

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

March 28, 2011

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on March 28, 2011. Governor Jack Dalrymple, Chairman, called the meeting to order at 1:30 P.M., and requested Todd Sando, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Dalrymple announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

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

STATE WATER COMMISSION MEMBER ABSENT:

Larry Hanson, Member from Williston

OTHERS PRESENT:

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

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF DRAFT MINUTES
OF DECEMBER 10, 2010 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the December 10, 2010 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the December 10, 2010 State Water Commission 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 January 31, 2011 reflecting 79 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 \$202,073,572, leaving a balance of \$1,940,627 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 \$110,490,483 and are currently \$31,342,295, or 39.6 percent above budgeted revenues.

Deposits into the Water Development Trust Fund (tobacco settlement) 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.

**MULBERRY CREEK DRAIN 2011
IMPROVEMENT RECONSTRUCTION
PROJECT, PHASE III -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$226,118)
(SWC Project No. 1438)**

On March 22, 2006, the State Water Commission approved a request from the Cavalier County Water Resource District for state cost participation in the Mulberry Creek drain improvement and the reconstruction project as a rural flood control project at 35 percent of the eligible costs not to exceed an allocation of \$88,107 in the 2005-2007 biennium (H.B.

1021). Phase I of the project was originally estimated to cost \$251,735. This is a rural flood control project designed to control floodwaters by providing for the removal of runoff.

Mulberry Creek drain was originally constructed in 1979 and is approximately 31 miles in length. The headwaters of the drain are located approximately 5 miles southeast of Langdon and flows in a northerly direction to the Canada border. Mulberry Creek empties into the Pembina River at a point approximately 4 miles north of the United States-Canada border. The District is reconstructing the drain in phases as funding permits.

On March 17, 2008, the State Water Commission conditionally approved an additional state cost participation for Phase II as a rural flood control project at 35 percent of the eligible costs not to exceed an allocation of \$61,920 in the 2007-2009 biennium (S.B. 2020).

The project engineer's revised cost estimate for Phase I was \$325,038, of which \$322,938 was determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$113,028). The increased costs resulted from excavation and sloping to reconstruct an additional mile of the drain. On December 5, 2008, the State Water Commission approved an additional allocation of \$24,921 (eligible costs of \$113,028 less \$88,107 approved on March 22, 2006) from the 2007-2009 biennium (S.B. 2020) for Phase I.

A request from the Cavalier County Water Resource District was presented for the State Water Commission's consideration for state cost participation for improvement reconstruction of a portion of Mulberry Creek drain, Phase III. Approximately seven and one-half miles of drain improvements will be constructed between the south boundary of Section 12, Township 162 North, Range 61 West, and the east boundary of Section 8, Township 161 North, Range 60 West.

The project engineer's cost estimate for Phase III is \$575,315, of which \$502,484 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$226,118). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control project is allowed subject to satisfaction of the required drain permit and receipt of the final project engineering plans.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an additional allocation of \$226,118 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Mulberry Creek drain improvement reconstruction project, Phase III. The Commission's affirmative action would increase the total state cost participation to \$401,066.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an additional allocation of \$226,118 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Cavalier County Water Resource District for the Mulberry Creek drain improvement reconstruction project, Phase III. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plans.

This action increases the total state cost participation to \$401,066 for the Mulberry Creek drain improvement reconstruction project.

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

***PEMBINA COUNTY DRAIN NO. 55
IMPROVEMENT RECONSTRUCTION 2011 -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$88,868)
(SWC Project No. 1161)***

A request from the Pembina County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the improvement reconstruction of a portion of Pembina County Drain No.

55. The proposal consists of reconstructing the last mile of the drain and the outlet to effectively remove sheetwater runoff from agricultural land.

Pembina County Drain No. 55 was constructed in 1949 and is approximately 4 miles in length. The proposed improvement project involves reconstructing the lower portion of the drain in Sections 35 and 36, Township 159 North, Range 51 West. The drain outlets into the Red River in Section 36. The channel will be improved by reconstructing the original 8-foot bottom width to a 16-foot bottom width. The depth of the drain will be maintained as originally designed establishing a workable grade. The right side slope will be improved from the original 2:1 design to 3:1. The District is also working with the Burlington Northern Railroad to resolve issues relating to the railroad crossing in Section 35.

The project engineer's cost estimate is \$287,034, of which \$197,484 is determined as eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$88,868). Maintenance funds will be used to finance the local share of the project costs. Pursuant to the State

Water Commission's cost share policy, conditional approval of a rural flood control project is allowed subject to satisfaction of the required drain permit, and receipt of the final project engineering plans. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$88,868.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$88,868 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Pembina County Drain No. 55 improvement reconstruction 2011 project.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$88,868 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Pembina County Water Resource District to support the Pembina County Drain No. 55 improvement reconstruction 2011 project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plans.

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

**SHEYENNE DIVERSION EXTERIOR
PUMP STATION 2011 INSTALLATION -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$60,750)
(SWC Project No. 1344)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation to install a pump station that will discharge agricultural runoff into the Sheyenne diversion channel.

The project consists of installing a PTO-driven pump to accommodate draining of agricultural lands on the exterior of the Sheyenne diversion channel by allowing them to discharge into the channel when the existing gravity flow is blocked. The state permitting requirements are currently in review.

The Sheyenne and Horace diversion channels are being improved in 2011 by removing sediment, armoring the channel bottom with a filter band and riprap, placement of riprap to minimize future erosion of the low-flow channel, and stabilizing the slopes to allow the improved channel to better accommodate the agricultural discharge.

The project engineer's total estimated cost of the project is \$165,000, of which \$135,000 is determined to be eligible for cost share participation as a flood control project at 45 percent of the eligible costs (\$60,750). Although pump stations for agricultural drainage are considered as a rural flood control ineligible cost share item, this project is considered as a function of the flood control Sheyenne diversion low-flow channel improvements and reconstruction project. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$60,750.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$60,750 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the 2011 installation of the Sheyenne diversion exterior pump station.

It was moved by Commissioner Berg and seconded by Commissioner Thompson that the State Water Commission approve conditional state cost participation as a flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$60,750 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 2011 installation of the Sheyenne diversion exterior pump station. This action is contingent upon the availability funds, satisfaction of the permit requirements, and approval of final engineering plans.

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

**CITY OF VELVA 2011 FLOOD
CONTROL LEVEE SYSTEM
CERTIFICATION ANALYSIS -
APPROVAL OF STATE COST
PARTICIPATION (\$102,000)
(SWC Project No. 347)**

A request from the City of Velva was presented for the State Water Commission's consideration for state cost participation for a Federal Emergency Management Agency (FEMA) levee system evaluation for the Souris River flood control improve-

ments. In accordance with the National Flood Insurance Program (NFIP) regulations, communities seeking recognition of a levee system as providing protection on NFIP maps must provide data and documentation demonstrating compliance with regulations set forth in the Code of Federal Regulations (CFR) in Title 44, Chapter 1, Section 65.10. Once compliance with CFR has been completed, the levee system will be accredited on NFIP maps reflecting the appropriate risk zones for levee-impacted areas. Accreditation is not a guarantee or warranty of performance of the levee system during a flooding event, it is a determination that the levee system meets the minimum design, operation, and maintenance standards set forth in the regulations. A letter of agreement with FEMA was executed by the City of Velva on September 11, 2009 to label the levee as a Provisionally Accredited Levee (PAL). The levee system evaluation must be completed prior to September 11, 2011.

The flood control project improvements on the Souris River, Velva, North Dakota, were authorized under the provisions of the Flood Control Act (Public Law 91-611) and approved on December 31, 1970. The improvements were completed in 1984 and includes about 1.94 miles of earthen levees, seven emergency closures, raising a portion of Prospect Avenue, and a 6,500-foot channel modification of the Souris River.

The total estimated cost of the engineering analysis is \$206,000, of which \$170,000 is determined as eligible for state cost participation of 60 percent (\$102,000). The request before the State Water Commission is for a 60 percent state cost participation in the amount of \$102,000.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation at 60 percent of the eligible costs, not to exceed an allocation of \$102,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Velva for their 2011 flood control levee system certification analysis.

It was moved by Commissioner Foley and seconded by Commissioner Goehring that the State Water Commission approve state cost participation at 60 percent of the eligible costs, not to exceed an allocation of \$102,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Velva to support their 2011 flood control levee system certification analysis. This action is contingent upon the availability of funds.

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

WALSH COUNTY LEGAL ASSESSMENT DRAIN NO. 71 AND LATERAL 71-1 2011 CONSTRUCTION PROJECT - CONDITIONAL APPROVAL OF STATE COST PARTICIPATION (\$304,141) (SWC Project No. 1969)

A request from the Walsh County Water Resource District was presented for the State Water Commission's consideration for state cost participation to construct Walsh County Legal Assessment Drain No. 71 and Lateral 71-1. The proposed project consists of constructing a five-mile long drain in Section 14, Township 158 North, Range 53 West, and a five-mile long lateral in Section 12, Township 158 North, Range 53 West to address sheetwater runoff from cropland.

The drain and lateral will be constructed with a maximum cut of 4.2 feet, 3:1 side slopes, and an 8-foot bottom width. The drain is designed for a 10-year event and has a drainage area of approximately 6,920 acres. It is anticipated that construction will be completed by December of 2011.

The project engineer's cost estimate is \$804,869, of which \$675,869 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$304,141). The proposed project was submitted for conditional approval pending an assessment vote, which is scheduled for the spring of 2011, and satisfaction of SWC drain permit No. 3754, which is being processed. The State Water Commission's cost share policy provides for conditional approval of rural flood control projects subject to satisfaction of the conditions. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$304,141.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$304,141 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B 1020), for the Walsh County Legal Assessment Drain No. 71 and Lateral 71-1 2011 construction project.

It was moved by Commissioner Goehring and seconded by Commissioner Vosper that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$304,141 from the funds appropriated to the State Water Commission

in the 2009-2011 biennium (H.B 1020), to the Walsh County Water Resource District to support the Walsh County Legal Assessment Drain No. 71 and Lateral 71-1 2011 construction project. This action is contingent upon the availability of funds, a positive assessment vote, satisfaction of the required permits, and receipt of the final engineering plans.

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

**WALSH COUNTY LEGAL
ASSESSMENT DRAIN NO. 72
2011 CONSTRUCTION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$144,807)
(SWC Project No. 1970)**

A request from the Walsh County Water Resource District was presented for the State Water Commission's consideration for state cost participation to construct the Walsh County Legal Assessment Drain No. 72. The proposed project consists of constructing a six and one-half

mile long drain in Section 15, Township 158 North, Range 53 West to reduce flood damage to agricultural properties by removing sheetwater runoff from cropland.

The proposed drain will be constructed with a maximum cut of 3.5 feet, 3:1 side slopes, and an 8-foot bottom width. The drain is designed for a 10-year event with a drainage area of approximately 2,478 acres. It is anticipated that construction will be completed by December of 2011.

The project engineer's cost estimate is \$418,293, of which \$321,793 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$144,807). The proposed project was submitted for conditional approval pending an assessment vote, which is scheduled for the spring of 2011, and satisfaction of SWC drain permit No. 3751, which is being processed. The State Water Commission's cost share policy provides for conditional approval of rural flood control projects subject to the satisfaction of conditions. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$144,807.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$144,807 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B 1020), for the 2011 Walsh County Legal Assessment Drain No. 72 construction project.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$144,807 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B 1020), to the Walsh County Water Resource District to support the 2011 Walsh County Legal Assessment Drain No. 72 construction project. This action is contingent upon the availability of funds, a positive assessment vote, satisfaction of the required permits, and receipt of the final engineering plans.

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

***WILD RICE RIVER 2011 SNAG
AND CLEAR PROJECT, REACH 2
(RICHLAND COUNTY) - APPROVAL OF
STATE COST PARTICIPATION (\$47,500)
(SWC Project No. 1842)***

A request from the Richland County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear the Wild Rice River, Reach 2. On December

10, 2010, the State Water Commission approved an allocation of \$33,500 for Reach 1, which is anticipated for completion in April of 2011.

The proposed snagging and clearing project will consist of the removal of log jams and other woody debris. The proposed work will include the removal of all fallen trees in the channel or in danger of falling in the channel, driftwood, snags, and loose stumps and trunks in Sections 12 and 13, Township 131 North, Range 51 West, and Sections 7, 17, and 18, Township 131 North, Range 50 West.

The project engineer's cost estimate is \$95,000, of which all is determined to be eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$47,500). Maintenance funds will be used to finance the local share of the project. The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$47,500.

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 \$47,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Wild Rice River (Richland County) 2011 snag and clear project, Reach 2.

It was moved by Commissioner Olin and seconded by Commissioner Thompson 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 \$47,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Richland County Water Resource District to support the Wild Rice River 2011 snag and clear project, Reach 2. This action is contingent upon the availability of funds.

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

***NDSU-WILLISTON RESEARCH
EXTENSION CENTER - APPROVAL
OF ADDITIONAL STATE COST
PARTICIPATION (\$60,050)
(SWC FILE PS/IRR/NES)***

On May 1, 2002, the State Water Commission approved a request from the North Dakota State University-Williston Research Extension Center for state cost participation of 40 percent of the eligible costs not to exceed an allocation

of \$239,500 for the pumping, conveyance, and distribution infrastructure related to the development of an irrigation research facility in Nesson Valley in Williams county.

The project consists of 160 acres on which multi-discipline research is carried on by several entities including the Williston Research Extension Center (WREC), NDSU Agriculture & Biosystems Engineering Department, Montana State University Eastern Agricultural Research Center, and USDA-ARS Northern Plains Laboratory in Sidney, Montana.

The proposal from the North Dakota State University to enhance the irrigation research efforts at the Williston Research Extension center was presented for the State Water Commission's consideration for state cost participation. The funds will be used to: 1) purchase and install a variable rate irrigation control instrumentation package on a third linear move sprinkler system for the NDSU Nesson Valley Irrigation Research and Development project; 2) purchase and install a Valley Basestation 2 on three linear irrigation systems to remotely monitor irrigation status; and 3) purchase and install a drip irrigation system to support horticultural research carried on at the Williston Research Extension Center. The estimated total project cost is \$120,100. The request before the State Water Commission is for a 50 percent state cost participation for irrigation development not to exceed an additional allocation of \$60,050.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation as an irrigation project at 50 percent of the eligible costs, not to exceed an additional allocation of \$60,050 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to support the enhancement of research efforts at the Williston Research Extension Center. The Commission's affirmative action would increase the total state cost participation to \$299,550.

It was moved by Commissioner Goehring and seconded by Commissioner Olin that the State Water Commission approve state cost participation as an irrigation project at 50 percent of the eligible costs, not to exceed an additional allocation of \$60,050 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to North Dakota State University to support the enhancement of research efforts at the Williston Research Extension Center. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$299,550 for the North Dakota State University-Williston Research Extension Center.

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

***TRAILL COUNTY DRAIN NO. 28 2011
EXTENSION AND IMPROVEMENTS -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$336,007)
(SWC Project No. 1245)***

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for cost share participation in their project to extend and improve a portion of Traill County Drain No. 28. The drain

will be extended into Sections 25, 26, and 27, Hillsboro Township. Because the project is located adjacent to the Red River, it will serve to decrease flooding on the main stem of the Red River, and accelerate the drainage of the local water ahead of the main stem flood peak which will empty the channel to provide for additional storage.

The improvement reconstruction will be located in Sections 31, 32, and 33, Herberg Township. The proposed improvements and extension will be constructed with a bottom width of 10 feet, 4:1 side slopes, and a maximum cut of 4 feet. Eligible project work consists of culvert installations and riprap at crossings, excavation, spoil bank leveling, and seeding.

The project engineer's estimated cost is \$1,630,000, of which \$746,683 is determined to be eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$336,007). The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$336,007.

It was the recommendation of Secretary Sando that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$336,007 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the 2011 extension and improvements reconstruction of Traill County Drain No. 28.

It was moved by Commissioner Vosper and seconded by Commissioner Berg that the State Water Commission approve conditional state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$336,007 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the 2011 extension and improvements reconstruction of Traill County Drain No. 28. This action is contingent upon the availability of funds, satisfaction of the required permits, and receipt of the final engineering plans.

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

Cost share assistance was initially requested for improvements in Sections 34 and 35, Herberg Township, Traill County. According to Drain Permit No. 2675, the proposed work is the same dimensions of the improvement reconstruction project completed in 1994 and, therefore, it was determined to be operations and maintenance which is not considered eligible for state cost assistance.

Representatives from the Traill County Water Resource District requested an audience before the State Water Commission to provide technical information and seek reconsideration of the eligibility of the work in Sections 34 and 35 of Herberg Township for state cost participation as an "improvement" to the existing drain rather than "operations and maintenance" to the existing drain. The characteristics of the proposed project work includes a shifting of the channel alignment to provide increased stability of the road slope; flattening of the field slope to provide a stable slope to minimize erosion; widening of the channel bottom; and increasing the hydraulic capacity of the new channel. Governor Dalrymple directed the secretary to the State Water Commission and the staff to revisit the issue.

STATE WATER COMMISSION COST SHARE POLICY, PROCEDURE, AND GENERAL REQUIREMENTS - APPROVALS RELATING TO RING DIKES COST SHARE (SWC Project No. 1753)

The State Water Commission's cost share policy committee and others met on March 28, 2011. Items of discussion and recommendations included: general review of the cost share policy, storm water management projects, and the ring dike policies.

The Commission's ring dike policy and the Natural Resources Conservation Service (NRCS) Environmental Quality Incentive Program (EQIP) were discussed. For those landowners who choose to build a ring dike under the NRCS EQIP program, the cost share policy committee agreed to provide cost share assistance of 20 percent of the NRCS's construction payment for those ring dikes that meet the Commission's design elevation criteria.

The committee decided to remove the current requirement that all ring dikes be required to have a culvert and flap gate installed for internal drainage. It will now be the landowner's responsibility on how they choose to deal with internal drainage. Although no longer required, culverts and gates installed for internal drainage will be considered eligible costs. All other methods to address internal drainage will remain ineligible for cost share.

The following recommendation was presented for the State Water Commission's consideration to modify the Cost Share Policy, Procedure, and General Requirements, Projects Eligible for Cost Share, I. Rural Flood Control Projects, B. Ring Dikes, to include the following language: "Landowners enrolled in the Natural Resources Conservation Service's Environmental Quality Incentive Program (EQIP) who intend to construct rural/farmstead ring dikes, which comply with the State Water Commission's elevation design criteria, are eligible for a cost share reimbursement of 20 percent of the NRCS construction payment."

The State Water Commission members concurred with the committee recommendation, and also directed the secretary to the Commission and the staff to review those requests that have been submitted to the State Water Commission since January 1, 2010 for cost share eligibility.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the Cost Share Policy, Procedure, and General Requirements (Projects Eligible for Cost Share, I. Rural Flood Control Projects, B. Ring Dikes), be modified as recommended, and that the secretary to the Commission and the staff review those requests that have been submitted to the State Water Commission since January 1, 2010 for cost share eligibility.

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

***INTERNATIONAL BOUNDARY ROADWAY
DIKE (PEMBINA COUNTY) -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$13,000)
(SWC Project No. 1401)***

On August 20, 2010, the North Dakota State Water Commission was served with a Third Party Claim by the Municipalities of Rhineland and Stanley seeking contribution and indemnity from the third parties for their alleged actions (along

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

Because the court is located in Winnipeg, Colin MacArthur and John Martens, solicitors with the Canadian law firm of Aikins, MacAulay & Thorvaldson, LLP, have been representing the State Water Commission (and Pembina County, Cavalier County Water Resource District, and several individuals) in preliminary motions to get the State Water Commission dismissed from the lawsuit filed against it as a third-party defendant. A hearing was held on the matter on February 3, 2011.

The initial cost estimate received from the solicitors for this case was \$30,000, which was approved by the State Water Commission on September 1, 2010. The solicitors have submitted a billing for \$35,776.30 and estimate approximately an additional \$5,000 in fees to conclude the case, assuming there is no appeal. A request was presented for the State Water Commission's consideration for an additional \$13,000 (payment for the current billing and the remainder of the anticipated bill for the case).

It was the recommendation of Secretary Sando that the State Water Commission approve an additional allocation not to exceed \$13,000 for the International boundary roadway dike lawsuit. The Commission's affirmative action would provide a total state cost participation of \$43,000.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve an additional allocation not to exceed \$13,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 2010) for the International boundary roadway dike lawsuit. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$43,000 for the International boundary roadway dike lawsuit.

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

***SAFE DRINKING WATER ACT -
APPROVAL OF PROJECT
PRIORITY LIST IN FY 2011
INTENDED USE PLAN,
DATED MARCH 7, 2011
(SWC File AS/HEA)***

The Drinking Water State Revolving Loan Fund was authorized by Congress in 1996 under the Safe Drinking Water Act with the intention of assisting public water systems in complying with the Act. Funding in North Dakota for public water systems is in the form of a loan program

administered by the Environmental Protection Agency through the North Dakota Department of Health. North Dakota Century Code ch. 61-28.1, Safe Drinking Water Act, gives the Department the powers and duties to administer and enforce the Safe Drinking Water program and to administer the program.

Section 1452(b) of the Safe Drinking Water Act requires each state to annually prepare an Intended Use Plan. The plan is to describe how the state intends to use the funds to meet the program objectives and further the goal of protecting public health. A public review period is required prior to submitting the annual plan to the Environmental Protection Agency as part of the capitalization grant application process. The North Dakota Department of Health held public hearings on the draft Intended Use Plan on February 14, 2011; no comments were received.

The State Water Commission's role in the program is defined in subsections 3 and 4 of ch. 61-28.1-12. Subsection 3 states that the Department shall administer and disburse funds with the approval of the State Water Commission. Subsection 4 states that the Department shall establish assistance priorities and expend grant funds pursuant to the priority list for the Drinking Water State Revolving Loan Fund after consulting with and obtaining the approval of the State Water Commission.

David Bruschwein, North Dakota Department of Health, presented the Fiscal Year 2011 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, dated March 7, 2011, for the State Water Commission's consideration. The 2011 Intended Use Plan is attached hereto as **APPENDIX "C"**. The comprehensive project priority list includes 153 projects, with a cumulative total project cost of \$412,900,000 for Fiscal Years 1997 through 2011. The fundable list for Fiscal Year 2011 includes 8 projects at a cost of \$18,600,000.

It was the recommendation of Secretary Sando that the State Water Commission approve the project priority list for Fiscal Year 2011 as listed in the Intended Use Plan, dated March 7, 2011, and authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2011 program funds pursuant to the Fiscal Year 2011 Intended Use Plan.

It was moved by Commissioner Olin and seconded by Commissioner Vosper that the State Water Commission approve the project priority list for Fiscal Year 2011 as listed in the Intended Use Plan, dated March 7, 2011, and authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2011 program funds pursuant to the Fiscal Year 2011 Intended Use Plan.

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

**FARGO-MOORHEAD METROPOLITAN
FEASIBILITY STUDY REPORT
(SWC Project No. 1928)**

DIX "D", that was provided to the 2011 Legislature in support of Senate Bill 2020 requesting funding for permanent flood protection in Cass County.

Project representatives provided a report on the Fargo-Moorhead Metropolitan Feasibility Study, and presented testimony, attached hereto as **APPEN-**

**2011 SPRING FLOOD REPORT
(SWC Project No. 1431-12)**

Water Commission staff memorandum dated March 14, 2011, and attached hereto as **APPENDIX "E"**.

The 2011 potential spring flood outlook and hydrologic conditions were discussed, which are summarized in a State

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

As of March 10, 2011, the water surface elevation for Devils Lake was 1451.75 feet msl. From the record elevation on Devils Lake of 1452.05 feet msl on June 27, 2010, the lake fell to 1451.38 feet msl by December 10, 2010 before rising 0.37 feet to its current elevation. The total storage of Devils Lake, including Stump Lake is 3.67 million acre-feet and the area is 180,000 acres, which is an increase of 280,000 acre-feet of storage and an area of 16,000 acres from a year ago.

The National Weather Service provided the following long-range outlook for Devils Lake including Stump Lake. The values are valid for the time period of February 27 through September 29, 2011:

Long-Range Outlook for Devils Lake Rising

<u>Chance</u>	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake (ft- msl)	1453.9	1454.7	1455.7

The National Operational Hydrologic Remote Sensing Center of the National Weather Service has developed and currently maintains an airborne gamma radiation snow survey program to acquire data to develop snow water equivalent estimates. Analysis of gamma data, as well as other data, is used to develop maps of snow water equivalent estimates. The snow water equivalent estimate on March 2, 2011 was 3.6 inches.

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

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

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

On August 18, 2009, the State Water Commission approved an allocation not to exceed \$16,500,000 for the expansion of the Devils Lake outlet to 250 cubic feet per second (cfs) using the Round Lake alternative. The upgrading of the state outlet to 250 cubic feet per second was completed in June, 2010.

The final North Dakota Department of Health's ruling on the Sheyenne River sulfate standards was approved by EPA on September 16, 2010. The standards to be followed are the same as the "emergency standards" followed since 2009. The EPA ruling indicating that it has no jurisdiction or authority to enforce water quality standards on a water-to-water transfer such as the Devils Lake outlet, should provide additional flexibility in the operation of the outlet, although the downstream uses will need to be maintained.

In order to increase the removal of water from Devils Lake, on October 26, 2010, the State Water Commission approved 100 percent of the estimated proposed engineering design costs of \$1,500,000 for the west end Devils Lake outlet upgrade, \$2,200,000 for the Devils Lake east end outlet, and \$500,000 for the geotechnical investigation from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

Maintenance was completed over the 2011 winter months on the existing west end outlet that included rock lining of some of the open channel segments. The outlet will be in order to pump up to 250 cfs as soon as the Sheyenne River falls below flood flows this spring.

The sulfate concentration from February 24, 2011 below Baldhill Dam was tested at 401 mg/L. This concentration is lower than the January 26, 2011 reading of 46 mg/L. Concentrations of sulfate should lower quickly with the expected high flows on the Sheyenne River this spring.

Work is also in progress in studying an increase of 100 cfs discharge from the west end of Devils Lake. A potential difficulty of a west end outlet increase is the need to continue pumping during the construction of the additional 100 cfs.

The proposed east end outlet channel with gravity flow would take East Devils Lake water to the Sheyenne River. The proposed alternative route begins on East Devils Lake, runs east southeast 5.5 miles and outlets into Tolna Coulee. The final route is being developed to avoid wetlands and other hindrances and will require field reconnaissance to determine the preferred route. The general alternative consists of a pumping station at East Devils Lake to pump the 250 cfs discharge over a high point where it can flow downhill to Tolna Coulee. Buried pipe will be used for most of the route as the cost is less than tunneling and is more desirable than the open channel. At this time, the cost estimate is \$60 - \$90 million dollars depending on the final route and alternative.

The cost to increase the capacity to 350 cfs will be determined and compared to the cost of expanding the west end outlet. These cost comparisons, along with the results of the water quality modeling being done by the U.S. Geological Survey to determine downstream impacts, will be used to determine which outlet to increase to 350 cfs.

The Corps of Engineers and the State Water Commission are working on the design of a control structure on Tolna Coulee, which is the natural outlet for Devils Lake at 1458 feet msl. The Corps developed a conceptual control structure made of sheet pile. The structure that the State Water Commission is considering is a control structure in the center of the sheet pile structure consisting of stop logs that can control discharge should erosion occur. Until erosion occurs, the control structure would not modify the discharge from the lake. If the lake exceeds an elevation of 1458 feet msl, the existing topography and lake level would determine the discharge. The geotechnical firm selected for the soils investigation on Tolna Coulee is Terracon.

Landowners adjacent to the Sheyenne River downstream of the outlet are concerned about the impacts caused by the increased flows. The 2011 Devils Lake Mitigation Plan has been developed to address potential downstream problems that result from the operation of the outlet.

APPROVAL FOR PURCHASE OF SIX RAPID DEPLOYMENT STREAM GAGES (\$65,830.00) AND GRANT REIMBURSEMENT OF (\$55,955.50) (SWC Project No. 1431-11)

Following the flood of 2009, it became apparent that any additional information that could be acquired on streamflows in critical areas in a timely manner would be of great value. An example is the emergency actions at Cottonwood Creek Dam in 2009. A rapid deployment stream gage was installed at the dam and the data the gage collected was posted on the U.S. Geological Survey's (USGS) web site. This data made it possible to detect the leveling off of the reservoir and, after that point with the pool dropping, more aggressive measures could be safely taken to protect what remained of the spillway.

Funds were made available for flood mitigation grants following the 2009 flood. An application was approved to purchase six rapid deployment gages, which have been installed at Burlington, Minot, Logan, Beaver Creek below Jamestown, the Highway 46 crossing of the Sheyenne River below Kathryn, and the James River near Manfred.

The total estimated cost of the gages is \$65,830.00. Under the grant program, 75 percent of these funds are provided by FEMA and 10 percent by the Department of Emergency Services, leaving an obligation for the

State Water Commission of \$9,874.50. The grant is a reimbursement requiring the State Water Commission to make full payment and submit documentation for the reimbursement of \$55,955.50 (\$65,830.00-total cost, less \$9,874.50-State Water Commission share).

Because these gages will be valuable and flexible tools in flood responses, it was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$65,830.00 for full payment from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the purchase of six rapid deployment stream gages, and submit documentation for the reimbursement of \$55,955.50 (\$65,830.00-total cost, less \$9,874.50-State Water Commission share).

It was moved by Commissioner Goehring and seconded by Commissioner Thompson that the State Water Commission approve an allocation not to exceed \$65,830.00 for full payment from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the purchase of six rapid deployment stream gages, and submit documentation for the reimbursement of \$55,955.50 (\$65,830.00-total cost, less \$9,874.50-State Water Commission share). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Goehring, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. 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. The Commission staff estimated in October, 2010 that over 100 landowners will have over 700 structures affected between an elevation of 1451 feet msl and 1454 feet msl. The Commission staff are currently cataloguing structures up to an elevation of 1458 feet msl because of forecasted record raises in Devils Lake.

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."

A bill was introduced in the North Dakota Legislature in January, 2011, that would alter the language of § 61-03-21.3. **Removal, modification, or destruction of dangers in, on the bed of, or adjacent to navigable waters.** If the current statute is amended as proposed, the changes will provide the State Engineer with more flexibility to address the issues in Devils Lake relating to inundated structures.

***DEVILS LAKE OUTLET AWARE-
NESS PROJECT MANAGER -
APPROVAL OF ADDITIONAL FUNDS
THROUGH JUNE 30, 2011 (\$4,400)
(SWC Project No. 416-05)***

In 1998, the State Water Commission, the Garrison Diversion Conservancy District, the Devils Lake Basin Joint Water Resource Board, and the Forward Devils Lake Corporation initiated cost sharing in a contract securing the services of the Devils Lake outlet awareness project manager, which is

occupied by Joe Belford. The downstream education efforts provide a critical mechanism to dispense factual information and for people downstream to communicate their concerns.

On June 23, 2009, the State Water Commission approved a 33 percent state cost participation not to exceed an allocation of \$42,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Water Resource Board to support the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011.

Because the Devils Lake flood issues have resulted in an increased demand for travel for the assistance of the downstream awareness project manager, a request from the Devils Lake Joint Water Resource Board was presented for the State Water Commission's consideration for an allocation not to exceed an additional \$4,400, from the funds appropriated to the State Water Commission to continue funding for the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed an additional \$4,400, from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to continue funding for the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011.

It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission approve an allocation not to exceed an additional \$4,400, from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Devils Lake Basin Joint Board to continue funding for the Devils Lake outlet awareness project manager from July 1, 2009 through June 30, 2011. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Goehring, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. 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 2-8B, main transmission line from Hazen to Stanton and Beulah to Center elevated tank. The total estimated project cost is \$5,100,000. Bids were opened for contract 2-8B on May 12, 2010, the contract was awarded to Kamphuis Pipeline Co., Grand Rapids, MI, in the amount of \$3,888,095. Submittals are being processed on this contract. The contractor plans to begin boring work in March and has mobilized equipment to the job site. The substantial completion date is June 15, 2011.

Contract 2-8C/D, main transmission line from Center elevated tank to Center. This contract will consist of 38.1 miles of PVC pipeline and will take water from the Center elevated tank to the City of Center and south to the Missouri West water system north of New Salem. The total estimated project cost is \$5,300,000. The design work is complete. Easements are currently being obtained for this contract, the Bureau of Reclamation policy requires all easements to be in place 30 days prior to the advertisement for bids. Efforts are underway to seek clarification from the Bureau of Reclamation regarding clearing and grubbing/mowing of the pipeline alignment to prevent disturbing potential migratory bird nesting habitat.

Contract 3-1C, Oliver-Mercer-North Dunn water treatment plant membrane equipment procurement. The total estimated project cost is \$2,500,000. 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. The delivery date is dependent upon PKG's progress on the water treatment plant building.

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 total estimated project cost is \$11,100,000. The State Water Commission authorized the award of General, Mechanical, and Electrical construction contracts on September 1, 2010 to PKG Contracting, Inc., Fargo, N.D. (\$7,236,900), Cofell's Plumbing and Heating, Inc., Bismarck, N.D. (\$600,000), and Edling Electric, Inc., Bismarck, N.D. (\$1,209,360), respectively. The contract documents were executed on October 1, 2010, and work commenced in October, 2010. The substantial completion date is December 31, 2011.

Contract 3-1E, Oliver-Mercer-North Dunn water treatment plant concentrate disposal facility. The total estimated project cost is \$2,500,000. The purpose of this facility will be to dispose of the reverse osmosis concentrate from the softening process. It will include a pipeline from the treatment plant back to the lake and a discharge facility in the lake. A permit from the Corps of Engineers has allowed access for survey and cultural resource work, survey work will be required on their property next spring prior to the Piping Plover nesting period with construction being performed after the nesting period. The design and cultural resource work has been performed for the remainder of the pipeline alignment.

Contract 4-3A/4-4A, Jung Lake and Ray Christensen pump station upgrades. This contract will consist of supplying and installing a back up generator and related switch/gear at the Jung Lake pump station and the installation of a high capacity pump for the west zone at the Ray Christensen pump station. The total estimated project cost is \$480,000. The bids were opened for contract 4-3A/4-4A on March 24, 2011. The State Water Commission will consider award of the contract under a separate item on March 28, 2011.

Contract 5-15A, Zap potable reservoir. The total estimated project cost is \$1,400,000. 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. Site work began in October, 2010, and the reservoir erection is scheduled during January through April, 2011.

Contract 5-16, Center Elevated Tank. Contract 5-16 will be for the construction of a 750,000 gallon elevated tank with an overflow height of 185 feet located south of Beulah and west of Center. The total estimated project cost is \$1,800,000. The bids were opened for contract 5-16 on March 3, 2011. The State Water Commission will consider award of the contract under a separate item on March 28, 2011.

Contract 7-9C, Zap service area rural distribution line, Phase I. Contract 7-9C will consist of approximately 157 miles of PVC rural distribution pipeline and will serve 263 users including rural users, coal plants, and mines. The total estimated project cost is \$5,100,000. A submittal plan has been received for this contract. Easements are currently being obtained for this contract, the Bureau of Reclamation policy requires all easements to be in place 30 days prior to the advertisement for bids. Efforts are underway seeking clarification from the Bureau of Reclamation regarding clearing and grubbing/mowing of the pipeline alignment to prevent disturbing potential migratory bird nesting habitat.

Oliver-Mercer-North Dunn regional service area contracts under design:
Contracts under design for the Oliver-Mercer-North Dunn regional service area include:

Contract 2-8E, main transmission line from Oliver-Mercer-North Dunn regional service area water treatment plant to Killdeer Mountains area. This contract will consist of 44.5 miles of PVC pipeline and will be the main transmission line for the Dunn Center service area. The capacity of this line will likely be increased to serve oil industry, specifics of which are currently under investigation.

Contract 7-9D, Zap service area rural distribution line, Phase II, consists of 140 miles of PVC pipeline serving 232 users. The estimated total project cost is \$5,800,000. The cultural work will be performed in 2011 in anticipation of bidding in late fall/winter of 2011.

Little Missouri River Washout:

A specific authorization was executed directing Bartlett & West to develop a solution to the Little Missouri River erosion near the Badlands Ministries Bible Camp and the Harold Hugelin ranch south of Medora. Geotechnical investigations were performed in March, 2011, and there appears to be a suitable material to tie into beneath the river sand to achieve the desired goal of preventing future erosion and returning the river to its previous course. A remediation/mitigation plan is due to the Corps of Engineers on April 18, 2011.

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
REGIONAL SERVICE AREA, CENTER
ELEVATED TANK - AUTHORIZE
AWARD OF CONTRACT 5-16
(SWC Project No. 1736)***

On March 3, 2011, bids were opened for Southwest Pipeline Project contract 5-16, Oliver-Mercer-North Dunn regional service area, Center elevated tank. Contract 5-16 will consist of a 750,000 gallon elevated reservoir with a height to overflow of 175 feet. The contract

documents stipulate a substantial completion date of July 15, 2012.

The bid form was divided into two schedules, a composite style, (Bid Schedule I), and the pedestal spheroid style tank (Bid Schedule II). Five bid packages were received for contract 5-16 containing four bids for the composite style tank from Landmark Structures, Inc., Fort Worth, TX; Chicago Bridge and Iron Constructors, Inc., Bolingbrook, IL; Phoenix Fabricators & Erectors, Inc., Avon, IL; and Caldwell Tanks, Inc., Louisville, KY; and three bids for the pedestal spheroid style tank from CB&I Constructors, Inc., Bolingbrook, IL; Caldwell Tanks, Inc., Louisville, KY; and Maguire Iron, Inc., Sioux Falls, SD. All bids appeared to be in order and all were opened. The apparent low bid received for the Bid Schedule I - composite style tank was \$1,492,000 submitted by Landmark Structures, Inc., Fort Worth, TX. The composite style tank estimate in the preliminary engineering report was \$1,788,000.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Landmark Structures, Inc. appears to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsible and responsive bid. It was the recommendation of the project engineer to award contract 5-16 to Landmark Structures, Inc., Fort Worth, TX, based on Bid Schedule I - composite style tank. The award of contract and notice to proceed are dependent on the satisfactory completion and submission of the contract documents by Landmark Structures, concurrence from the Garrison Diversion Conservancy District, and review/approval by the Commission's legal counsel.

Landmark Structures, Inc., has had one previous contract on the Southwest Pipeline Project, contract 5-4, Jung Lake elevated tank, completed in 1999 at 600,000 gallons and 205 feet to overflow with a final contract amount of \$882,045. Additionally, Bartlett & West has had experience with Landmark Structures on elevated tank contracts for other owners in North Dakota, most recently the Parshall, New Town and Mandaree composite style elevated tanks currently under construction for the Fort Berthold rural water system. With their bid package, Landmark provided information on 117 composite tanks completed in the last five years and 41 currently under construction.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 5-16, Oliver-Mercer-North Dunn regional service area - Center elevated tank, to Landmark Structures, Inc., Fort Worth, TX, based on Bid Schedule I - composite style tank, in the amount of \$1,492,000.

it was moved by Commissioner Goehring and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 5-16, Oliver-Mercer-North Dunn regional service area - Center elevated tank, to Landmark Structures, Inc., Fort Worth, TX, based on Bid Schedule I - composite style tank, in the amount of \$1,492,000. This action is contingent upon the satisfactory completion and submission of the contract documents by Landmark Structures, concurrence from the Garrison Diversion Conservancy District, and review/approval by the Commission's legal counsel.

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

**SOUTHWEST PIPELINE PROJECT -
JUNG LAKE AND RAY CHRISENSEN
PUMP STATIONS - AUTHORIZE
AWARD OF CONTRACT 4-3A/4-4A
(SWC Project No. 1736)**

On March 24, 2011, bids were opened for Southwest Pipeline Project contract 4-3A/4-4A, Jung Lake and Ray Christensen pump stations upgrades.

In compliance with North Dakota Century Code § 48-01.1-06, the contract was divided into separate prime bids for the General (Bid Schedule I) and Electrical (Bid Schedule II) portions of the work. The work under the General bid schedule consists of removing a single 50 HP pump and furnishing and installing a 100 HP pump at the Ray Christensen pump station, and

relocating the existing 1,000 gallon external propane tank at the Jung Lake pump station. Work under the Electrical bid schedule consists of replacing the pump circuit breaker and installing electrical conductors, conduit and connections at the Ray Christensen pump station, and removing three constant speed starters, furnishing and installing a single 350 HP VFD, furnishing and installing a 400 KW standby diesel engine generator, furnishing and installing an automatic transfer switch, and installing electrical conductors, conduit and connections at the Jung Lake pump station. The Electrical contract also includes flash hazard studies at both pump stations. The contract documents stipulates a substantial completion date of November 30 2011.

Three bids were received for contract 4-3A/4-4A. One bid was received for Bid Schedule I - General Construction from PKG Contracting, Inc., Fargo, ND. Two bids were received for Bid Schedule II - Electrical Construction from Berger Electric, Inc., Dickinson, ND, and Edling Electric, Inc., Bismarck, ND. The apparent low bid for Bid Schedule I - General Construction was \$152,000 - PKG Contracting, Inc., Fargo, ND, and for Bid Schedule II - Electrical Construction was \$ 308,648 - Berger Electric, Inc., Dickinson, ND. While the general bid was higher than the engineer's estimate (\$114,500), the electrical bid was lower than the engineer's estimate (\$364,000), so the total combined contract is less than the total estimate. Both low bidders have a positive working experience on the Southwest Pipeline Project.

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) and Berger Electric, Inc. (Electrical Construction) appear to be in accordance with the advertisement for construction bids and the bid documents, and are considered to be responsible and responsive bids. It was the recommendation of the project engineer to award contract 4-3A/4-4A - General Construction, to PKG Contracting, Inc. in the amount of \$152,000, and contract 4-3A/4-4A - Electrical Construction, to Berger Electric, Inc. in the amount of \$308,648. The award of contract and notice to proceed are dependent on the satisfactory completion and submission of the contract documents by PKG Contracting, Inc. and Berger Electric, Inc., and 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 Southwest Pipeline Project contract 4-3A/4-4A - General Construction, to PKG Contracting, Inc. in the amount of \$152,000, and contract 4-3A/4-4A - Electrical Construction, to Berger Electric, Inc. in the amount of \$308,648.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 4-3A/4-4A - General Construction, to PKG

Contracting, Inc. in the amount of \$152,000, and contract 4-3A/4-4A - Electrical Construction, to Berger Electric, Inc. in the amount of \$308,648. This action is contingent upon the satisfactory completion and submission of the contract documents by PKG Contracting, Inc., and Berger Electric, Inc., and review/approval by the Commission's legal counsel.

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

***SOUTHWEST PIPELINE PROJECT -
APPROVAL OF WATER SERVICE
CONTRACT WITH MISSOURI WEST
WATER SYSTEM
(SWC Project No. 1736-05)***

The Missouri West Water System 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 minimum annual purchase of 40 million gallons based on the maximum flow rate of 200 gallons per minute. Missouri West has requested a graduated minimum purchase of 12 million gallons in the first year of the contract, 24 million gallons in the second year, and 40 million gallons for all subsequent years to allow them to make infrastructure modifications and adjust the flows in the western portion of their system to properly utilize the flows from the Southwest Pipeline Project.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute the Missouri West Water System water service contract.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute the Southwest Pipeline Project water service contract with the Missouri West Water System. SEE APPENDIX "F".

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF CONTRACT 1736-5,
AMENDMENT NUMBER 4, CITY OF
BEACH WATER SERVICE CONTRACT
(SWC Project No. 1736-05)**

On December 6, 1982, the City of Beach entered into a water service contract with the State Water Commission and the Southwest Water Authority for the delivery of potable treated water from the Southwest Pipeline Project.

The city originally signed up for a blending contract, the contract has since been modified to a sole source contract. When the water service contract was previously amended, the minimum purchase was removed but the maximum flow rate was not modified to the proper value.

Southwest Pipeline Project Contract 1736-5, Amendment Number 4, was presented for the State Water Commission's consideration to amend Section VI.B.2 as follows: "The maximum flow rate to be provided by the Commission to the City shall not exceed ~~34.0~~ 200.0 gallons per minute."

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, Amendment Number 4, to Contract 1736-5, City of Beach water service contract.

It was moved by Commissioner Berg and seconded by Commissioner Goehring that the State Water Commission authorize the secretary to the State Water Commission to finalize and execute Southwest Pipeline Project Contract 1736-5, Amendment Number 4, City of Beach water service contract. SEE APPENDIX "G"

Commissioners Berg, Foley, Goehring, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. 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:

Supplemental Environmental Impact Statement (EIS): The Bureau of Reclamation selected Cardno ENTRIX as the firm to complete the supplemental environmental impact statement for the Northwest Area Water Supply project. The Bureau has experience with this firm with issues before the State Department and other more-involved environmental issues. The Bureau will be

negotiating the terms of the contract and providing information concerning the NAWS project through mid-April, 2011, at which point of contact should be in place to begin drafting the report.

Manitoba and Missouri Lawsuit:

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

On October 25, 2010, Judge Rosemary Collyer issued a decision to allow construction on the improvements in the Minot water treatment plant to proceed, however, she did not allow design work to continue on the intake.

Design and Construction Contracts:

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

Contract 2-2D: The contract work covers 62 miles of pipeline for the Mohall/Sherwood/All Seasons segment. Bids were opened for contract 2-2D on July 14, 2009. The State Water Commission authorized the secretary to the Commission to award contract 2-2D to American Infrastructure from Colorado on August 18, 2009. There remains 2,000 feet of pipe to be placed. The contractor provided notice of voluntary default. Working with their bonding company, EMC, to have the remaining work completed, and provide to EMC contact information for all subcontractors and suppliers who worked on the project and have not been reimbursed. The substantial completion date was October 15, 2010, with final completion on November 15, 2010.

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: This contract covers 13 miles of 24-inch pipe connecting the Air Force Base to the north side of Minot. The contract cost estimate is \$5,850,000. On December 10, 2010, the State Water Commission authorized the award of contract 2-3A to S. J. Louis Construction, Inc., Rockville, MN in the amount of \$5,854,600. The contractor will begin work on the contract in the spring of 2011.

Contract 2-3B: This contract has 13 miles of pipe north of the Minot Air Force Base to provide service to the Upper Souris Water District at their treatment plant and at Glenburn. The contract cost estimate is \$3,700,000. On December 10, 2010, the State Water Commission authorized the award of contract 2-3B to S. J. Louis Construction, Inc., Rockville, MN in the amount of \$3,747,982. The contractor will begin work in the spring of 2011.

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir near Kenmare. The substantial completion was July 1, 2010, with final completion in August 1, 2010. The tank is in service. Testing of the cathodic protection will be completed in June, 2011.

Design on Contract 7-1A: On October 25, 2010, the federal court approved construction in the Minot water treatment plant with the piping and filters. The plans and specifications should be ready for advertisement in the spring of 2011.

***SIXTY-SECOND LEGISLATIVE
ASSEMBLY (2011) UPDATE***

The Sixty-second Legislative Assembly of North Dakota (2011) considered legislation relating to the State Water

Commission's appropriation for the 2011-2013 biennium, western area water supply funding and appropriations, issues relating to water resource districts, irrigation, and other water-related issues which are outlined in the Commission staff memorandum, dated March 16, 2011, attached hereto as ***APPENDIX "H"***.

House Bill 1206 creates the Western Area Water Supply Authority and authorizes the Western Area Water Supply Project (WAWS). The bill, in its present form, authorizes the Authority to build the project using bond proceeds guaranteed by the State of North Dakota. The Authority is required to report to the State Water Commission and provide updates on the bidding, planning, construction, operating, and financial status of the project. The Authority is also required to present the overall plan and contract plans and specifications to the Commission for concurrence. If the project defaults on their bond payments, the Commission becomes the governing board and takes ownership of the project. The bill also requires the Authority to repay the Commission up to \$30 million of loan funding after retiring the bond debt. The bill has passed the House and hearings held in the Senate Industry, Business and Labor committee.

Concerns relative to House Bill 1206 were voiced by Steven Mortenson and Bill Sheldon representing the Independent Water Providers, attached hereto as **APPENDIX "I"**. The Providers expressed support of the necessary infrastructure for western North Dakota, and alluded to the State Water Commission's credentials for constructing previous extensive water supply infrastructure. Mr. Mortenson stated, in part, "The Commission has the experience, ability, resources, and management to construct the WAWS infrastructure with significant savings." He urged the Commission "to pass a resolution opposing House Bill 1206 in its present form, that the project be built by the State Water Commission until possession is given to the local authority, and that the funds be restored to the Resources Trust Fund after the project is paid for."

Governor Dalrymple acknowledged draft resolutions that were presented for the State Water Commission's consideration relative to 2011 House Bill 1206, resolution on construction, and resolution on the Resources Trust Fund. Discussion pursued on the draft resolutions which resulted in offering of the following motion:

It was moved by Commissioner Berg and seconded by Commissioner Vosper that the State Water Commission approve draft resolutions relative to 2011 House Bill 1206 relating to the Western Area Water Supply construction and the Resources Trust Fund.

Commissioners Berg, Foley, Olin, Thompson, and Vosper voted aye. Commissioners Goehring, Swenson, and Governor Dalrymple voted nay. Recorded votes were 5 ayes; 3 nays. Governor Dalrymple announced the motion carried.

Resolution No. 2011-03-525, 2011 House Bill 1206, Western Area Water Supply, Resolution on Construction, and Resolution No. 2011-03-526, 2011 House Bill 1206, Western Area Water Supply, Resolution on Resources Trust Fund, attached hereto as APPENDIX "J" .

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

The Missouri River report was provided, which is detailed in the staff memorandum, dated March 15, 2011, and attached hereto as **APPENDIX "K"**.

The update report on March 28, 2011 indicated the system storage in the six mainstem reservoirs was 61.4 million acre-feet (MAF); Lake Sakakawea was at elevation 1840.0 feet; and Garrison releases averaged

26,000 cubic feet per second in February, 2011. House Concurrent Resolution No. 3019, relating to the Corps of Engineers attempts to charge water users of North Dakota for storage that is not needed, passed the Senate on March 22, 2011.

MISSOURI RIVER JOINT WATER BOARD - APPROVAL OF ADDITIONAL STATE COST PARTICIPATION (\$7,500) FOR NORTH DAKOTA REPRESENTATION ON MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE (MRRIC) (SWC File PS/WRD/MRJ)

Section 5018 of the Water Resources Development Act of 2007 authorizes the Secretary of the Army to establish a Missouri River Recovery Implementation Committee (MRRIC). The committee will serve as a collaborative forum to develop a shared vision and comprehensive plan for the restoration of the Missouri

River ecosystem. The committee's membership is comprised of representatives of federal agencies, tribes, states, and stakeholders from throughout the Missouri River basin. Recommendations will be provided to federal, tribal, state, local and private entities in the basin on efforts to recover threatened and endangered species and to restore their habitats while sustaining the river's many uses.

The Corps of Engineers appointed Terry Fleck to represent the upper basin stakeholder interests relative to recreation on the MRRIC. Costs associated with Mr. Fleck's representation of the State of North Dakota on MRRIC were originally estimated at \$20,000 for 2009. The proposed sources of funding included the State Water Commission (50 percent, \$10,000); the Garrison Diversion Conservancy District (25 percent, \$5,000); and other state and local entities (25 percent, \$5,000). On December 5, 2008, the State Water Commission approved an allocation not to exceed \$10,000 to the Missouri River Joint Water Board to support the costs associated with Terry Fleck's representation on MRRIC. Because of additional travel expenses incurred for committee representation, the State Engineer approved an additional \$10,000 on June 30, 2009 (2009-2011 biennium) to the Missouri River Joint Water Board.

Additional expenses of \$15,000 are anticipated in 2011 to support Mr. Fleck's efforts on the committee as the representative of the upper basin recreation. A request from the Missouri River Joint Water Board was presented for the State Water Commission's consideration for a 50 percent state cost participation in the amount of an additional \$7,500 in the 2009-2011 biennium.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an additional allocation of \$7,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Missouri River Joint Water Board to assist with travel expenses associated with

Terry Fleck's representation of the State of North Dakota on the Missouri River Recovery Implementation Committee (MRRIC). The Commission's affirmative action would increase the total state cost participation to \$27,500.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an additional allocation of \$7,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Missouri River Joint Water Board to assist with travel expenses associated with Terry Fleck's representation of the State of North Dakota on the Missouri River Recovery Implementation Committee (MRRIC). This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$27,500 to the Missouri River Joint Water Board to support the travel expenses of Terry Fleck to serve on the Missouri River Recovery Implementation Committee.

Commissioners Berg, Foley, Goehring, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. 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 final EIS was available to the public on December 28, 2007. The Secretary of the Interior executed 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, 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 U.S. State Department requested that the Bureau of Reclamation delay executing the Record of Decision until discussions with Canada have been concluded.

The March 1, 2011 status report relating to the specific efforts of the Red River Valley Water Supply project, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, which is attached hereto as **APPENDIX "L"**.

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



Jack Dalrymple, Governor
Chairman, State Water Commission

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

