MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

September 1, 2010

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

STATE WATER COMMISSION MEMBERS PRESENT:
Lt. Governor Jack Dalrymple, representing 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:
Todd Sando, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA There being no additional items for the agenda, Lt. Governor Dalrymple announced the agenda approved as presented.

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

The draft minutes of the June 1, 2010 State Water Commission meeting were approved by the following motion:

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

CONSIDERATION OF DRAFT MINUTES OF JULY 28, 2010 STATE WATER COMMISSION AUDIO CONFERENCE CALL MEETING - APPROVED

The draft minutes of the July 28, 2010 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Hanson, and unanimously carried, that the draft minutes of the July 28, 2010 State Water Commission audio conference call meeting be approved as prepared.

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 June 30, 2010, reflecting 50 percent of the 2009-2011 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget amounts. ***SEE APPENDIX "A"***

The Contract Fund spreadsheet, attached hereto as ***APPENDIX "B"***, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the general fund project dollars. The total amount allocated for projects is $192,484,865, leaving a balance of $5,342,534 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 $60,431,427 and are currently $9,662,101, or 19.3 percent above budgeted revenues.

David Laschkewitsch provided an explanation of the Resources Trust Fund (RTF) and the Commission's funding authority. The RTF is funded with 20 percent of the revenues from the oil extraction tax, and a

percentage of the RTF has been designated by constitutional measure to be used for water-related projects and energy conservation. The State Water Commission budgets money for cost share based on a forecast of the oil extraction tax revenue for the biennium which is provided by the Office of Management and Budget. Revenues into the Resources Trust Fund are highly dependent on world oil prices and production which are very difficult to predict future funding levels. The executive budget includes authority based on the November 2008 forecast of $94.7 million for the 2009-2011 biennium from oil extraction. Additional new revenue into the RTF will come from the Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments, interest, and oil royalties. Based on the November 2008 projections, RTF revenue available for water development during the 2009-2011 biennium could be $98.2 million. In discussion, the Commission members concurred that at the appropriate time, a request be submitted to the Office of Management and Budget for an increase in the Commission's funding authority from the Resources Trust Fund.

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.

Mr. Laschkewitsch responded to Governor Hoeven's request during the June 1, 2010 Commission meeting that a report relating to the bonds be provided at the Commission's next meeting. The bond status report is attached hereto as ***APPENDIX "C".***

CITY OF FORT RANSOM 2010 RIVERBANK STABILIZATION AND RESTORATION (RANSOM COUNTY) - CONDITIONAL APPROVAL OF STATE COST PARTICIPATION ($60,803) (SWC Project No. 1299)

A request from the city of Fort Ransom was presented for the State Water Commission's consideration for state cost participation for their 2010 river-bank stabilization and restoration project along the Sheyenne River within the city. The city endured inconceivable flooding in 2009 and 2010 causing major damage from the floodwaters to the city's infrastructure, farmsteads and residences.

The Natural Resources Conservation Service (NRCS) notified the city of Fort Ransom that funding was approved for a riverbank restoration and stabilization project to address the extensive erosion along the river's embankment. The preferred project involves moving the river's alignment slightly to the west into a city park area which will eliminate demolishing the homes along the river's east edge and averts the loss of properties and the associated negative impacts to the city's tax base. This project will not only stabilize and restore the existing stream bank to mitigate and prevent further erosion and protect both private and public proper-

ties, it will also improve the water quality in a manner that will be both beneficial environmentally and cost effective. With the extreme bank erosion that has occurred over the past few years, soils have entered the river and degraded the water quality with excess nutrients and suspended solids. The system designed will eliminate the potential of these pollutants entering the river and improve the river's water quality.

The total estimated cost of the project is $405,350, of which $101,338 is determined eligible for state cost participation as a bank stabilization project at 60 percent of the eligible costs ($60,803). The Service will contribute funding of 75 percent of the construction costs ($304,012). Due to project delays caused by the federal permitting process, the city may not be able to begin construction until the spring of 2011. The request before the State Water Commission is for a 60 percent state cost participation in the amount of $60,803.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a bank stabilization project at 60 percent of the eligible costs, not to exceed an allocation of $60,803 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the city of Fort Ransom 2010 riverbank stabilization and restoration project.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission approve conditional state cost participation as a bank stabilization project at 60 percent of the eligible costs, not to exceed an allocation of $60,803 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Fort Ransom to support their 2010 riverbank stabilization and restoration project. This action is contingent upon the availability of funds, satisfaction of the required federal and state permits, and approval of the project's final design.

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

SHEYENNE RIVER DIVERSION LOW-FLOW CHANNEL REPAIRS AND IMPROVEMENTS PROJECT (CASS COUNTY) - CONDITIONAL APPROVAL OF ADDITIONAL STATE COST PARTICIPATION ($480,000) (SWC Project No. 1344)

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for additional state cost participation for the improvements to the Sheyenne River diversion low-flow channel. The proposed project identified four areas located in Mapleton and Barnes Townships of the existing diversion channel that requires repairs and improvements. Completion of Areas 1 and 2 is anticipated in 2010-2011, and Areas 3 and 4 in 2011-2012.

The improvements consist of reestablishng the low-flow channel at a steeper grade and lining it with rock riprap to alleviate erosion. Maintenance and repairs (erosion and sloughed slopes) were addressed concurrently with the reconstruction. The estimated total construction and engineering cost of Areas 1 and 2 were $4,025,000, of which $2,596,000 was determined to be eligible for state cost participation as a flood control project at 60 percent. On March 11, 2010, the State Water Commission approved a conditional allocation not to exceed $1,557,000.

Based on the preliminary engineering plans and cost estimate, it was determined that the eroded and sloughed slopes reconstructed back to the original design were maintenance and repairs and were considered as ineligible for state cost participation. It was determined that a percentage of the excavation and embankment costs were attributable to the low-flow improvements.

The diversion channel was originally constructed as earthen and is extremely susceptible to erosion. Since the completion of the Sheyenne diversion in 1992 the channel has been utilized far more frequently than the original design had intended. As a result, it has been determined that the frequency of use and duration of the flows exceeds the stability of the low-flow channel. The increased saturation of the diversion channel has caused significant erosion to occur. The District has requested a supplemental project review and reconsideration that all excavation and embankment be considered for additional state cost participation. The total estimated project costs including all excavation and embankment for Areas 1 and 2 is $4,025,000, of which $3,396,000 is determined eligible for state cost participation as a flood control project at 60 percent ($2,037,600). The request before the State Water Commission is state cost participation for an additional allocation of $480,000 ($2,037,600 less $1,557,600 approved on March 11, 2010, summing an additional amount of $480,000).

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a flood control project at 60 percent of the eligible costs including all excavation and embankment costs as reimbursable for Areas 1 and 2, not to exceed an additional allocation of $480,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Sheyenne River diversion 2010 improvement project to Areas 1 and 2.

It was moved by Commissioner Goehring and seconded by Commissioner Thompson that the State Water Commission approve conditional state cost participation as a flood control project at 60 percent of the eligible costs including all excavation and embankment costs for Areas 1 and 2 not to exceed an additional allocation of $480,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Sheyenne River diversion 2010 improvement project for Areas 1 and 2. This action is continent upon the availability of funds, receipt of the final engineering plans, and satisfaction of the permit requirements.

Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. Commissioner Swenson voted nay. Recorded vote was 8 ayes; 1 nay. Lt. Governor Dalrymple announced the motion carried.

BUFFALO COULEE 2010-2011 SNAG AND CLEAR PROJECT - (TRAILL COUNTY) - APPROVAL OF STATE COST PARTICIPATION ($26,000) (SWC Project No. 1413)

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear Buffalo Coulee where the District left off in 2009. A special assessment district has been created to finance the project.

The proposed snagging and clearing work includes the removal of fallen trees, standing trees in eminent danger of falling into the channel, driftwood, snags, loose stumps and trunks, standing stumps which are encountered within the river channel, and those that are lodged/leaning on the immediate bank slopes between upstream and downstream limits. All snagged material will be properly disposed.

The project engineer's cost estimate is $55,000, of which $52,000 is determined eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs ($26,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of $26,000.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of $26,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Buffalo Coulee 2010-2011 snag and clear project.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of $26,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District to support the Buffalo Coulee 2010-2011 snag and clear project. This action is contingent upon the availability of funds.

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

GOOSE RIVER 2010-2011 SNAG AND CLEAR PROJECT (TRAILL COUNTY) - APPROVAL OF STATE COST PARTICIPATION ($48,000) (SWC Project No. 1667)

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their 2010-2011 snag and clear of the north, south and main branches of the Goose River in Traill County. A special assessment district has been created to finance the project.

The proposed snagging and clearing work includes the removal of fallen trees, standing trees in eminent danger of falling into the channel, driftwood, snags, loose stumps and trunks, standing stumps which are encountered within the river channel, and those that are lodged/leaning on the immediate bank slopes between upstream and downstream limits. All snagged material will be properly disposed.

The project engineer's cost estimate is $100,000, of which $96,000 is determined eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs ($48,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of $48,000.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of $48,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Goose River 2010-2011 snag and clear project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of $48,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District to support the Goose River 2010-2011 snag and clear project. This action is contingent upon the availability of funds.

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

"DEVELOPMENT AND ADAPTATION OF SEBAL/METRIC EVAPOTRANSPIRATION MAPPING CAPABILITIES FOR NORTH DAKOTA" CONDUCTED BY NORTH DAKOTA STATE UNIVERSITY (SWC Project No. 1882-07)

A request was presented for the State Water Commission's consideration for state cost participation in a one-year project conducted in the Agricultural and Biosystems Engineering Department at the North Dakota State University entitled "Development and Adaptation of SEBAL/METRIC Evapotranspiration Mapping Capabilities for North Dakota." Project deliverables to the State Water Commission would include algorithms in Erdas Imagine software, supporting spreadsheets and other documents and data sets, and collaboration to train Commission staff in their use.

One of the most important pieces of information in evaluating hydrologic problems is evaportranspiration (ET), which is the evaporative loss of water from land and plant and water-body surfaces. ET estimates are used to evaluate natural water losses and, indirectly, amounts of water available for appropriation and use. ET stress also correlates well with irrigation water use and can be used with water budget models and procedures to evaluate soil water conditions related to flood evaluation and wetland water retention.

The best methods for estimating ET have been combined mass transfer and energy balance models such as the Penman-Monteith, but these models only evaluate the evaporative energy applied at the land surface. Other complex factors including soil moisture, plant type, and sensible heat transfer between the land and the lower atmosphere are needed to evaluate ACTUAL ET. The use of EP evaluation has usually been limited for this reason to specific conditions such as irrigation scheduling. Outside of the very limited sets of conditions, ET applications have been mostly guesswork.

The SEBAL method has been developed to measure ACTUAL ET in real time for a wide range of plants and surfaces using conventional climatic data and several satellite color bands. SEBAL has been tested and used under a wide range of locations and conditions including western Europe, Pakistan, Indonesia, and southwestern United States and Idaho. The state of Idaho uses SEBAL to estimate actual water use by irrigators.

In North Dakota, SEBAL was used to evaluate claims of ET gains in the Devils Lake irrigation project. NDSU staff have been working to develop the required computer algorithms and in-state calibrations for in-house applications by North Dakota state agencies. When fully developed, SEBAL will be useful for several practical agency functions including hydrologic model applications and as a method for state corroboration of water use reports.

The total estimated cost to fund the completion of the development of SEBAL computer applications is $61,404, all of which is determined eligible for state cost participation. The request before the State Water Commission is for state cost participation in the amount of $61,404.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation not to exceed an allocation of $61,404 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota State University to support the "Development and Adaptation of SEBAL/METRIC Evapotranspiration Mapping Capabilities for North Dakota."

It was moved by Commissioner Berg and seconded by Commissioner Goehring that the State Water Commission approve state cost participation not to exceed an allocation of $61,404 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota State University to support the "Development and Adaptation of SEBAL/METRIC Evapotranspiration Mapping Capabilities for North Dakota." This action is contingent upon the availability of funds.

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

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

The following Southwest Pipeline Project status report was provided:

Oliver-Mercer-North Dunn Regional Service Area:

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

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

Contract 2-8B, main transmission line from Hazen to Stanton and Beulah to Center elevated tank. Bids were opened for contract 2-8B on May 12, 2010. The bids were reviewed and the contract awarded to Kamphuis Pipeline Co., Grand Rapids, MI, in the amount of $3,888,095.

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

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

Contract 3-1D, Oliver-Mercer-North Dunn water treatment plant building and membrane equipment installation. Bids were opened for contract 3-1D on August 19, 2010. The State Water Commission will consider award of the contract under a separate item on September 1, 2010.

Contract 3-1E, Oliver-Mercer-North Dunn water treatment plant concentrate disposal facility. The purpose of this facility will be to dispose of reverse osmosis concentrate from the softening process. It will include a pipeline from the treatment plant back to the lake and a discharge facility in the lake. The design is basically complete and geotechnical and cultural resource surveys are being conducted.

Contract 5-15A, Zap potable reservoir. Contract 5-15A was bid on May 19, 2010. The State Water Commission authorized the award of contract 5-15A on June 1, 2010 to Maguire Iron, Inc., Sioux Falls, S.D., in the amount of $1,175,000. It is anticipated that construction will commence in the fall of 2010.

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

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

Oil Industry Water Use:

Contract 4-1D, Dodge water depot contract, was bid in April, 2010, and awarded to Mike's Excavation, Dickinson, N.D. The submittals have been received and the substantial completion date was June 15, 2010. This site will have capacity of 1,000 gallons per minute.

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

Little Missouri River Washout:

A specific authorization has been executed for design and construction phase engineering for bank stabilization for the shoreline adjacent to the Badlands Ministries Bible Camp property south of Medora.

SOUTHWEST PIPELINE PROJECT - OLIVER-MERCER-NORTH DUNN REGIONAL SERVICE AREA, WATER TREATMENT PLANT - AUTHORIZE AWARD OF CONTRACT 3-1D (SWC Project No. 1736)

On August 19, 2010, bids were opened for Southwest Pipeline Project contract 3-1D, Oliver-Mercer-North Dunn regional service area water treatment plant. Contract 3-1D will include the construction of a 120-foot by 120-foot concrete reinforced and pre-cast concrete building and the installation of process, mechanical, electrical and instrumentation systems for the new treatment plant. The plant will have an initial nominal capacity of 2,430 gallons per minute and 3,650 gallons per minute ultimate capacity. The water treatment plant will serve Oliver, Mercer, and North Dunn counties with the intention of back feeding the Killdeer Mountains, Grassy Butte, and Fairfield service areas. Part of the funding for these projects is through the American Recovery and Reinvestment Act of 2009. Contract 3-1D documents stipulate a substantial completion date of December 31, 2011.

In compliance with North Dakota Century Code §48-01.1-06, the contract was divided into separate prime bids for the General, Mechanical, and Electrical portions of the work. Four bids were opened for the General Schedule, two for the Mechanical Schedule, and three for the Electrical Schedule of the contract. The apparent low bids were: General Construction, $7,236,900 - PKG Contracting, Inc., Fargo, N.D.; Mechanical Construction, $600,000 - Cofell's Plumbing & Heating, Inc., Bismarck, N.D.; and Electrical Construction, $924,100 - Edling Electric, Inc., Bismarck, N.D. The sum of the low bids for the General, Mechanical, and Electrical construction was lower than the low combined single bid by $125,640.

PKG Contracting has had several contracts on the Southwest Pipeline Project, most notably contracts 4-1B, final phase of intake, Dodge, Richardton, and Jung Lake pumping facilities in 2003, and contract 3-1 (Dickinson) water treatment plant influent piping modifications in 2000, as well as several other contracts for other clients with Bartlett & West. Cofell's Plumbing & Heating and Edling Electric have both worked on contracts for Bartlett & West.

The contract documents allow the State Water Commission to select the most advantageous bids. Based on the project engineer's review, the bids received from PKG Contracting, Inc. (General Construction), Cofell's Plumbing & Heating, Inc. (Mechanical Construction), and Edling Electric, Inc. (Electrical Construction) appears to be in accordance with the advertisement for construction bid and the bid documents, and are considered to be responsible and responsive bids. It was the recommendation of the project engineer to award contract 3-1D - General to PKG Contracting, Inc., Fargo, N.D. in the amount of $7,236,900 based on Bid Schedule I - General Construction Bid; Contract 3-1D - Mechanical to Cofell's Plumbing and Heating, Inc., Bismarck, N.D. in the amount of $600,000, based on Bid

Schedule II - Mechanical Construction Bid; and Contract 3-1D - Electrical to Edling Electric, Inc., Bismarck, N.D. in the amount of $1,209,360, based on Bid Schedule III - Electrical Construction Bid plus Bid Alternate 1. The award of the contracts and notices to proceed are dependent on the completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and a review/approval by the Commission's legal counsel.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to award the contracts for Southwest Pipeline Project contract 3-1D as recommended by the project engineer.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award the following Southwest Pipeline Project contracts (3-1D) for the Oliver-Mercer-North Dunn regional service area, water treatment plant: Contract 3-1D - General to PKG Contracting, Inc., Fargo, N.D. in the amount of $7,236,900 based on Bid Schedule I - General Construction Bid; Contract 3-1D - Mechanical to Cofell's Plumbing and Heating, Inc., Bismarck, N.D. in the amount of $600,000, based on Bid Schedule II - Mechanical Construction Bid; and Contract 3-1D - Electrical to Edling Electric, Inc., Bismarck, N.D. in the amount of $1,209,360, based on Bid Schedule III - Electrical Construction Bid plus Bid Alternate 1. This action is contingent upon the completion of the contract documents, concurrence from the Garrison Diversion Conservancy District, and approval from the Commission's legal counsel.

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

SOUTHWEST PIPELINE PROJECT - APPROVAL OF WATER SERVICE CONTRACT 1736-36, CITY OF STANTON (SWC Project No. 1736)

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

The contract specifies a maximum flow rate of 75 gallons per minute for all connections and a minimum annual water purchase of 100,000 gallons per year for the entire term of the contract.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute Southwest Pipeline Project Water Service Contract 1736-36 with the City of Stanton.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute Southwest Pipeline Project Water Service Contract 1736-36 with the City of Stanton. SEE APPENDIX "D"

Commissioners Berg, Foley, Goehring, Hanson, Olin, Swenson, Thompson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven 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:

Senate Hearing: On August 11, 2010, Senator Byron Dorgan held a hearing in Minot, N.D. for the Senate Appropriations Energy and Water Development subcommittee to examine the United States Bureau of Reclamation's Northwest Area Water Supply project. The press release prior to the hearing indicated that Senator Dorgan was seeking ways to quicken the pace of the water supply project. The hearing record was open until August 27, 2010. Senator Dorgan was clear that the project is a much-needed water supply project, however, he offered concern about overstressing the existing ground water supply and not having supply available from Lake Sakakawea. The proposed 2011 federal budget includes $2.0 million in funding for the supplemental environmental impact statement (EIS) and no federal funding for construction. The State of North Dakota is considering submitting additional information for the hearing record to describe the care being taken in balancing the use of the existing ground water supply and continuing development of the project.

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

Manitoba and Missouri Lawsuit:

On March 5, 2010, U.S. District Judge Rosemary Collyer issued a decision to continue the injunction on the NAWS project. Judge Collyer had previously allowed construction of the pipeline, but not the treatment facilities. 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 cumulative impacts of water withdrawal on the water levels of Lake Sakakawea and the Missouri River, and the consequences of biota transfer into the Hudson Bay basin including Canada. The State's motion for summary judgment and lifting the injunction was denied.

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 has begun and will be completed in November, 2010. A request will need to be filed with the Federal Court to allow construction of this project. The work needs to be completed during the winter months 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 reviewed the filings and did not reconsider the order and dismissing the Corps of Engineers from the suit.

Design and Construction Contracts:

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant. On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of $12,435,793.58, to John T. Jones Construction, Fargo, N.D. Payments have been made according to the settlement agreement. The pump station has been operational since December,

2009. The contractor has provided a September 13, 2010 completion date for the remaining work under the construction contract relating to the automatic transfer switch for the generator.

Contract 2-2C: The contract work covers 52 miles of pipeline for the Kenmare-Upper Souris segment. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. Water service to Kenmare was started on December 7, 2009, and water service to the Upper Souris Water District at the Donnybrook turnout started on December 22, 2009. The 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 segment. Bids were opened for contract 2-2D on July 14, 2009. The State Water Commission authorized the secretary to the Commission to award contract 2-2D to American Infrastructure from Colorado on August 18, 2009. The substantial completion date is October 15, 2010, with final completion on November 15, 2010.

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

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

Contract 2-2E: This contract covers connections of the community of Burlington and the West River Water and Sewer District to the NAWS pipeline. The contract was awarded to Steen Construction & Associates, Inc., Stanley, N.D., on November 13, 2009, in the amount of $471,782. Water service to the West River Water District started on June 22, 2010, and to Burlington on August 11, 2010.

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

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

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

Operation and Maintenance Update:

On August 2, 2010, Clint Cogdill, grade II, certified distribution system operator, accepted employment with the State Water Commission for the NAWS distribution system operator.

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT - APPROVAL OF 2011 WATER RATES FOR CITY OF MINOT AND NAWS REGION CITIES (SWC Project No. 237-04)

The Northwest Area Water Supply (NAWS) project water service contracts stipulate that the water rates for the NAWS project are to be determined by the State Water Commission. The project water rate is based on capital costs, supply and treatment costs, operation and maintenance costs, and reserve for replacement and extraordinary maintenance (REM).

The following proposed NAWS project water rates for the city of Minot and the NAWS region cities for 2011 were presented for the State Water Commission's consideration:

Capital Costs:	$0.00 per 1,000 gallons	
Supply and Treatment Costs:	City of Minot:	$0.00 per 1,000 gallons
	NAWS region:	$1.15 per 1,000 gallons
Operation and Maintenance Costs:	City of Minot:	$0.18 per 1,000 gallons
	NAWS region:	$0.85 per 1,000 gallons
Replacement and Extraordinary Maintenance:	$0.15 per 1,000 gallons	

It was the recommendation of Secretary Sando that the State Water Commission approve the following NAWS water rates for the 2011 calendar year: City of Minot - $0.33 per 1,000 gallons; NAWS region - $2.15 per 1,000 gallons.

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve the following Northwest Area Water Supply Project water rates for the 2011 calendar year:

City of Minot: $0.33 per 1,000 gallons

NAWS region: $2.15 per 1,000 gallons

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

Due to commitments, Commissioner Doug Goehring left the meeting at 3:30 P.M.

MR&I WATER SUPPLY PROGRAM - MR&I COMMITTEE REPORT; AND 2011 FISCAL YEAR FEDERAL MR&I EARMARKED PROJECT FUNDS (SWC Project No. 237-04)

The State Water Commission and the Garrison Diversion Conservancy District Municipal, Rural and Industrial (MR&I) Water Supply program committee met on August 19, 2010 to discuss the status and funding of MR&I projects.

The 2011 proposed federal budget includes funding for the Garrison Diversion Unit for 2011, of which $15,650,000 is earmarked for funding projects under North Dakota's Municipal, Rural and Industrial (MR&I) Water Supply program. The following recommendations were presented for the State Water Commission's consideration, and will be considered by the Garrison Diversion Conservancy District's board of directors on October 7, 2010:

Proposed 2011 Federal Budget
MR&I Water Supply Program

Project	**Proposed 2011 Federal Budget Earmarked Funds**
Northwest Area Water Supply Project	$ 2,000,000
South Central Regional Water District	$ 6,650,000
Southwest Pipeline Project, Oliver-Mercer-North Dunn	$ 6,650,000
Administration	$ 350,000
Total	**$15,650,000**

Northwest Area Water Supply (NAWS) Project: The next major NAWS component is the design and construction of the Minot Air Force Base - Upper Souris pipeline, with an estimated total cost of $17,500,000. Design has begun on the filtration work in the Minot water treatment plant. The project's federal lawsuit judge requested additional environmental study pertaining to the impact of biota transfer into the Hudson Bay basin including Canada and the impact of system withdrawals to the Missouri River. The additional study will be under the supervision of the Bureau of Reclamation and is estimated to cost $2,000,000.

South Central Regional Water District (Emmons, Logan and McIntosh Counties, Phase III): A regional water system is proposed to serve rural users and municipalities in the counties of Emmons, Logan and McIntosh. South Central Regional Water System (Emmons, Logan and McIntosh Counties, Phase I), construction began in 2009 involving a water supply 15 miles west of the city of Linton from Lake Oahe. The project uses a series of sloped tubes with submersible pumps, a water treatment plant, water storage reservoir, and main transmission pipeline with new bulk service to the cities of Linton and Strasburg. The estimated cost of 2009 Phase I was $23,300,000.

Federal Fiscal Year 2010 MR&I grant funds were earmarked in the amount of $8,800,000 for the South Central Regional Water System (Emmons County, Phase II). This project involves approximately 349 miles of pipeline for 380 rural users and provides water service to the cities of Braddock and Hauge and a supplemental water supply to the State Line Water Cooperative. The estimated cost of 2010 Phase II was $12,100,000. On December 11, 2009, the State Water Commission approved a federal Fiscal Year 2010 MR&I grant of 75 percent, not to exceed an allocation of $8,800,000.

Federal Fiscal Year 2011 MR&I grant funds are earmarked in the amount of $6,650,000 for the South Central Regional Water System (Emmons County, Phase III). This project involves approximately 211 miles of pipeline for 211 rural users and could make service available to the cities of Braddock and Hazelton. The estimated cost of 2011 Phase III is $8,900,000.

It was the recommendation of Secretary Sando that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant of 75 percent, not to exceed an allocation of $6,650,000, to the South Central Regional Water District.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant of 75 percent, not to exceed an allocation of $6,650,000, to the South Central Regional Water District. This action

is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven 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): The Oliver-Mercer-North Dunn (OMND) regional service area began with construction of the Beulah interim service area providing service to 60 rural users. The city of Zap was added to the system and supplied with water purchased from the city of Beulah until a new water treatment plant could be constructed at the Zap reservoir site. The overall project will serve the communities of Center, Hazen, Pick City, Stanton, and Zap, 7 energy sector users, 5 bulk users, approximately 1,200 rural customers, and the switching of water service from the Southwest Pipeline for the cities of Dodge, Dunn Center, Golden Valley and Halliday, and 434 rural users. The water supply is from the Missouri River and will use a new water treatment plant to supply the system. The total estimated project cost is $88,800,000.

The 2009 projects included the design and construction of the project's water treatment plant ($15,100,000), 1.1 million gallon water storage tank ($2,400,000), and 23 miles of main transmission pipeline to Hazen and Zap ($6,600,000).

The 2010 projects include the design and construction of 27 miles of main transmission pipeline to Hazen and Stanton ($3,800,000), and Phase I of the Zap service area ($5,100,000). On December 11, 2009, the State Water Commission approved a federal Fiscal Year 2010 MR&I grant allocation of $8,800,000.

The 2011 projects include the Center water storage tank of 750,000 gallons ($2,300,000); the Center rural service area with 133 miles of pipeline, and service for 100 rural users ($3,900,000); and the start of the water intake upgrades ($2,200,000).

Federal Fiscal Year 2011 MR&I grant funds are earmarked in the amount of $6,650,000 for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area). It was the recommendation of Secretary Sando that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant, not to exceed an allocation of $6,650,000, for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area).

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant, not to exceed an allocation of $6,650,000, for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area). This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

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

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

As of August 15, 2010, the water surface elevation for Devils Lake was 1451.78 feet msl and Stump Lake was 1451.80 feet msl. The combined storage of Devils Lake and Stump Lake for August 15, 2010 was 3,680,000 acre-feet of water with a total surface area on both lakes of 180,000 acres. This is an increase in surface area of 1,700 acres since May 12, 2010 and an increase of 14,090 acres since August 15, 2009.

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:

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

	90%	50%	10%
Devils Lake (ft- msl)	1451.8	1451.8	1451.9
Stump Lake (ft.-msl)	1451.9	1451.9	1451.9

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

The State of North Dakota pursued an emergency phased outlet project from West Bay to the Sheyenne River. Construction commenced in the fall of 2002, and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit and the authorized modifications issued by the North Dakota Department of Health. The NDPDES water quality discharge permit had an expiration date of June 30, 2008, which was extended through June 30, 2013.

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

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.

The upgrading of the state outlet to 250 cubic feet per second was completed in June, 2010. The existing pumps were operated for 5 days in May as well as for most of June while the expansion project was being

completed. The pumping at full capacity was started on June 26, 2010 and has continued since that time. Shortly after the outlet began operating at 250 cfs, a foam issue occurred at the top of the standpipes, the foam is caused by the algae in Devils Lake. When the foam degrades, it leaves behind a brown organic material with an unpleasant odor, which coated the standpipes at Round Lake and the shop building. As of August 15, 2010, the outlet has removed approximately 28,000 acre-feet of water from Devils Lake.

NORTH DAKOTA DEVILS LAKE OUTLET - APPROVAL OF ADDITIONAL ALLOCATION ($1,900,000) FOR OUTLET OPERATIONS FOR 2009-2011 BIENNIUM (SWC Project No. 416-10)

The operating and maintenance budget of $3,000,000 for the 2009-2011 biennium for the Devils Lake outlet was based on operating at 100 cubic feet per second (cfs). A large part of this budget, $1,400,000, is for power costs. The power costs will be increased due to the increase in the flow rate and the modifications to the water quality standards expanding the amount of time that the outlet will be operated. It is estimated that the total power costs will be $3,300,000 for the 2009-2011 biennium if the Devils Lake outlet is operated at capacity during the ice-free months.

The total operations and maintenance budget would increase from $3,000,000 to $4,900,000 for the 2009-2011 biennium. A request for an additional allocation of $1,900,000 for the operation of the Devils Lake outlet through June 30, 2011 was presented for the State Water Commission's consideration.

It was the recommendation of Secretary Sando that the State Water Commission approve an additional allocation of $1,900,000 to support the operation of the Devils Lake outlet.

It was moved by Commissioner Berg and seconded by Commissioner Thompson that the State Water Commission approve an additional allocation of $1,900,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to support the operation of the Devils Lake outlet. This action is contingent upon the availability of funds.

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

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

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

Since the required increased capacity at the crossings is to allow the Devils Lake outlet to operate, the state has significant responsibility. The estimated cost for upgrading both crossings is $875,000.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed $875,000 to the Eddy County Water Resource District to upgrade the crossings.

Because the State Water Commission's cost share policy does not currently recognize this issue, the Commission members concurred to defer the funding request presented at this meeting, and that the cost share policy committee address this matter at its next meeting.

It was moved by Commissioner Swenson and seconded by Commissioner Berg that the cost share policy committee develop a cost share policy of standards regarding the repairs and maintenance of river crossings throughout the Sheyenne River basin, and an inventory of the possible effects.

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

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

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

North Dakota Century Code §61-03-21.3 states that *"If the state engineer finds that buildings, structures, boat docks, debris, or other manmade objects, except a fence or corral, situated in, on the bed of, or adjacent to waters that have been determined to be navigable by a court are, or are imminently likely to be, a menace to life or property or public health or safety, the state engineer shall issue an order to the person responsible for the object. The order must specify the nature and extent of the conditions, the action necessary to alleviate, avert, or minimize the danger, and a date by which that action must be taken. If the state engineer determines that an object covered by flood insurance is imminently likely to be a menace to life or property or public health or safety, the date specified in the order for action to be taken may not precede the date on which the person is eligible to receive flood insurance proceeds. If a building, structure, boat dock, debris, or other manmade object, except a fence or corral, is partially or completely submerged due to the expansion of navigable waters, the person responsible is the person who owns or had control of the property on which the object is located or the person who owned or had control of the property immediately before it became submerged by water."*

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

The State Engineer and the North Dakota Department of Health continue to work with the landowners to ensure that the public safety is protected as Devils Lake continues to rise. Through a combination of 2009 aerial photography and Lidar elevation data, approximately 300 structures are estimated to be at or below elevation 1452 feet msl, 300 structures could be inundated at 1453 feet msl, and 150 structures at 1454 feet msl.

The State Water Commission staff initiated a preliminary identification of these structures, and assembled a general estimate of the cost of removing the structures from the water. Total estimated cost for structural removal and demolition is $2,500,000 which, with the logistical difficulty of getting to the structures due to water, could run as high as $3,000,000. The Commission staff will begin the process of contacting landowners at or below elevation 1452 feet msl in November, 2010 to make them aware of the existing law and provide alternatives for structural removal.

Lt. Governor Dalrymple directed Secretary Sando to select a committee consisting of State Water Commission and Department of Health staff members and others to develop a program/solutions for the Devils Lake debris removal issue.

APPROVAL OF RELEASE OF DAM EASEMENTS AND DEDICATION FOR MELVILLE DAM (ALSO REFERRED TO AS LAKE BONITA DAM) - FOSTER COUNTY (SWC Project No. 1278)

In 1934, an easement for land to construct a dam in Foster County was given to the State of North Dakota by Caroline and N.N. Loesch in the following described premises:

Southwest Quarter (SW1/4) of Section 33, Township 145 North, Range 66 West

A letter was received in the Office of the State Engineer on June 21, 2010 from Lyle Neumann, Jr. and Kent Neuman, Carrington, N.D. affirming ownership of the land where the easement is in effect and requesting that the State Water Commission release the easement for the Melville Dam site, also known as Lake Bonita Dam.

The dam spillway has been washed out for several years, and the principal spillway breached. There is an opening to the streambed that is approximately 15 feet deep, 70 feet long, and 30-40 feet wide. The dam no longer serves its purpose, and the Foster County Water Resource District does not intend to rebuild the structure. The State Water Commission's dam safety section has inspected the site.

Because the State of North Dakota has no future interest in reconstructing the dam on the property covered by the easement, it was the recommendation of Secretary Sando that the State Water Commission approve the Release of Dam Easement and Dedication, pursuant to North Dakota Century Code §61-02-14.1, for the easement as previously described for the Melville Dam site in Foster County (Lake Bonita Dam).

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve the Release of Dam Easement and Dedication, pursuant to North Dakota Century Code §61-02-14.1, for the easement as previously described for the Melville Dam in Foster County (also referred to as Lake Bonita Dam).

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

INTERNATIONAL BOUNDARY ROADWAY DIKE (PEMBINA COUNTY) - APPROVAL OF STATE COST PARTICIPATION ($30,000); AND AUTHORIZATION FOR SECRETARY TO SWC TO EXECUTE NECESSARY DOCUMENTS TO RETAIN FIRM OF AIKINS, MACAULAY & THORVALDSON, LLP (SWC Project No. 1401)

On August 20, 2010, the North Dakota State Water Commission was served with a Third Party Claim by the Municipalies of Rhineland and Stanley seeking contribution and indemnity from the third parties for their alleged actions (along with those of the plaintiffs) in increasing the flow of water in the Pembina River, which caused or contributed to the damages claimed by the plaintiffs. Other third party claims include the construction of dikes along the Pembina River to limit or prevent breakout flows that would naturally occur resulting in increased flow of water northward; third parties created or acquiesced to the creation of embankments in Pembina County that block the eastward movement of surface water and divert flows northward; and, that Pembina County constructed County Road 55 to prevent or limit water overflowing in the Pembina River from moving southward. The Third Party Claim also alleges that the actions of the third parties have increased water flows and caused or contributed to the flooding and resulting damage complained of by the plaintiffs.

The State Water Commission is required to serve and file a "statement of defence" within 40 days. Because the court is located in Winnipeg, a Canadian solicitor must be retained. Mr. Colin MacArthur and Mr. John Martens, solicitors with the Canadian law firm of Aikins, MacAulay & Thorvaldson, LLP, have been contacted regarding representation. The estimated legal costs are $30,000.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed $30,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), and that the secretary to the Commission be authorized to execute the required documents to retain the Canadian law firm of Aikins, MacAulay & Thorvaldson, LLP.

It was moved by Commissioner Hanson and seconded by Commissioner Thompson that the State Water Commission approve an allocation not to exceed $30,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), and that the secretary to the Commission be authorized to execute the required documents to retain the Canadian law firm of Aikins, MacAulay & Thorvaldson, LLP. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, and Lt. Governor Dalrymple representing Governor Hoeven 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 July/August, 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"***.

TRAILL RURAL WATER DISTRICT REGIONAL WATER SUPPLY, PHASES I AND II - APPROVAL OF ADDITIONAL 2009-2011 BIENNIUM STATE FUNDS ($200,000) (SWC Project No. 237-03)

The Traill Rural Water District conducted a water study for a regional system to meet the water needs of the cities of Hillsboro, Mayville, Galesburg, and Grandin to address the future Environmental Protection Agency's (EPA) water quality and quantity regulations. The studies indicated that the Galesburg aquifer could meet the projected water needs. On December 9, 2005, the State Water Commission approved a 65 percent grant, not to exceed an allocation of $134,000, from the Garrison Diversion Conservancy District Water Development and Research Fund for the water study ($59,250) and the feasibility study ($74,750).

The Traill Rural Water District is working with the cities of Hillsboro and Mayville to develop a regional project at a revised estimated cost of $27,602,000. Phase I included the development of a new Galesburg aquifer well field for the total regional water supply and transmission pipeline to the existing Mayville water treatment plant, and a raw water pipeline from a new transfer station to the Hillsboro water treatment plant. The revised estimated cost of Phase I was $5,693,880. On February 4, 2008, the State Water Commission approved a 70 percent federal/state grant not to exceed an allocation of $2,492,000 (federal Fiscal Year 2008 MR&I Water Supply program grant not to exceed $984,000, and an allocation not to exceed $1,508,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020)), to the Traill Rural Water District Regional Water Supply, Phase I.

The Traill Rural Water District developed Phase II, which included distribution improvements to the system that would allow full service to the cities of Galesburg and Grandin. The revised estimated cost of Phase II was $3,967,120. On June 23, 2008, the State Water Commission approved a 70 percent grant not to exceed an allocation of $1,519,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill Rural Water District Regional Water Supply, Phase II.

Due to increased costs related to bid items and additional alternatives for Traill Rural Water District, Phases I and II, on April 28, 2009, the State Water Commission approved a 70 percent grant not to exceed an additional allocation of $2,551,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill Rural Water District regional water supply project, Phases I and II (Phase I - $1,659,000; Phase II - $892,500; total state grants: Phase I - $3,167,000; Phase II - $2,411,500).

The Traill Rural Water District is developing Phase III, which includes additional well field development, installation of membranes in the existing Mayville water treatment plant, and construction of a new

membrane water treatment plant at Hillsboro. The revised estimated cost of Phase III was $17,941,000. On August 18, 2009, the State Water Commission approved a grant allocation of $1,300,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill Rural Water District regional water supply project, Phase III.

Due to increased costs related to bid items and additional alternatives for Traill Rural Water District, Phases I, II, and III, a request was presented for the State Water Commission's consideration for an additional grant allocation of $1,800,000: Phase I - $32,000 (70 percent grant); Phase II - $168,000 (70 percent grant); and Phase III - $1,600,000 (75 percent grant).

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve an additional grant allocation of $200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill Rural Water District regional water supply project, Phase I ($32,000 - 70 percent grant) and Phase II ($168,000 - 70 percent grant). This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

This action would provide a total state grant allocation of $7,078,500 (Phase I - $3,199,000; Phase II - $2,579,500; and Phase III - $1,300,000).

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

TRI-COUNTY WATER DISTRICT, CITY OF LAKOTA WATER SUPPLY - APPROVAL OF ADDITIONAL 2009-2011 BIENNIUM STATE FUNDS ($93,930) (SWC Project No. 237-03)

The Tri-County Water District experienced a shortfall in its current water allocation in the Elk Valley aquifer to supply adequate water for the growth of the district. A connection was made with Greater Ramsey Water District to address Tri-County's capacity problems and add capacity for future service to the city of Lakota.

The estimated project costs were $1,000,000. On July 17, 2007, the State Water Commission approved a 70 percent grant allocation of $700,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). On February 4, 2008, this amount

was revised to a federal MR&I grant of $492,000 and a state grant of $208,000. Because of increased costs relating to providing service to additional users and additional pipeline to address the capacity issues in the system, the revised cost estimate is $1,134,185. A request from the Tri-County Water District was presented for the State Water Commission's consideration for a 70 percent grant, not to exceed an additional allocation of $93,930. The State Water Commission's affirmative action would provide for a 70 percent total grant allocation of $1,134,185 ($793,930), of which $492,000 is a federal grant and $301,930 a state grant.

It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission approve a 70 percent grant not to exceed an additional allocation of $93,930 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Tri-County Water District. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

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

MISSOURI RIVER REPORT
(SWC Project No. 1392)

On May 16, 2010, the system storage in the six mainstem reservoirs was 65.1 million acre-feet (MAF), 8.2 MAF above the average system storage for the end of August and 7.5 MAF more than in 2009. The record minimum system storage for the end of August was 36.2 MAF in 2006, and the maximum system storage for the end of August was 69.8 MAF in 1975. The Corps of Engineers' runoff forecast above Sioux City for 2010 is 37.9 MAF, 153 percent of normal. If this occurs, it will be the third highest runoff. This results in a forecast that the system storage will have 57.1 MAF at the end of the year. The record low end of year system storage was 34.4 MAF in 2005; and the maximum end of year system storage was 60.95 MAF in 1975.

Lake Sakakawea was at an elevation of 1850.8 feet msl on August 16, 2010, 8.2 feet higher than in 2009 and 12.2 feet above its average end of August elevation. The record minimum average daily August elevation was 1813.8 feet msl in 2006, and the maximum average daily August elevation was 1852.7 feet msl in 1975. Lake Sakakawea peaked at 1851.4 feet msl on July 30, 2010. Releases will be increased from 16,000 to 27,000 cubic feet per second during August. The reservoir is currently 0.8 feet msl into the exclusive flood control pool.

The elevation of Lake Oahe was 1615.2 feet msl on August 16, 2010, which is 3.6 feet higher than in 2009 and 12.4 feet higher than its average end of August elevation. Lake Oahe peaked at elevation 1617.6 feet msl on July 1, 2010. The record minimum average daily August elevation for Lake Oahe was 1571.6 feet msl in 2006, and the maximum average daily August elevation for Lake Oahe was 1617.8 feet msl in 1997. Releases will average 33,900 cubic feet per second in August to evacuate water from the reservoir system. Higher releases will continue through the end of the summer and into the fall. The reservoir is currently 7.7 feet into its flood pool.

Fort Peck Lake was at an elevation of 2235.6 feet msl on August 16, 2010, which is 15.4 feet higher than in 2009 and 4.7 feet below its daily average August elevation. The forecast called for Fort Peck to peak at elevation of 2235.8 feet msl at the end of July.

The Corps of Engineers' basic forecast, 37.9 MAF of runoff, shows full service flows for navigation, and an extended navigation season. The navigation season was extended 10 days and will close in Sioux City, Iowa on December 2, 2010.

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 were held throughout the basin, scoping meetings in North Dakota were held 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.

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, 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 identifying 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. Information has been received to date on 180 water projects, most of which could potentially come before the State Water Commission in the 2011-2013 biennium.

FARGO FLOOD CONTROL PROJECT (SWC Project No. 1928)

The State Water Commission members requested a status report of the Fargo Flood Control project be provided at future Commission meetings.

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the meeting at 5:50 P.M.

Jack Dalrymple, Lt. Governor
Representing John Hoeven, Governor
Chairman, State Water Commission

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

APPENDIX "A"

September 1, 2010

STATE WATER COMMISSION
ALLOCATED PROGRAM EXPENDITURES
FOR THE PERIOD ENDED JUNE 30, 2010
BIENNIUM COMPLETE: 50%

PROGRAM	SALARIES/ BENEFITS	OPERATING EXPENSES	GRANTS & CONTRACTS	9-Sep-10 PROGRAM TOTALS
ADMINISTRATION				
Allocated	1,812,056	1,212,732		3,024,788
Expended	863,738	466,942		1,330,680
	48%	39%		44%
			Funding Source:	
			General Fund:	1,251,427
			Federal Fund	79,188
			Special Fund:	65
PLANNING AND EDUCATION				
Allocated	1,192,175	208,511	99,000	1,499,686
Expended	572,645	68,120	47,647	688,412
Percent	48%	33%	48%	46%
			Funding Source:	
			General Fund:	545,426
			Federal Fund	93,052
			Special Fund:	49,934
WATER APPROPRIATION				
Allocated	3,633,879	483,162	1,078,935	5,195,976
Expended	1,727,861	215,928	351,784	2,295,573
Percent	48%	45%	33%	44%
			Funding Source:	
			General Fund:	1,943,289
			Federal Fund:	0
			Special Fund:	352,284
WATER DEVELOPMENT				
Allocated	5,041,486	4,837,457	225,000	10,103,943
Expended	2,384,027	2,177,911	291,606	4,853,544
Percent	47%	45%	130%	48%
			Funding Source:	
			General Fund:	2,215,432
			Federal Fund:	1,507,946
			Special Fund:	1,130,165
STATEWIDE WATER PROJECTS				
Allocated			203,185,070	203,185,070
Expended			40,220,259	40,220,259
Percent			20%	20%
			Funding Source:	
			General Fund:	0
			Federal Fund:	32,978
			Special Fund:	40,187,281
ATMOSPHERIC RESOURCE				
Allocated	854,950	712,830	4,694,692	6,262,472
Expended	429,094	201,080	663,606	1,293,779
Percent	50%	28%	14%	21%
			Funding Source:	
			General Fund:	382,096
			Federal Fund	0
			Special Fund:	911,683
SOUTHWEST PIPELINE				
Allocated	400,496	1,665,314	37,556,958	39,622,770
Expended	199,426	1,136,477	3,830,111	5,166,013
Percent	50%	68%	10%	13%
			Funding Source:	
			General Fund:	0
			Federal Fund	1,294,457
			Special Fund:	3,871,556
NORTHWEST AREA WATER SUPPLY				
Allocated	530,958	6,229,700	50,289,114	57,049,772
Expended	205,886	2,438,443	13,723,776	16,368,105
Percent	39%	39%	27%	29%
			Funding Source:	
			General Fund:	0
			Federal Fund:	8,771,639
			Special Fund:	7,596,466
PROGRAM TOTALS				
Allocated	13,466,002	15,349,706	297,128,769	325,944,477
Expended	6,382,677	6,704,900	59,128,788	72,216,365
Percent	47%	44%	20%	22%

FUNDING SOURCE:	ALLOCATION	EXPENDITURES	REVENUE	
GENERAL FUND	14,124,223	6,337,670	GENERAL FUND	149,090
FEDERAL FUND	67,070,358	11,779,261	FEDERAL FUND:	10,320,027
SPECIAL FUND	244,749,896	54,099,435	SPECIAL FUND:	60,819,488
TOTAL	325,944,477	72,216,365	TOTAL	71,288,605

APPENDIX "B"

September 1, 2010

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

Jun-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
WATER SUPPLY	36,502,157	36,502,157	7,700,654	0	28,801,503
PERMANENT OIL TRUST FUND	2,442,000	2,442,000	529,402	0	1,912,598
IRRIGATION DEVELOPMENT	1,605,370	1,605,370	108,188	0	1,497,182
GENERAL WATER MANAGEMENT					
OBLIGATED	20,501,285	20,501,285	5,077,980	0	15,423,305
UNOBLIGATED	5,356,534			5,356,534	0
MISSOURI RIVER MANAGEMENT	372,000	372,000	0	0	372,000
FLOOD CONTROL					
BALDHILL DAM	92,832	92,832	6,138	0	86,694
RENWICK DAM	1,478,190	1,478,190	0	0	1,478,190
UPPER MAPLE RIVER DAM	112,500	112,500	0	0	112,500
RED RIVER WATER SUPPLY	3,200,000	3,200,000	2,225,824	0	974,176
DEVILS LAKE					
BASIN DVELOPMENT	102,000	102,000	15,881	0	86,119
DIKE	25,350,000	25,350,000	2,630,000	0	22,720,000
OUTLET	16,661,325	16,661,325	12,575,713	0	4,085,612
OUTLET OPERATIONS	3,000,000	3,000,000	1,101,629	0	1,898,371
CITY OF MINNEWAUKAN	15,000	15,000	15,000	0	0
NELSON COUNTY	636,064	636,064	8,492	0	627,572
WEATHER MODIFICATIONS	225,000	225,000	0	0	225,000
SOUTHWEST PIPELINE PROJECT	14,782,474	14,782,474	3,801,584	0	10,980,890
NORTHWEST AREA WATER SUPPLY	10,832,918	10,832,918	1,045,713	0	9,787,205
TOTALS	197,827,399	192,470,865	38,876,007	5,356,534	153,594,858

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

PROGRAM OBLIGATION

Approve By	SWC No	Dept		Initial Approved Date	Total Approved	Total Payments	*Jun-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***
SWC			***Water Supply Advances:***				
	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	38,439	89,561
	2373-15	5000	North Central Rural Water Consortium (S. Benson Cou	12/7/2007	916,000	28,563	887,437
	2373-15	5000	North Central Rural Water Consortium (Anamoose/Be	6/23/2008	3,295,000	316,717	2,978,283
	2373-27	5000	Traill Regional Rural Water (Phase I)	1/25/2008	3,167,000	2,895,258	271,742
	2373-16	5000	Traill Regional Rural Water (Phase II)	6/23/2008	2,137,748	1,479,830	657,918
	2373-24	5000	Traill Regional Rural Water (Phase III)	8/18/2009	1,300,000	239,297	1,060,703
			Water Supply Grants:				
	2373-19	5000	City of Washburn Water Supply	4/28/2009	1,500,000	966,853	533,147
	2373-17	5000	City of Parshall	6/23/2008	1,920,274	496,886	1,423,388
	2373-18	5000	Ray & Tioga Water Supply Association	12/17/2008	4,200,000	1,238,811	2,961,189
	2373-25	5000	McKenzie Phase II	6/23/2009	1,500,000	0	1,500,000
	2373-28	5000	McKenzie Phase IV	3/11/2010	3,500,000	0	3,500,000
	2373-26	5000	Valley City Water Treatment Plant	8/18/2009	9,200,000	0	9,200,000
	2373-29	5000	City of Wilrose - Crosby Water Supply	7/28/2010	1,270,000	0	1,270,000
			Subtotal Water Supply		***36,502,157***	***7,700,654***	***28,801,503***
			HB No. 1305 Permanent Oil Trust Fund				
	2373-21	5000	Burke, Divide, Williams Water District	6/23/2009	985,000	347,892	637,108
	2373-22	5000	Ray & Tioga Water Supply Association	6/23/2009	864,000	112,634	751,366
	2373-23	5000	City of Wildrose	6/23/2009	593,000	68,876	524,124
			Subtotal Permanent Oil Trust Fund		***2,442,000***	***529,402***	***1,912,598***
			Irrigation Development:				
SWC	1389	5000	BND AgPace Program	10/23/2001	194,439	58,188	136,251
SWC	AOC/IRA	5000	ND Irrigation Association	7/20/2009	100,000	50,000	50,000
SWC	1968	5000	2009-11 McClusky Canal Mile Marker 7.5 Irrigation Pr	6/1/2010	1,310,931	0	1,310,931
			Subtotal Irrigation Development		***1,605,370***	***108,188***	***1,497,182***
			General Water Management				
			Hydrologic Investigations:		***880,000***		
SWC	862	3000	Arletta Herman	4/7/2008	1,756	1,756	0
	1400/7	3000	Houston Engineering Water Permit Application Review	4/2/2009	1,325	800	525
	1400/8	3000	Houston Engineering Water Permit Application Review	6/2/2009	7,500	7,473	27
	1400/9	3000	Houston Engineering Water Permit Application Review	1/1/2010	6,759	6,759	0
	1690	3000	Mary Lou McDaniel	5/6/2009	2,375	2,375	0
	1703	3000	Neil Flaten	4/7/2008	2,982	2,982	0
	1707	3000	Neil Flaten	4/7/2008	2,286	2,286	(0)
	1714	3000	David Robbins	5/7/2009	772	772	(0)
	1761	3000	Gloria Roth	5/6/2009	750	750	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	17,340	21,668
	1395A	3000	US Geological Survey, US Dept. Of Interior Stream Ga	11/12/2009	381,980	286,485	95,495
	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		***66,350***	***44,130***	***22,220***
			Remaining Hydrologic Investigations Authority		***813,651***		
			Hydrologic Investigations Authority Less Payments				
			General Projects Obligated		***18,149,326***	***3,254,237***	***14,895,090***
			General Projects Completed		***1,471,959***	***1,471,959***	***0***
			Subtotal General Water Management		***20,501,285***	***5,077,980***	***15,423,305***

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

PROGRAM OBLIGATION

Approve By	SWC No	Dept		Initial Approved Date	Total Approved	Total Payments	*Jun-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 Feasibilitly Study	8/10/2009	342,000	0	342,000
			Subtotal		***372,000***	***0***	***372,000***
			Flood Control:				
SWC	300	5000	Baldhill Dam Flood Pool Raise	4/30/1998	92,832	6,138	86,694
SWC	849	5000	Renwick Dam Rehabilitation	5/17/2010	1,478,190	0	1,478,190
SWC	1878-02	5000	Upper Maple River Dam Project Dev & Preliminary Eng	9/29/2008	112,500	0	112,500
			Subtotal Flood Control		***1,683,522***	***6,138***	***1,677,384***
			Red River Water Supply:				
SWC	1912	5000	2007-09 (GDCD'S) Red River Valley Water Supply Pro	3/17/2008	3,000,000	2,225,824	774,176
SWC	1912	5000	2009-11 (GDCD's) RRVWSP Value Engineering Study	6/1/2010	200,000	0	200,000
			Subtotal		***3,200,000***	***2,225,824***	***974,176***
			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	15,881	***26,119***
SWC	416-07	5000	Devils Lake Outlet	2/20/2002	16,661,325	12,575,713	***4,085,612***
SWC	416-10	4700	Devils Lake Outlet Operations	8/18/2009	3,000,000	1,101,629	***1,898,371***
SWC	416-14	5000	City of Minnewaukan Flood Risk Reduction Analysis St	6/3/2010	15,000	15,000	***0***
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment Drain	8/30/2005	508,492	8,492	***500,000***
SWC	1932**	5000	Nelson Co. Emergency Pumping Peterson to Dry Run	5/23/2010	112,219	0	***112,219***
SWC	1131*	5000	Nelson County Central Hamlin Rural Flood Control	9/17/2009	8,940	0	***8,940***
SWC	1131	5000	Nelson County Channel Maintenance & Misc	9/17/2009	6,413	0	***6,413***
			Devils Lake Subtotal		***45,764,389***	***16,346,715***	***29,417,674***
SWC		***7600***	***Weather Modification***	7/1/2009	***225,000***	***0***	***225,000***
SWC	***1736***	***8000***	***Southwest Pipeline Project***	7/1/2009	***14,782,474***	***3,801,584***	***10,980,890***
SWC	***2374***	***9000***	***Northwest Area Water Supply***	7/1/2009	***10,832,918***	***1,045,713***	***9,787,205***
			TOTAL		***192,470,865***	***38,876,007***	***153,594,858***

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

GENERAL PROJECT OBLIGATIONS

Approved By	SWC No	Dept		Initial Approved Date	Total Approved	Total Payments	*Jun-10* Balance
SE	269	5000	2010 Fordville Dam Emergency Action Plan/GF CO.	3/3/2010	9,600	0	9,600
SWC	281	5000	2007-09 Three Affiliated Tribes/Fort Berthold Irrigation Study	3/23/2009	80,000	0	80,000
SWC	322	5000	2009-11 Red River Basin Mapping Initiative/Tri-College LiDAR	6/23/2009	300,000	244,596	55,404
SWC	322	5000	2009-11 Long-Term Red River Flood Control Solutions Study	6/23/2009	500,000	69,112	430,888
SWC	322	5000	ND Water: A Century of Challenge	2/22/2010	34,300	0	34,300
SWC	327	5000	2009-11 White Earth Dam EAP	8/18/2009	25,000	0	25,000
SE	394	5000	2007-09 Odland Dam Spillway Rehabilitation	8/25/2008	16,700	0	16,700
SWC	528	5000	2009 McGregor Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SE	568	5000	2008 Sheyenne River Snagging & Clearing Project	4/11/2008	5,000	0	5,000
SWC	568	5000	2009-11 Southeast Cass WRD Sheyenne River Snagging & Clearing Project	12/11/2009	165,000	0	165,000
SWC	568	5000	2009-11 SE Cass Sheyenne River Snaggin & Clearing	3/11/2010	175,473	0	175,473
SE	576	5000	2009-11 Mandan City Flood Controls Works	6/18/2010	2,000	0	2,000
SWC	620	5000	2008 Mandan Flood Control Protective Works (Levee)	9/29/2008	125,396	0	125,396
SE	642	5000	2009-11 Morton Co/Sweetbriar Dam Emergency Action Plan	5/17/2010	15,200	0	15,200
SWC	642-05	5000	2007-09 Sweetbriair Creek Dam Project	3/6/2009	683,400	88,323	595,077
SWC	847	5000	2007-09 Swan Ceek FC Diversion Ditch	6/23/2008	1,640,992	1,481,182	159,810
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 5 Emergency Action Plan	7/20/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 8 Emergency Action Plan	8/7/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan-Buffalo Detention Dam No. 12 Emergency Action Plan	10/18/2009	20,000	0	20,000
SWC	847	5000	2009-11 Swan-Buffalo Detention Dam No. 12 Flood Control Dam Safety Project	7/28/2010	114,783	0	114,783
SE	847	5000	2009-11 Absaraka Dam Safety Analysis	8/31/2009	5,719	0	5,719
SWC	847	5000	2009-11 Swan Creek Diversion Channel Improvement Reconstruction	12/11/2009	76,528	0	76,528
SWC	928/988/1508	5000	2008 Southeast Cass WRD Bois, Wild Rice, & Antelope	6/23/2008	60,000	0	60,000
SE	985	5000	2009-11 Kolding Dam Emergency Action Plan	5/29/2009	9,600	0	9,600
SWC	1068	5000	2009-11 Cass County Drain No. 12 Improvement Reconstruction	8/18/2009	500,000	0	500,000
SWC	1069	5000	2009-11 Cass County Drain No. 13 Improvement Reconstruction	8/18/2009	145,472	23,248	122,224
SWC	1070	5000	2009-11 Cass County Drain No. 14 Improvement Recon	8/18/2009	500,000	60,490	439,510
SWC	1080	5000	2007-09 Cass County Drain No. 27 Improvement Recon	10/24/2007	94,197	0	94,197
SWC	1088	5000	2009-11 Cass County Drain No. 37 Improvement Recon	8/18/2009	158,535	68,735	89,800
SWC	1093	5000	2008 Cass Co. Drain No. 45 Extension Project	3/17/2008	150,800	26,043	124,757
SWC	1131	5000	2009-11 Richland Co. Drain No. 14 Improvement Reconstruction	3/11/2010	183,364	0	183,364
SWC	1180	5000	2009-11 Richland Co. Drain No. 7 Improvement Reconstruction	3/11/2010	130,681	0	130,681
SWC	1232	5000	2009-11 Traill Co. Drain No. 13 Channel Extension Project	8/18/2009	23,575	0	23,575
SWC	1244	5000	2009-11 Traill Co. Drain No. 27 (Moen) Reconstruction & Extension	3/11/2010	500,000	0	500,000
SWC	1289	5000	2007-09 Noxious Weed McKenzie County -Sovereign	10/24/2007	7,247	0	7,247
SWC	1299	5000	200911 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	1344	5000	2009-11 Southeast Cass Sheyenne River Diversion Low Flow Channel Improven	3/11/2010	1,557,600	0	1,557,600
SE	1346	5000	2009-11 Mt. Carmel Dam Emergency Action Plan	5/5/2010	9,600	0	9,600
SWC	1378	5000	2007-11 Barnes Co. Clausen Springs Dam Construction Repair	12/11/2009	1,300,000	0	1,300,000
SWC	1401	5000	International Boundary Roadway Dike Pembina	9/21/2009	260,238	19,938	240,300
SWC	1431	5000	2009-11 US Geologoical Survey, DOI Report Describing Peak Discharge Period:	8/5/2009	20,000	0	20,000
SWC	1431	5000	2009-11 US Geological Survey - Supplemental Flood Info	3/11/2010	11,000	0	11,000
SWC	1431	5000	2007-2009 (S.B. 2020) 2009 Emergency Flood Control	4/28/2009	100,000	40,390	59,610
SWC	1438	5000	2008 Mulberry Creek Drain Partial Improv Phase II	3/17/2008	46,816	23,029	23,787
SWC	1444	5000	2009-11 City of Pembina's Flood Control FEMA Levee Certification	3/11/2010	27,156	0	27,156
SWC	1461	5000	2009-11 Pembina River Bank Stabilization Project	3/11/2010	64,383	0	64,383
SE	1471	5000	2009-11 Erie Dam Emergency Action Plan	7/24/2009	20,000	0	20,000
SWC	1509	5000	2009-11 Sheyenne River Watershed Flood Water Detention Study	7/20/2009	75,000	31,785	43,215
SWC	1515	5000	2009-11 Cottonwood Creek Dam	7/28/2010	373,440	0	373,440
SE	1535	5000	2009-2011 Lake Agassiz Resource Conservation & Development Council - Soil S	2/22/2010	1,000	0	1,000
SE	1577	5000	2009-2011 Burleigh Co - Fox Island 2010 Flood Hazard Mitigation Evaluation	8/9/2010	11,175	0	11,175
SWC	1577	5000	2009-11 Hazen Flood Control Levee (1517) & FEMA Accreditation	3/11/2010	567,700	0	567,700
SWC	1591	5000	Revision of Handbook ND Water Managers Proj	4/12/2007	14,750	0	14,750
SE	1625	5000	High Water Mark Delineation Methods & Guidelines	10/24/2007	54,048	0	54,048
SWC	1625	5000	OHWM Delineations MT/ND Border Yellowstone & Missouri	10/29/2008	75,000	0	75,000
SE	1625	5000	2009-11 Missouri River Contract - Environmental Service Bartlett & West	9/21/2009	5,900	0	5,900
SE	1625	5000	2009-11 Sovereign Lands Rules - ND Game & Fish	2/23/2010	10,000	3,213	6,788
SWC	1638	5000	2009-11 Red River Basin Non-NRCS Rural/Farmstead Ring Dike Program	6/23/2009	800,000	284,215	515,785
SWC	1657	5000	2009-11 City of Enderlin's Flood Control FEMA Levee Certification	3/11/2010	100,578	0	100,578
SWC	1705	5000	2009-11 Red River Basin Flood Control Coordinator Position	7/24/2009	36,000	0	36,000
SWC	1785	5000	2009-11 Maple River Dam EAP	8/18/2009	25,000	0	25,000
SE	1785	5000	2009-11 Sweetbriar Dam EAP	2/17/2010	15,200	0	15,200
SWC	1792	5000	2009-11 SE Cass Wild Rice River Dam Study Phase II	12/11/2009	130,000	0	130,000
SE	1808	5000	2009-11 Beaver Creek Dam Emergency Action Plan	7/14/2009	20,000	0	20,000
SE	1842	5000	2009-11 SCWRD Wild Rice River Snagging & Clearing	5/28/2009	20,000	15,669	4,331
SWC	1842	5000	2009-10 SCWRD Wild Rice River Snagging & Clearing	12/11/2009	115,000	0	115,000
SWC	18502	5000	(2008) Drought Disaster Livestock Water Supply	5/14/2008	571,747	157,134	414,613
SWC	1921	5000	Square Butte Dam No. 6/Recreational Facility	3/23/2009	882,030	0	882,030
SWC	1934	5000	2007-08 Traill County WRD Elm River Snagging	12/7/2007	24,500	0	24,500
SWC	1934	5000	2009 Elm River Snagging & Clearing Project Trial	12/5/2008	3,266	0	3,266
SWC	1941	5000	Walsh County Assessment Drain 4A Construction	9/21/2009	81,594	81,594	0
SWC	1942	5000	Walsh County Assessment Drain 10, 10-1, 10-2	9/21/2009	273,056	235,789	37,267
SE	1943	5000	2009-11 Missouri River/Oahe Delta Flood Hazard Mitigation Evaluation Project	8/10/2009	12,000	0	12,000
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 Extenstion Construction Project	8/10/2009	7,793	0	7,793
SWC	1964	5000	2009-11 Hydraulic Effects of Rock Wedges Study- UND	11/12/2009	50,000	2,409	47,591
SWC	1965	5000	2009-11 ND Silver Jackets Team Charter & Action Plan	11/12/2009	75,000	10,979	64,021
SWC	1966	5000	2009-11 City of Oxbow Emergency Flood Fighting Barrier System	6/1/2010	188,400	0	188,400

3. Bond Status Report

The Water Commission currently has eight outstanding bond issues with a principal balance of $94,270,358. Projected interest payments through fiscal year 2049 will add an additional $42,766,610 for total payments of $137,036,968.

Two of the outstanding bond issues are being repaid using Water Development Trust Fund (tobacco Settlement dollars). Theses issues have a remaining principal balance of $73,895,000. Payments are scheduled through fiscal year 2026. The 2010 Water Development revenue was $9,367,589 which was used to make the $8,372,099 2011 bond payment. Because the revenues are not projected to remain uniform through year 2025 bond payments were structured to correspond with the projected revenues. Bond payments go up when higher revenues are projected and down when lower revenues are projected. If tobacco revenues continue to come in near projections we will have adequate funding to make the bond payments through their retirement.

The bond proceeds from the first Water Development issue were used to provide $4.5 million to Southwest Pipeline for the Perkins County connection; $23.6 million for the Grand Forks flood control project; $650,000 for the Wahpeton flood control project and $150,000 for the Grafton flood control project in years 2000 through 2003. The proceeds from the second Water Development issue were used to reimburse the contract fund for expenditures incurred during the 2003-2005 biennium. Because of this virtually all of the project costs that biennium were paid for with bond proceeds. Some of the larger projects that biennium were $14.3 million for Grand Forks flood control; $9.8 million for MR&I projects; $21.6 million for the Devils Lake outlet and $6 million for Southwest Pipeline.

The remaining six issues are being repaid using revenues from the Southwest Pipeline project with the payments being made by the Southwest Water Authority. The outstanding Southwest Pipeline bonds have a remaining principal balance of $20,375,358. They have combined annual payments of approximately $1.5 million, including principal and interest. Payments are scheduled through year fiscal year 2049.

Bond Issue	Outstanding Principal	Final Payment
Water Development		
Series 2005 A	20,800,000	August 2020
Series 2005 B	53,095,000	August 2025
Total	**73,895,000**	

Southwest Pipeline		
Series 2000 A	825,000	July 2021
Series 2005 A	1,928,500	July 2045
Series 2005 B	552,000	July 2045
Series 2007 A	1,409,858	July 2047
Series 2007 B	12,655,000	July 2032
Series 2009 A	3,005,000	July 2048
Total	**20,375,358**	

APPENDIX "D"

September 1, 2010

SOUTHWEST PIPELINE PROJECT
WATER SERVICE CONTRACT

Contract No.: 1736-36
Customer Entity: **City of Stanton**

I. PARTIES

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

II. INTRODUCTION

1. The Commission is developing a water pipeline, water supply, and water distribution project known as the Southwest Pipeline Project (the "Project").

2. The Authority, created under North Dakota Century Code § 61-24.5, provides operation, maintenance, and management of the Project.

3. In 1995, the Commission entered into an agreement with the Authority transferring to the Authority the completed portions of the Project for operation, maintenance, and management (the "1995 Agreement").

4. Under North Dakota Century Code § 61-24.5-09 the Authority may enter into water service contracts to deliver and distribute water, and to collect charges for such delivery.

5. The Customer desires to enter into a water service contract, pursuant to the laws of the state of North Dakota, for a water supply from the Project for use by the Customer, for which the Customer will make payment to the Authority as set forth in this contract.

III. DEFINITIONS

The following definitions apply to this contract:

1. "Additional water" means water purchased by the Customer at a flow rate greater than the maximum flow rate specified in this contract.

2. "Base consumer price index" means the consumer price index, as defined herein, as of January 1, 1995.

3. "Capital costs" means all the costs incurred by the Commission related to construction of the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparations of construction plans and specifications, acquisitions, acquisitions

of lands, easements and rights-of-way, relocation work, and related essential legal, administrative and financial work. "Capital costs" shall not include the Customer distribution system costs.

4. "Consumer price index" hereinafter referred to as "CPI" means the consumer price index for all urban consumers, which is a monthly statistical measure of the average change in prices in a fixed market basket of goods and services. The CPI is based on the prices of food, clothing, shelter, fuel, drugs, transportation fares, doctors' and dentists' fees, and other goods and services that people buy for day-to-day living.

5. "Customer" means the city of Stanton.

6. "Customers" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Authority for the purchase of water from the Project.

7. "Customer distribution system" means all infrastructure from the point of delivery that extends onto the Customer's property, including any storage, clearwell, pump, service line, distribution line, appurtances and all related items intended for the distribution of water for domestic, business, industrial and public use.

8. "Customer distribution system costs" means all costs for and related to the Customer distribution system.

9. "Domestic use" means the use of water by an individual, or by a family unit or household, for personal needs and for drinking, washing, sanitary, and culinary uses.

10. "Estimated water rate for operation, maintenance, and replacement" means the estimated rate per each one thousand (1,000) gallons of water for operation, maintenance and replacement costs, for establishing and maintaining operating reserves of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Authority estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand (1,000) gallon units of water which the Authority estimates it will sell to its customers during the same year.

11. "Manager" means the person employed by the Authority to be in charge of and supervise the Authority and its powers and duties.

12. "Maximum flow rate" means the maximum number of gallons of water that the Authority may deliver to the Customer during any one minute time period.

13. "Minimum annual water purchase" means the minimum gallons of water which the Customer must purchase and pay for during a year.

14. "Operation, maintenance, and replacement costs" means the cost for operation and maintenance, for establishing and maintaining operating reserves of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. Operation, maintenance, and replacement costs shall be referred to in this contract as OM&R costs.

15. "Point of delivery" means the location where the Project delivers water to the Customer, from which point the Customer is responsible for conveyance of the water for its intended use.

16. "Potable water" means water fit for human consumption.

17. "Unallocated capacity" means the capacity of the Project which is not allocated and contractually committed to customers by virtue of raw and/or potable water service contracts.

18. "Water rate for capital costs" means the rate per each one thousand (1,000) gallons of water to be paid by the customers for capital costs of the Project.

19. "Year" means the period from January 1 through December 31, both dates inclusive.

IV. TERM OF CONTRACT

1. This contract shall remain in effect for forty (40) years after the date of the first water delivery to the Customer, unless terminated sooner by mutual agreement of the parties.

2. Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years from the date of renewal.

V. WATER SERVICE: DELIVERY OF WATER

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

1. All water supplied to the Customer shall be potable treated water that meets water quality standards of the North Dakota Department of Health.

2. The Customer hereby agrees to purchase and make payment for not less than 100,000 gallons per year (minimum annual water purchase) during the entire term of this contract.

3. The maximum flow rate is 75 gallons per minute total for all connections to the Customer.

4. The Authority will deliver to the Customer any water which the Customer desires to purchase, at a flow rate not to exceed the maximum flow rate specified in this contract.

The Authority is not obligated to supply water at a greater flow rate than the maximum flow rate specified in this contract. If there is unallocated capacity in the Project to the Customer's point of delivery, the Authority may allow delivery of additional water at a flow rate greater than the maximum flow rate specified in this contract. If the Customer desires to secure a contractual right to a greater maximum flow rate than specified in this contract, this contract must be amended in writing to provide for such a greater maximum flow rate. At such time the Authority may or may not require an increase in the minimum annual water amount.

5. The flow rate set forth is provided to meet the Customer's needs on a constant flow basis. Should the Customer request or require demand flow service, the Customer may request such service from the Authority. As consideration for receiving this type of service, the Customer agrees to pay, as the water rate for capital costs, an amount equal to two (2) times the water rate for capital costs paid for constant flow service. If the Customer desires to secure a contractual right to demand flow service, this contract must be amended to provide for demand flow service.

6. The Authority will supply water to the Customer at the point of delivery at a pressure range of 20 psi to 35 psi. If the Customer requests that the Authority supply pressure outside the range of 20 psi to 35 psi, and the Authority determines that it can provide the requested pressure, the Customer shall pay the Authority the cost incurred by the Authority in providing the requested pressure.

7. The Customer is responsible for and shall pay all Customer distribution system costs.

8. No liability shall accrue and the Customer agrees it shall be fully responsible and shall not be entitled to any remedy arising from any water shortages or other interruptions in water deliveries resulting from accident to or failure of the Project. The Customer's duties under this contract shall not be reduced or altered by reason of such shortages or interruptions.

9. The Authority has the right during times of water shortage, from any cause, to interrupt water service to the Customer.

10. The Authority may temporarily discontinue or reduce the amount of water supplied to the Customer for the purpose of maintaining, repairing, replacing, investigating or inspecting any of the facilities and works necessary for supplying water. To the extent possible, the Authority will give reasonable advance notice of any temporary discontinuance or reduction. No advance notice is required in case of an emergency. In no event shall any liability accrue against the Authority, the Commission, or any of their officers, agents, or employees for any damage or inconvenience direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

11. The Commission will pay for and install, at the point of delivery, a meter and any other equipment necessary to measure the quantity of water supplied to the Customer ("metering equipment"). The Commission will provide an underground prefabricated

steel meter vault ("vault") for purposes of controlling flow and measuring the quantity of water supplied to the Customer. The vault shall include an access hatch and steel vent pipes that terminate three to five feet above ground. The Customer shall dedicate an area for the installation, operation, maintenance, and repairs of the vault and shall provide vehicular access to the vault. Upon installation, the Authority shall operate and maintain the metering equipment. If the Customer believes the measurement of water delivered to be in error, it shall present a written claim to the Authority, either in person or by certified mail. A claim presented after a payment has become delinquent does not prevent the Authority from discontinuing service to the Customer. The Customer shall continue to make payments for water service after a claim has been presented; however, the payment will be under protest and will not prejudice the Customer's claim. After the Customer presents its claim and advances the cost of calibration, the Authority will calibrate the meter. If the meter is found to over-register by more than two percent (2%) of the correct volume, the Authority will refund the Customer's advance for the cost of calibration and the readings for that meter shall be corrected for the twelve (12) months preceding the calibration by the percentage of inaccuracy determined by the calibration. The amount of any overpayment as a result of over-registration shall be applied first to any delinquent payments for water service, and at the option of the Customer, the Authority shall refund or credit the Customer upon future payments for water service. If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Authority and the Customer agree upon a different amount. The Customer and the Authority shall have access to the meter at all reasonable times for the purpose of verifying its readings.

12. The Customer shall be responsible for the control and use of all water in the Customer distribution system and shall pay all costs related to service, maintenance, and repair of the Customer distribution system. The Customer is responsible for the control, distribution, and use of water delivered under this contract, and the operation, maintenance and replacement of the Customer distribution system.

13. The point of delivery under this contract is a single connection adjacent to the Customer's water treatment plant located in Section 6, Township 144 North, Range 84 West in the vicinity of Harmon Avenue and Lyon Street. The Customer requested a single connection to the Customer's water treatment plant with the intent to fill its clearwell with potable water from the Project and the Customer is responsible to pump the water to its elevated tank. Any connection other than the single connection adjacent to the Customer's water treatment plant must be approved, in writing, by the Authority and by the Commission and all costs related to any other connection, including all appurtenant piping, valves and controls shall be paid by the Customer. Although the Project is installing the connection at the Customer's water treatment plant, the point of delivery, for the purpose of this contract, is at the prefabricated meter vault. The Customer is responsible for operation and maintenance of the connection beyond the meter vault isolation valve. The Project's responsibility for operation and maintenance ends at the meter vault isolation valve.

VI. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER

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

1. Ninety (90) days prior to completion of the Project to the point of delivery, the Commission shall, via certified mail, notify the Customer of the date when water will be first available to the Customer. The Customer will make payments for water and water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the Customer, whichever is later in time.

2. The Customer's monthly water service payment is the sum of the following:

   a. The Customer's proportionate share of the OM&R costs, as determined by the Authority; plus

   b. The Customer's payment for capital costs, as determined by the Authority.

3. The Customer agrees to use water from no other source than the Project in the Customer distribution system during the term of this contract except if water from other sources is needed for emergencies such as significant fire events or interrupted or reduced service from the Project.

4. The Customer's proportionate share of the Project OM&R costs (for calculating the Customer's monthly payment) will be determined as follows:

   a. Prior to February 1 of each year, the Authority shall adopt a budget for OM&R for the Project for the immediate ensuing year. The Authority may include in such budget an amount to be accumulated and maintained in a reserve fund for the purpose of replacing Project works and for extraordinary maintenance of Project works. The amount of the reserve fund shall be contingent upon approval by the Commission. The Authority shall deposit and maintain the reserve fund in a separate account in accordance with the laws of the state of North Dakota.

   b. The Authority will then estimate the total annual water sales for the immediate ensuing year, and calculate the "estimated water rate for operation, maintenance, and replacement" for the Project by dividing the amount of the estimated budget for OM&R for the immediate ensuing year by the estimated total annual water sales for such ensuing year.

   c. The monthly payment to be made by the Customer to the Authority for OM&R shall be determined by multiplying the amount of water actually delivered to the Customer for each month times the estimated water rate for OM&R.

d. At the end of each year, the Authority shall prepare a statement of the year's actual OM&R costs.

e. The Authority will then determine the adjustment to be applied to the Customer's OM&R payment for the previous year. The adjustment will be calculated by dividing the amount of water delivered to the Customer by the Authority during the previous year by that year's total annual water sales to determine the Customer's proportionate share of the OM&R costs. This fraction will then be multiplied by the actual total cost for OM&R for the previous year, which shall be the amount of the Customer's proportionate share of OM&R costs for the previous year. The Authority shall then subtract this amount of the Customer's proportionate share of OM&R costs for the previous year from the total amount actually paid by the Customer for OM&R during the previous year, which is the adjustment to be applied to the Customer's water service payments for the next year. If the Customer's proportionate share of OM&R costs for the previous year is more than the total amount actually paid by the Customer during the previous year for OM&R, the difference shall be owed by the Customer to the Authority. Any such amount due will be added to the Customer's monthly payments for water for the next four (4) months of the immediate ensuing year in equal monthly installments. If the Customer's proportionate share of OM&R costs for the previous year is less than the total amount actually paid by the Customer during the previous year but the Customer has delinquent payments for water service, the remaining sum, if any, shall be used to satisfy the delinquencies, but if there are no delinquencies the sum will be credited against the Customer's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.

5. The Customer's share of the Project's capital costs (for calculating the Customer's monthly payment) will be determined as provided below.

a. The base rate for capital costs for constant flow shall be seventy-two cents ($0.72) per each one thousand (1,000) gallons of water.

b. The Commission shall have the authority to adjust the base water rate for capital costs annually in accordance with the increase or the decrease in the consumer price index CPI. The formula for determining the adjustment to the water rate for capital costs for each year is as follows: The CPI for September 1 of each year shall be divided by the base CPI of January 1, 1995, which is 448.4 (1967=100). The result of this calculation shall be reduced by one (1), and then multiplied by the base water rate for capital costs. The product of this formula is the adjustment to the water rate for capital costs and shall be used to add to the base water rate for capital costs for the next year. Notwithstanding the foregoing basis for adjusting the water rate for capital costs, the Commission shall have the authority to decrease the adjustment to the water rate for capital costs, as it deems

appropriate and necessary, after considering data on changes to the median incomes of Project water customers, substantial increases in operation, maintenance and replacement costs, or other factors.

c. The amount of the Customer's monthly payment to the Authority for capital costs shall be calculated by multiplying the water rate for capital costs times the amount of water actually delivered to the Customer each month.

6. The Authority shall read the metering equipment at the point of delivery and, not later than the first (1st) day of each month, shall send to the Customer, at the address shown on the signature page of this contract, an itemized statement of the payment due from the Customer for water service for the preceding month.

7. The Customer shall pay the Authority for water service under this contract, for OM&R, and for capital costs, by sending payment to the Authority, at the address shown on the signature page, not later than the fifteenth (15th) day of each month. Payments sent after the fifteenth (15th) day of each month shall result in the Customer being in default. If the Customer is in default, the Authority, at its sole discretion, may suspend delivery of water through the Project during the period of default. During any period of default, the Customer remains obligated to make all payments required under this contract. Any action of the Authority shall not limit or waive any remedy provided by this contract or by law for the recovery of money due or which may become due under this contract.

8. A penalty of one percent (1%) per month will be imposed upon all payment amounts that are in default.

9. The Customer's failure or refusal to accept delivery of water from the Authority does not relieve the Customer from its obligation to make payments in accordance with this contract.

VII. GENERAL PROVISIONS

1. The Authority, contingent upon the approval of the Commission, may adopt such rules and regulations as it deems appropriate to carry out and to govern the administration of this contract. Such rules and regulations shall not be inconsistent with this contract. The Customer shall comply with such rules and regulations.

2. The use of any remedy specified herein to enforce this contract is not exclusive and does not prohibit the use of, or limit the application of, any other remedy available by law.

3. This contract may be amended any time by mutual agreement of the parties in writing, except insofar as any proposed amendments are in any way contrary to applicable law.

4. Any waiver by any party of its rights with respect to a default or any other matter arising in connection with this contract does not waive any other default or matter.

5. The Customer may not assign or otherwise transfer or delegate any right or duty without the express written consent of both the Commission and the Authority.

6. The Customer understands and agrees that the Authority and the Commission will give preference to potable water for municipal, domestic, and rural water needs before executing water service contracts or allowing additional water purchases.

7. This contract is governed by and construed in accordance with the laws of the state of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota, and the Customer consents to jurisdiction of state courts.

VIII. TERMINATION

1. This contract may be terminated only by mutual written agreement of the parties.

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

IX. MERGER

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

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

~~Dale Frink, Chief Engineer and Secretary~~
Todd Sando
State Engineer and Secretary

Date _____

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

~~Loren Myrdal, Chairman~~
Larry Bares, Chairperson

Date 8-2-2010

CITY OF STANTON
BOX 156
STANTON, ND 58571
By:

Title: Council Pres

Date 6-28-10

CITY OF STANTON

By:

City Auditor

Date 6-28-10

September 1, 2010
July 2, 2010

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

- The LAWA board met on June 8. The decisions made during preliminary design and the resulting impacts on the cost of the project were presented. The next meeting of the LAWA board is scheduled for September 14.

Pre-final Design Effort

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

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

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

The class 3 cultural and historic properties field review has been completed for the entire right-of-way and there were no significant findings.

The team is currently completing the reports on the field work and drafting permit applications for all of the permits required for the project.

Operational Plan: The technical memorandums supporting the operational plan are currently being reviewed. They are estimated to be complete by mid-July. The operational plan 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.

Preliminary Design: Work on engineering evaluations regarding the preliminary design is approximately 98% complete. Final deliverables are scheduled to be completed by mid-July.

Utility potholing, soil boring and supplemental surveying has been completed.

State Agencies

- The State Water Commission approved a request for cost share funding for the value engineering process on June 1.

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

Dave Koland, General Manager

August 11, 2010

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

- The LAWA board met on June 8. The decisions made during preliminary design and the resulting impacts on the cost of the project were presented. The next meeting of the LAWA board is scheduled for September 14.

Pre-final Design Effort

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

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

Permitting and Environmental Services: Notice on the determination of wetlands under the jurisdiction of the Corps of Engineers has been provided to Garrison Diversion. These wetlands, along with the other isolated wetlands, have been field verified. The wetlands under easement by the US Fish and Wildlife Service have been field verified. The remaining field work is to survey the wetlands under easement to develop contour maps for the permit applications. The field survey is scheduled to be completed by the end of August.

The class 3 cultural and historic properties field review has been completed for the entire right-of-way, and there were no significant findings.

The team is currently completing the reports on the field work and drafting permit applications for all of the permits required for the project. The Wetland Delineation Report has been completed.

Operational Plan: The technical memorandums supporting the operational plan have been completed. The operational plan and the supporting technical memorandums will be sent to the work group for written comments by mid-August. 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.

Preliminary Design: Work on engineering evaluations regarding the preliminary design is 100% complete. Final deliverables have been delivered.

Utility potholing, soil boring and supplemental surveying has been completed.

Value Engineering Review

- The firm of Robinson, Stafford& Rude, Inc. facilitated the value engineering review. A team of engineers, contractors, environmental specialists, maintenance specialists and federal and state agencies completed a week-long review of the project. The results will be delivered in mid-August to the design team for their response.

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

Dave Koland, General Manager