2008	60,000	0	60,000
SE	985	5000	2009 Kolding Dam Emergency Action Plan	5/29/2009	9,600	0	9,600
SWC	1068	5000	2009-11 Cass County Drain No. 12 Improvement Reconstruction	8/18/2009	500,000	0	500,000
SWC	1069	5000	2009-11 Cass County Drain No. 13 Improvement Reconstruction	8/18/2009	145,472	0	145,472
SWC	1070	5000	2009-11 Cass County Drain No. 14 Improvement Recon	8/18/2009	500,000	0	500,000
SWC	1080	5000	2007-09 Cass County Drain No. 27 Improvement Recon	10/24/2007	94,197	0	94,197
SWC	1088	5000	2009-11 Cass County Drain No. 37 Improvement Recon	8/18/2009	158,535	0	158,535
SWC	1093	5000	2008 Cass Co. Drain No. 45 Extension Project	3/17/2008	150,800	0	150,800
SWC	1140	5000	Pembina County Drain No 11 Outlet Improvement	9/21/2009	70,846	0	70,846
SWC	1155	5000	2008 Pembina Co. Drain No. 42 Partial Impr.Recon.	3/17/2008	11,386	0	11,386
SWC	1176	5000	2008 Richland Co. Drain No. 2 Partial Improvement Recon.	3/17/2008	5,791	0	5,791
SWC	1180	5000	2009-11 Richland Co. Drain No. 7 Improvement Reconstruction	3/11/2010	130,681	0	130,681
SWC	1232	5000	2009-11 Traill Co. Drain No. 13 Channel Extension Project	8/18/2009	23,575	0	23,575
SWC	1244	5000	2009-11 Traill Co. Drain No. 27 (Moen) Reconstruction & Extension	3/11/2010	500,000	0	500,000
SWC	1249	5000	2008 Traill Co. Drain No. 34 Partial Improvement Recon	3/17/2008	255,629	107,601	148,028
SWC	1289	5000	2007-09 Noxious Weed McKenzie County -Sovereign	10/24/2007	7,247	0	7,247
SWC	1299	5000	2009-11 City of Lisbon's Mapping & Survey for FEMA Buyouts	3/29/2010	30,000	0	30,000
SWC	1313	5000	2009-11 City of Minot/Ward Co. Aerial Photo & LiDAR	3/11/2010	186,780	0	186,780
SWC	1328	5000	2007 Cass Co. Drain No. 23 Area Improvement	7/17/2007	35,980	0	35,980
SWC	1331	5000	2009-11 Richland Co. Drain No. 14 Improvement Reconstruction	3/11/2010	183,364	0	183,364
SWC	1344	5000	2009-11 Southeast Cass Sheyenne River Diversion Low Flow Channel Improven	3/11/2010	1,557,600	0	1,557,600
SWC	1378	5000	2007-11 Barnes Co. Clausen Springs Dam Construction Repair	12/11/2009	1,300,000	0	1,300,000
SE	1382	5000	2009-11 Camel Butte Dam Emergency Action Plan	7/24/2009	9,600	0	9,600
SWC	1401	5000	International Boundary Roadway Dike Pembina	9/21/2009	260,238	0	260,238
SWC	1413	5000	2009 TCWRD Buffalo Coulee Snagging & Clearing Project	6/23/2009	49,000	7,501	41,499
SWC	1431	5000	2009-11 US Geological Survey, DOI Report Describing Peak Discharge Period	8/5/2009	20,000	0	20,000
SWC	1431	5000	2009-11 US Geological Survey - Supplemental Flood Info	3/11/2010	25,000	0	25,000
SWC	1438	5000	2008 Mulberry Creek Drain Partial Improv Phase II	3/17/2008	46,816	23,029	23,787
SWC	1444	5000	2009-11 City of Pembina's Flood Control FEMA Levee Certification	3/11/2010	27,156	0	27,156
SWC	1461	5000	2009-11 Pembina River Bank Stabilization Project	3/11/2010	64,383	0	64,383
SE	1471	5000	2009-11 Erie Dam Emergency Action Plan	7/24/2009	20,000	0	20,000
SWC	1509	5000	2009-11 Sheyenne River Watershed Flood Water Detention Study	7/20/2009	75,000	0	75,000
SE	1515	5000	2009-11 US Geological Survey - monitoring gages Cottonwood Creek Dam	10/18/2009	8,260	0	8,260
SWC	1523	5000	2008 Souris River Golf Course Area Bank Stabilization	9/29/2008	31,612	0	31,612
SE	1535	5000	2009-2011 Lake Agassiz Resource Conservation & Development Council - Soil S	2/22/2010	1,000	0	1,000
SE	1556	5000	2009 Indian Creek Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SWC	1577	5000	2009-11 Hazen Flood Control Levee (1517) & FEMA Accreditation	3/11/2010	567,700	0	567,700
SWC	1591	5000	Revision of Handbook ND Water Managers Proj	4/12/2007	14,750	0	14,750
SE	1625	5000	High Water Mark Delineation Methods & Guidelines	10/24/2007	54,048	0	54,048
SWC	1625	5000	OHWM Delineations MT/ND Border Yellowstone & Missouri	10/29/2008	75,000	0	75,000
SE	1625	5000	2009-11 Missouri River Contract - Environmental Service Bartlett & West	9/21/2009	5,900	0	5,900
SE	1625	5000	2009-11 Sovereign Lands Rules - ND Game & Fish	2/23/2010	10,000	2,175	7,825
SWC	1638	5000	2009-11 Red River Basin Non-NRCS Rural/Farmstead Ring Dike Program	6/23/2009	800,000	207,161	592,839
SWC	1657	5000	2009-11 City of Enderlin's Flood Control FEMA Levee Certification	3/11/2010	100,578	0	100,578
SWC	1667	5000	2009-11 Traill County Goose River Snagging & Clearing Project	12/11/2009	46,500	0	46,500
SWC	1705	5000	2009-11 Red River Basin Flood Control Coordinator Position	7/24/2009	36,000	0	36,000
SWC	1751-06	5000	2009-11 Southeast Cass WRD/Flood Imagery Project	1/18/2010	30,014	0	30,014
SWC	1785	5000	2009-11 Maple River Dam EAP	8/18/2009	25,000	0	25,000
SE	1785	5000	2009-11 Sweetbriar Dam EAP	2/17/2010	15,200	0	15,200
SWC	1792	5000	2009-11 SE Cass Wild Rice River Dam Study Phase II	12/11/2009	130,000	0	130,000

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

GENERAL PROJECT OBLIGATIONS

Approved SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Mar-10 Balance
SE	1808	5000	2009-11 Beaver Creek Dam Emergency Action Plan	7/14/2009	20,000	0	20,000
SE	1842	5000	2009-11 SCWRD Wild Rice River Snagging & Clearing	5/28/2009	20,000	15,669	4,331
SWC	1842	5000	2009-10 SCWRD Wild Rice River Snagging & Clearing	12/11/2009	115,000	0	115,000
SWC	1842	5000	2009 Richland Co. Sheyenne River & Wild Rice River Snagging & Clearing	12/11/2009	39,500	0	39,500
SWC	1859	5000	2009-11 Section NPS 319 ND Health Dept	8/18/2009	200,000	0	200,000
SWC	18502	5000	(2008) Drought Disaster Livestock Water Supply	5/14/2008	571,747	157,134	414,613
SWC	1921	5000	Square Butte Dam No. 6/Recreational Facility	3/23/2009	882,030	0	882,030
SWC	1934	5000	2007-08 Traill County WRD Elm River Snagging	12/7/2007	24,500	0	24,500
SWC	1934	5000	2009 Elm River Snagging & Clearing Project Trial	12/5/2008	3,266	0	3,266
SWC	1941	5000	Walsh County Assessment Drain 4A Construction	9/21/2009	81,594	0	81,594
SWC	1942	5000	Walsh County Assessment Drain 10, 10-1, 10-2	9/21/2009	273,056	235,789	37,267
SE	1943	5000	2009-11 Missouri River/Oahe Delta Flood Hazard Mitigation Evaluation Project	8/10/2009	12,000	0	12,000
SWC	1948	5000	2008 Cass Co. Drain No. 67 Construction Project	3/25/2008	334,250	180,100	154,150
SWC	1951	5000	2007-09 Lynchburg-Buffalo Drain Improvement	8/31/2009	1,000,000	11,474	988,526
SWC	1953	5000	2009-11 Walsh County Drain No. 73 Construction Project	8/18/2009	96,990	0	96,990
SWC	1960	5000	2009-11 Puppy Dog Flood Control Drain Construction	8/18/2009	796,976	0	796,976
SE	1961	5000	2009-11 Pembina County Drain No. 69 Extension Construction Project	8/10/2009	7,793	0	7,793
SWC	1964	5000	2009-11 Hydraulic Effects of Rock Wedges Study- UND	11/12/2009	50,000	0	50,000
SWC	1965	5000	2009-11 ND Silver Jackets Team Charter & Action Plan	11/12/2009	75,000	5,160	69,840
SWC	1131*	5000	Nelson County Central-Hamlin Rural Flood	9/17/2009	47,020	37,541	9,479
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment	8/30/2005	311,696	0	311,696
SE	PBS	5000	2009-11 PBS Documentary on Soil Salinity/Lake Agassiz RC & D	1/29/2010	1,000	0	1,000
SE	AOC/ARB	5000	2009-11 NDSU Dept of Soil Science - NDAWN Center	3/8/2010	6,000	3,000	3,000
SWC	AOC/RRB	5000	2009-11 Red River Basin Commission Contractor	7/1/2009	200,000	100,000	100,000
SWC	AOC/WEF	5000	2009-11 North Dakota Water Magazine	7/20/2009	36,000	9,000	27,000
SE	AOC/WEF	5000	2010 Summer Water Tours Sponsorship	3/1/2010	2,500	2,500	0
SE	AOC/WRI	5000	2010 Water Managers Handbook	3/22/2010	16,500	0	16,500
SWC	CON/WILI	5000	2009-11 Will & Carlson Consulting Contract	8/24/2009	70,000	11,227	58,773
SE	PS/WRD/I	5000	Missouri River Joint Water Board, Start up	12/5/2008	14,829	0	14,829
SE	PS/WRD/I	5000	Missouri River Joint Water Board (MRRIC) T. FLECK	6/30/2009	20,000	6,141	13,859
SE	PS/WRD/I	5000	2009-11 Upper Sheyenne River WRB Administration	7/10/2009	12,000	500	11,500
TOTAL					17,994,349	2,407,348	15,587,001

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

COMPLETED GENERAL PROJECTS

Approvec SWC			Initial	Total	Total	Mar-10	
By	No	Dept	Approved Date	Approved	Payments	Balance	
SE	420	5000	2009 Mirror Lake Dam Safety Repair	10/14/2009	12,220	11,887	333
SE	420	5000	Mirror Lake One-Foot Pool Raise	9/17/2009	18,281	18,281	0
SE	450	5000	2007-09 Sykeston Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,839	1
SWC	568	5000	2009 Sheyenne River Snagging & Clearing Project	12/5/2008	135,000	75,085	59,915
SWC	571	5000	2009-11 Oak Creek Bank Stabilization Project	8/18/2009	33,250	25,365	7,885
SWC	576	5000	2009-11 City of Mandan - Missouri River Emergency Bank Stabilization	12/11/2009	33,429	33,370	59
SE	671	5000	2007-09 Harvey Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,837	3
SWC	988	5000	Southeast Cass WRD Antelope Creek Eng Feas	10/12/2006	40,000	40,000	0
SWC	1084	5000	2008 Cass Co. Drain No. 32 Partial Improvement Recon	3/17/2008	68,538	13,150	55,388
SWC	1238	5000	2009-11 Traill County Drain No. 19 Legal/Ext Outlet	8/18/2009	46,187	46,187	0
SWC	1334	5000	Traill County Drain No. 38 Reconstruction	6/30/2009	57,631	0	57,631
SE	1378	5000	2009-11 Clausen Springs Dam Incremental Risk Assessment Report	12/22/2009	9,179	9,179	0
SE	1378	5000	2009-11 Clausen Springs Dam Feasibility Study of Improvement Options	12/10/2009	7,921	7,921	0
SE	1378	5000	2009-11 Clausen Springs Dam Emergency Watershed & Dam Hydraulics Repor	8/31/2009	9,418	9,418	0
SWC	1403	5000	2009-11 ND Water Resources Research Institute Fellowship Program	12/11/2009	13,850	13,850	0
SWC	1461	5000	2008 Pembina River Area Bank Stabilization Project	12/5/2008	24,307	0	24,307
SWC	1572	5000	Burnt Creek Floodway Diversion Channel	4/30/2008	121,091	112,637	8,454
SE	1849	5000	2008 Tongue River Diversion Channel Rock Project	11/25/2008	19,087	17,994	1,093
SWC	1869	5000	2008 McDowell Dam Emergency Action Plan	9/29/2008	25,000	25,000	0
SE	1921	5000	2009 Square Butte Dam No. 6/Emergency Action Plan	3/9/2009	16,000	11,040	4,960
SWC	1936	5000	Nash Drain Extension Construction Proj	10/12/2006	19,913	14,399	5,514
SWC	1947	5000	Cass County Drain No. 62, Maple River WRD	4/30/2008	39,787	3,687	36,100
SWC	1950	5000	2008 Cypress Creek Drain No. 2 Construction	6/23/2008	22,400	22,400	0
TOTAL					788,169	526,526	261,643



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

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

Environmental Impact Statement

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

Lake Agassiz Water Authority

- A joint meeting of the LAWA board and operational plan work group met on March 9. The revised operational plan was presented to the board and work group. The value engineering process was discussed, with the board recommending that the engineering review team include representation on LAWA's behalf. The LAWA representation should include expertise in Sheyenne and Red River hydrology and water quality, as well as large diameter pipeline design and construction experience. The next meeting of the LAWA board and work group is scheduled for June 8.

Pre-final Design Effort

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

Right-of-Way: Approximately 269 parcels with 173 landowners will need to be negotiated on the proposed right-of-way. To date, 132 landowners have signed option agreements. In Sheridan County, 27 of 32 landowners have signed; Wells County 23 of 49 landowners have signed; Foster County 52 of 59 landowners have signed; and Griggs County 30 of 33 landowners have signed.

One landowner in Wells County expressed concern about the impact that the location of the pipeline near his farmyard would have on his future operating plans. An alternate route through his property has been established to reduce the concern. The new route also reduced the cost of the project.

Garrison Diversion has wrapped up the effort to obtain options for right-of-way. The next steps to acquire the right-of-way will occur when the decision is made to exercise the options.

There were 12 landowners that did not sign access agreements. Access to this property is needed to complete the environmental surveys, geotechnical investigations and collect other physical information for the prefinal design and permitting efforts. Garrison Diversion petitioned the court to gain access to complete this work as weather permits this spring and summer. The court has provided access to the properties located in Foster, Griggs and Wells Counties to complete the work. The Sheridan County land petition hearing is set for April 7.

Permitting and Environmental Services: Notice on the determination of wetlands under the jurisdiction of the Corps of Engineers has been provided to Garrison Diversion. These wetlands along with the other isolated wetlands, will be field verified in the spring when weather permits. The wetlands under easement by the US Fish and Wildlife Service have been field verified.

The class 3 cultural and historic properties field review will be completed this spring in the areas that were not done because access was not granted in 2009.

On March 5, the team met with Griggs County to explain the proposed road crossing and design standards. In addition, they proposed a process for them to keep informed and to gather information ensuring that restoration of the road crossings occurs and that haul roads are identified and repaired to their satisfaction. Griggs County also has a land use permitting process that was discussed.

The team is currently drafting permit applications for all of the permits required for the project.

Operational Plan: The revised draft of the operational plan was presented to the work group on March 9. Input was gathered, and a final document and the supporting technical memorandums will be sent to the work group for written comments. This will end the development of the operational plan at this stage of the project. It will remain in draft form until the project moves closer to construction.

Garrison Diversion presented the draft operational plan to EPA in Denver on March 18.

Preliminary Design: Work on engineering evaluations regarding the preliminary design is approximately 90% complete. Garrison Diversion attended a design team meeting, which was held in Denver on March 16 and 17 to gather input from pipe manufacturers and pipeline construction companies

Utility potholing, soil boring and supplemental surveying is approximately 70% complete and will be resuming the week of April 12.

State Agencies

- Garrison Diversion continues to coordinate with the State Water Commission, ND Department of Health, and the ND Game and Fish on the upcoming efforts to develop the operational plan.

Schedule

- The next steps are to get authorization from Congress and to obtain a Record of Decision from the lead federal agency. Garrison Diversion, the State Water Commission and the Governor's office are working with the Congressional Delegation to move these efforts forward.



Dave Koland, General Manager



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

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The class 3 cultural and historic properties field review will be completed this spring in the areas that were not done because access was not granted in 2009.

On April 19, the team met with townships in Wells County to explain the proposed road crossing and design standards. In addition, they proposed a process for them to keep informed and to gather information ensuring that restoration of the road crossings occurs and that haul roads are identified and repaired to their satisfaction.

The team is currently drafting permit applications for all of the permits required for the project.

Operational Plan: The revised draft of the operational plan was presented to the work group on March 9. Input was gathered, and a final document and the supporting technical memorandums will be sent to the work group for written comments. This will end the development of the operational plan at this stage of the project. It will remain in draft form until the project moves closer to construction.

Garrison Diversion presented the draft operational plan to EPA in Denver on March 18.

Preliminary Design: Work on engineering evaluations regarding the preliminary design is approximately 95% complete. Garrison Diversion attended a wrap-up design team meeting, which was held in Denver on May 4 and 5 to review the final changes and to discuss the next steps for the remainder of 2010 and 2011.

Utility potholing, soil boring and supplemental surveying resumed the second week in April and is approximately 85% complete.

State Agencies

- Garrison Diversion continues to coordinate with the State Water Commission, ND Department of Health, and the ND Game and Fish on the upcoming efforts to develop the operational plan.

Schedule

- The next steps are to get authorization from Congress and to obtain a Record of Decision from the lead federal agency. Garrison Diversion, the State Water Commission and the Governor's office are working with the Congressional Delegation to move these efforts forward.



Dave Koland, General Manager

June 1, 2010



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

MAY 21 2010

Honorable John Hoeven
Governor of North Dakota
600 E. Boulevard Avenue
Bismarck, North Dakota 58505-0001

Dear Governor Hoeven:

This letter is in response to your letter of May 19, 2010, expressing your concerns on the processing of new permit applications and amendments to existing permits for water withdrawals from the Missouri River main stem reservoirs.

The Army Corps of Engineers will continue to process applications for and to issue water intake permits. The mechanism will differ from the granting of easements used historically for such water intakes. Consistent with current law, the Corps will work with the permit applicants to enter into interim water storage contracts under the authority of Section 6 of the Flood Control Act of 1944, which allows the Corps to reserve storage in its reservoirs for withdrawals of water that is surplus to project needs. These interim contracts will require a determination of surplus water in the reservoir and compliance with other applicable laws. Contracts for use of surplus water are initially for a period of five years, and the Army has authority to determine appropriate fees. We have discussed with the Corps a number of ways they can expedite the accomplishment of the required activities and believe the necessary work can be done in approximately six to twelve months.

Concurrently, the Army will proceed with a broad Missouri River basin-wide study and water storage allocation study. These studies are much broader and will require a number of years to complete. They could provide a basis for permanent allocation of storage for the purposes of municipal and industrial water supply and for future water supply contracts under the Water Supply Act of 1958, to ensure availability of adequate water to meet the growing needs of the State of North Dakota.

Very truly yours,

A handwritten signature in cursive script that reads "Jo-Ellen Darcy".

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)



June 1, 2010



— State of —
North Dakota
Office of the Governor

John Hoeven
Governor

June 21, 2010

Jo-Ellen Darcy
Assistant Secretary of the Army
Civil Works
108 Army Pentagon
Washington, DC 20310-0108

Dear Secretary Darcy:

I am in receipt of your May 21 letter in which you state that the United States Army Corps of Engineers "will work with the permit applicants to enter into interim water storage contracts under the authority of Section 6 of the Flood Control Act of 1944..." You add that this work "will require a determination of surplus water in the reservoir", and that if this determination is expedited, it will take six to twelve months.

I appreciate that the Corps of Engineers will continue to process applications for access to water. However, the State Water Commission and I are concerned with plans to implement water storage contracts. As you know, the Corps' newly asserted position with respect to the 1944 Flood Control Act and the applicability of the 1958 Water Supply Act to the state's reservoirs has raised serious concerns as to potential ramifications within North Dakota. Faulty application of the new Corps policy in this state is preventing the construction of an intake for the municipal and industrial water project authorized by Section 9 of the 1944 Flood Control Act as amended. The intake and associated facilities will provide much needed drinking water to rural North Dakotans. The project funding is in place and ready to build, but the Corps' position is holding up the project.

In addition to the specific project for South Central water, further delay in the construction of industrial water delivery projects will have a negative effect on energy development in much of rural North Dakota. North Dakota has one of the largest recently discovered oil fields in the continental United States. Access to Missouri River water will allow the development to proceed at an orderly pace; this is good for North Dakota and the country.

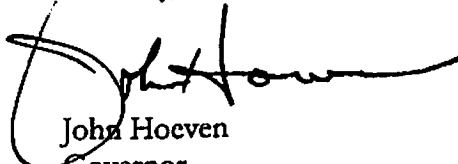
600 E Boulevard Ave.
Bismarck, ND 58505-0001
Phone: 701.328.2200
Fax: 701.328.2205
www.nd.gov

Secretary Jo-Ellen Darcy
June 21, 2010
Page 2

Our second concern stems from the Corps' apparent disregard for 60 years of Congressional enactments expressly intended to preserve and enhance the state's right to Missouri River water and to mitigate the taking and inundation of property within this state for the construction of two large reservoirs. Most recently, Congress passed the Dakota Water Resources Act of 2000 (Public Law 102-575, 106 Stat. 4600), which expressly preserved North Dakota's right to Missouri River water stored in the reservoirs and access to federal funding for a municipal and industrial water supply. Therefore, it is inappropriate for the Corps to prevent the State from accessing its water in the river or the reservoirs through Corps policies or regulations. Additionally, your assertion that the State must enter into contracts to withdraw water from the river or the two reservoirs conflicts with the body of law enacted to address the construction of the reservoirs and the State's utilization of water resources.

North Dakota is willing to discuss this issue with the Corps of Engineers and the Bureau of Reclamation to further examine the laws affecting the reservoirs in North Dakota. Please contact Todd Sando, Assistant State Engineer, North Dakota State Water Commission at 701-328-4944 to coordinate a meeting. While arrangements are being made for these discussions, we strongly urge the Corps of Engineers to proceed with an easement for the South Central water intake before July 16, 2010, when the construction contract can no longer be awarded.

Sincerely,

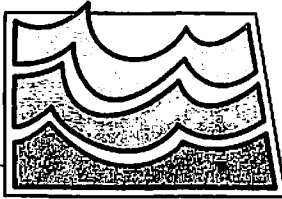


John Hoeven
Governor

C: Lt. Gen. Robert L. Van Antwerp
Col. Robert J. Ruch, Omaha District Commander
Wayne Stenehjem, Attorney General
Todd Sando, State Water Commission

38:47:67:56

June 1, 2010



North Dakota State Water Commission

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

RESOLUTION NO. 2010-06-523

Resolution of Condolence To The Family of Former Governor Arthur A. Link

WHEREAS, former North Dakota Governor Arthur A. Link served the people of North Dakota with great distinction in several capacities beginning on his local township board and including two terms as North Dakota's 27th Governor (1973-1981), a term in the United States House of Representatives, and as a long-time state legislator; and

WHEREAS, as Governor and legislator, Mr. Link was a tireless proponent of sound water and land management as demonstrated by his steadfast insistence that North Dakota's minerals and other natural resources be developed in ways that preserve the environment and the quality of life for all citizens; and

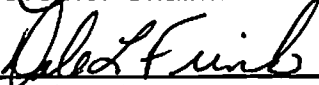
WHEREAS, Mr. Link will long be remembered by this phrase "when the landscape is quiet again, we must leave it as good or better than it was for the benefit of our children and our grandchildren and, only if we do that, we will be worthy of the place we hold as stewards of the North Dakota landscape"; and

WHEREAS, Mr. Link surrendered his spirit to his Creator on June 1, 2010 at the age of 96. Today, we pause to mourn the passing of this great man and to honor his memory, he will be sorely missed.

NOW, THEREFORE, BE IT RESOLVED that Governor John Hoeven, Chairman of the North Dakota State Water Commission; its members; State Engineer, Dale L. Frink; and the Commission staff, assembled this 1st day of June, 2010, in Bismarck, North Dakota, do hereby express their heartfelt sympathy to Mr. Link's wife, Grace, and to their family. Mr. Link was an unwavering and very successful advocate for the wise use of North Dakota's natural resources benefitting all citizens of North Dakota.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:



 John Hoeven
 Governor-Chairman


 Dale L. Frink
 North Dakota State Engineer
 and Chief Engineer-Secretary