

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

December 5, 2008

The North Dakota State Water Commission held a meeting at the Best Western Ramkota Hotel, Bismarck, North Dakota, on December 5, 2008. Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman, called the meeting to order at 9:00 A.M., and requested Dale L. Frink, 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
Roger Johnson, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 75 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 SEPTEMBER 30, 2008 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the September 30, 2008 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 September 30, 2008 State Water Commission meeting be approved as prepared.

**STATE WATER COMMISSION
BUDGET EXPENDITURES,
2007-2009 BIENNIUM**

In the 2007-2009 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 October 31, 2008, reflecting 67 percent of the 2007-2009 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget. **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 potential bond proceeds. The total approved for projects is \$79,044,631, leaving a balance of \$30,978,499 available to commit to projects.

**RESOURCES TRUST FUND
AND WATER DEVELOPMENT
TRUST FUND REVENUES,
2007-2009 BIENNIUM**

Oil extraction tax deposits into the Resources Trust Fund total \$56,440,771 and are currently \$32,435,892, or 135.1 percent ahead of the budgeted revenues.

Deposits into the Water Development Trust Fund total \$16,416,485 and are currently \$586,850, or 3.7 percent ahead of budgeted revenues. Because of the passage of Measure 3 in November, 2008, it is estimated that the April, 2009 payment will be reduced by approximately \$6,200,000. This loss will be offset by the oil extraction revenues, which are exceeding projections.

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

North Dakota funds a majority of its water projects through the State Water Commission. Funding that is funneled through the Commission for water development has come from several sources including the state's general fund, the Dakota Water Resources Act, the Municipal, Rural and Industrial Water Supply program, the Resources Trust Fund, and the Water

Development Trust Fund. In addition to these sources, the Commission is also authorized to issue revenue bonds for water projects, and the Commission has shared control of the Drinking Water State Revolving Loan Fund. There is also federal funding that contributes to the state's water development efforts.

The State Water Commission submitted its 2009-2011 biennium budget to the Office of Management and Budget in November, 2008. On December 3, 2008, Governor Hoeven released the executive budget recommendation for the 2009-2011 biennium. The executive recommendation for the State Water Commission totals \$311,001,398, which includes \$12,493,198 in general fund dollars for agency operations:

Administrative and Support Services	\$ 2,849,027
Water and Atmospheric Resources	<u>\$ 308,152,371</u>
Total	\$ 311,001,398
General Funds	\$ 12,493,198
Federal Funds	\$ 55,080,945
Other Funds	<u>\$ 243,427,255</u>
Total	\$ 311,001,398

The 2009-2011 budget recommendation contains \$12.5 million from the general fund, which is a reduction of \$1.5 million from the 2007-2009 budget. This decrease is a combination of the elimination of a \$3.0 million one-time appropriation for the Red River Valley Water Supply project, and a \$1.5 million increase in general fund dollars for agency salaries and other expenses.

Federal funds totaling \$55.0 million have been included in the executive budget recommendation, which is an increase of \$27.5 from the 2007-2009 biennium.

The Resources Trust Fund is projected to provide \$98.2 million in new revenue in the 2007-2009 biennium. This includes \$94.7 million of oil revenues, and \$3.5 million from other sources. The executive budget also contains an alternate oil price forecast for oil extraction revenue that could be as low as \$20,000,000 if a \$40.00 price per barrel is used through the entire 2009-2011 biennium.

The Water Development Trust Fund for the 2009-2011 biennium are projected to bring in total approximately \$19,700,000 of new revenue in the 2009-2011 biennium. This is a decrease of \$12,400,000 as a result of Measure 3 passed by North Dakota voters on November 4, 2008, which redirects a portion of the tobacco settlement, known as the strategic contribution fund, toward a state-wide tobacco cessation program.

**APPROVAL OF DRAFT
2009 STATE WATER
MANAGEMENT PLAN
(SWC Project No. 322)**

In order to update the 1999 State Water Management Plan and to meet the requirements of 1999 Senate Bill 2188, the draft 2009 State Water Management Plan was presented for the

State Water Commission's consideration. Section 10, Statewide Water Development Program-Legislative Intent, of ch. 535 of the 1999 Legislative Session Laws (Senate Bill 2188) states:

"The state water commission shall develop a new comprehensive statewide water development program with priorities based upon expected funds available from the water development trust fund for water development projects. It is the intent of the legislative assembly that the state water commission consider the delivery of water for usable purposes a priority for water development projects after the projects authorized in section 3 of this act are completed."

Section 57-51.1-07.1(2) of the North Dakota Century Code (N.D.C.C.) requires that "every legislative bill appropriating moneys from the Resources Trust Fund, pursuant to subsection one, must be accompanied by a State Water Commission report." Secretary Frink explained that the draft 2009 State Water Management Plan will satisfy the requirements for funding from the Resources Trust Fund for the 2009-2011 biennium, and 1999 Senate Bill 2188 and 1999 House Bill 1475, codified in N.D.C.C. § 61-02-14 and § 61-02-26.

It was the recommendation of Secretary Frink that the State Water Commission approve the draft 2009 State Water Management Plan as the official update to the 1999 State Water Management Plan, the formal request for funding from the Resources Trust Fund in the 2009-2011 biennium, and the record of water development needs and funding abilities to meet those needs in the 2009-2011 biennium.

It was moved by Commissioner Berg and seconded by Commissioner Swenson that the State Water Commission approve the draft 2009 State Water Management Plan:

- 1) to serve as the State Water Commission's update to the 1999 State Water Management Plan;***
- 2) to serve as the State Water Commission's formal request for funding from the Resources Trust Fund in the 2009-2011 biennium; and***
- 3) to serve as the State Water Commission's record of water development needs and funding abilities to meet those needs in the 2009-2011 biennium.***

Commissioners Berg, Foley, Hanson, Johnson, 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.

**SAFE DRINKING WATER ACT -
APPROVAL OF PROJECT
PRIORITY LIST IN FY 2009
INTENDED USE PLAN,
DATED NOVEMBER 25, 2008
(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 November 25, 2008; 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 Bruschein, North Dakota Department of Health, presented the Fiscal Year 2009 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, dated November 25, 2008, for the State Water Commission's consideration. The 2009 Intended Use Plan is attached hereto as **APPENDIX "C"**. The comprehensive project priority list includes 96 projects, with a cumulative total project cost of \$275,400,000 for Fiscal Years 1997 through 2009. The fundable list for Fiscal Year 2009 includes 8 projects at a cost of \$25,600,000.

It was the recommendation of Secretary Frink that the State Water Commission approve the project priority list for Fiscal Year 2009 as listed in the Intended Use Plan, dated November 25, 2008, and authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2009 program funds pursuant to the Fiscal Year 2009 Intended Use Plan.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve the project priority list for Fiscal Year 2009 as listed in the Intended Use Plan, dated November 25, 2008, and authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2009 program funds pursuant to the Fiscal Year 2009 Intended Use Plan.

Commissioners Berg, Foley, Hanson, Johnson, 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.

**STATE WATER COMMISSION COST
SHARE POLICIES AND PROCEDURES -
APPROVAL OF AMENDMENT RELATING
TO SEDIMENT ANALYSIS
(SWC Project No. 1753)**

The State Water Commission's cost share policy committee and others met on December 5, 2008. The committee presented the following recommendation (*italicized*) for the State Water Commission's consideration:

Sediment Analysis: In 2002, the State Water Commission approved the method of sediment analysis to account for deferred maintenance in the reconstruction of rural flood control drain projects.

Deferred maintenance is not considered relevant at this time when reconstructing a rural flood control drain with improvements. The state's cost share percentage for the construction or reconstruction of rural flood control projects will remain 35 percent of the eligible items.

Deferred maintenance inherent in flood control improvement reconstruction projects will be reviewed independently.

The State Water Commission discontinue the sediment analysis for the construction or reconstruction of rural flood control drain projects, and that state cost participation remain at 35 percent of the eligible costs.

It was the recommendation of Secretary Frink that the State Water Commission approve the proposed amendment to the cost share policies and procedures relating to a sediment analysis for the construction or reconstruction of rural flood control drain projects as recommended.

It was moved by Commissioner Hanson and seconded by Commissioner Thompson that the State Water Commission discontinue the sediment analysis for the construction or reconstruction of rural flood control drain projects, and that state cost participation remain at 35 percent of the eligible costs.

Commissioners Berg, Foley, Hanson, Johnson, 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.

***MULBERRY CREEK DRAIN
IMPROVEMENT RECONSTRUCTION
PROJECT - APPROVAL OF ADDITIONAL
STATE COST PARTICIPATION (\$24,921)
(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 reconstruction project as a rural flood

control project at 35 percent of the eligible local costs not to exceed an allocation of \$88,107. The project was estimated to cost \$251,735. This is a rural flood control project designed to control floodwaters by providing for the efficient removal of runoff.

The proposed project consisted of drain improvements of approximately 6 statute miles in Sections 36, 1, 12, 13, 14, 23, 24 and 25, Townships 164 and 163 North, Range 61 West. The Mulberry Creek drain was originally constructed in 1979 and is approximately 17 miles long. The district is reconstructing the drain in phases. Recently completed work included widening the bottom and reconstructing the side slopes to 3:1. The drain was not deepened. Crossings impacted by the flow of the channel were upgraded. The headwaters of the Mulberry Creek drain are located approximately 5 miles southeast of Langdon and flow in a northerly direction to the Canadian border. Mulberry Creek empties into the Pembina River at a point approximately 4 miles north of the United States-Canada border.

The project engineer's revised cost estimate is \$325,038, of which \$322,938 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$113,028). The increase in the project costs is a result of work that was done consisting of excavation and sloping to reconstruct an additional mile of the drain. A

request from the Cavalier County Water Resource District was presented for the State Water Commission's consideration for an additional state cost participation of \$24,921 (eligible costs of \$113,028 less \$88,107 previously approved) for the Mulberry Creek drain improvement reconstruction project.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$24,921 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Mulberry Creek drain improvement reconstruction project.

It was moved by Commissioner Berg and seconded by Commissioner Thompson that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$24,921 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Cavalier County Water Resource District for the Mulberry Creek drain improvement reconstruction project. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$113,028 for the Mulberry Creek drain improvement reconstruction project.

Commissioners Berg, Foley, Hanson, Johnson, 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.

**PEMBINA RIVER BANK
STABILIZATION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$24,307)
(SWC Project No. 1461)**

A request from the Pembina County Water Resource District was presented for the State Water Commission's consideration for state cost participation for their bank stabilization project on the Pembina River. The proposed project

consists of stabilizing an approximate 300-foot section of the Pembina River in Sections 34 and 35, Felson Township 164 North, Range 54 West. The District is submitting a sovereign lands permit application for the project.

The proposed construction plans include the stabilization of the river bank with the use of rock riprap along the north bank of the Pembina river adjacent to the Felson Township road known as 108th Street Northeast. The road is adjacent to the Pembina River with Cook bridge located over the Pembina

River between Sections 34 and 35. There are concerns that another high water incident could wash out the road isolating the bridge and leave area residents without road access.

The project engineer's cost estimate is \$50,114, of which \$48,614 is determined eligible for state cost participation as a bank stabilization project at 50 percent of the eligible costs (\$24,307). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$24,307.

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$24,307 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Pembina River bank stabilization project.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$24,307 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Pembina County Water Resource District for the Pembina River bank stabilization project. This action is contingent upon the availability of funds, and satisfaction of the required sovereign land permit.

Commissioners Berg, Foley, Hanson, Johnson, 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.

**ELM RIVER SNAGGING AND
CLEARING PROJECT (TRAILL
COUNTY) - APPROVAL OF STATE
COST PARTICIPATION (\$49,000)
(SWC Project No. 1934)**

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their snagging and clearing project on the Elm River. An assessment district has been

created to finance the project, which will consist of snagging and clearing the south branch of the Elm River in Traill county from the northwest corner of Section 9 of Bohnsack Township upstream to Section 21 of Galesburg Township. Snags along the north branch will also be addressed contingent upon the availability of funds.

The proposed snagging and clearing work includes the removal of all 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 which are lodged and/or leaning on the immediate bank slopes between the upstream and downstream limits. All snagged material will be properly disposed.

The project engineer's cost estimate is \$100,000, of which \$98,000 is determined to be eligible for state cost participation as a snagging and clearing project at 50 percent of the eligible costs (\$49,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$49,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$49,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill County Water Resource District for the Elm River snagging and clearing project.

It was moved by Commissioner Vosper and seconded by Commissioner Thompson that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$49,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill County Water Resource District for the Elm River snagging and clearing project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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.

**SOURIS RIVER SNAGGING AND
CLEARING PROJECT (McHENRY
COUNTY) - APPROVAL OF STATE
COST PARTICIPATION (\$28,500)
(SWC Project No. 1523-01)**

located in Section 27, Township 155 North, Range 77 West, and the proposed project will assist with the flow of the river.

A request from the McHenry County Water Resource District was presented for the State Water Commission's consideration for state cost participation for their project to snag and clear a reach of the Souris River. The large log jam is

The proposed snagging and clearing work to be performed will include the removal and disposal of fallen trees and debris, bank clearing will not be required. The snagging work will include fallen trees lodged on the immediate bank slopes and leaning trees that overhang the channel.

The project engineer's cost estimate is \$57,000, of which all costs are determined as eligible for state cost participation as a snagging and clearing project at 50 percent of the eligible costs (\$28,500). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$28,500.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$28,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the McHenry County Water Resource District for the Souris River snagging and clearing project.

It was moved by Commissioner Foley and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$28,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the McHenry County Water Resource District for the Souris River snagging and clearing project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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 SNAGGING AND CLEARING PROJECT (CASS COUNTY) - APPROVAL OF STATE COST PARTICIPATION (\$135,000) (SWC Project No. 568)

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation for their project to snag and clear a reach of the Sheyenne River commencing

where the previous snagging and clearing concluded at 12th Avenue North (Highway 10) in West Fargo, and proceeding south to State Highway 46 (Cass-Richland county line). The proposed project will assist with the flow of the river and prevent damage to structures.

The proposed snagging and clearing work will include the removal of all fallen trees, standing trees in eminent danger of falling into the channel, driftwood, snags, loose stumps and trunks, and standing stumps which are encountered within the river channel and which are lodged and/or 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 \$270,000, of which all costs are determined as eligible for state cost participation as a snagging and clearing project at 50 percent of the eligible costs (\$135,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$135,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$135,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Southeast Cass Water Resource District for the Sheyenne River snagging and clearing project.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve state cost participation as a snagging and clearing project at 50 percent of the eligible costs, not to exceed an allocation of \$135,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Southeast Cass Water Resource District for the Sheyenne River snagging and clearing project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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 WATER RESOURCES
RESEARCH INSTITUTE 2009-2010
FELLOWSHIP PROGRAM THROUGH
NDSU - APPROVAL OF STATE COST
PARTICIPATION (\$13,850)
(SWC Project No. 1403)***

State University (NDSU). The WRRI program requires a match of \$2.00 non-federal for each \$1.00 federal. NDSU's match is in monetary and in-kind services.

A request from the North Dakota Water Resources Research Institute (WRRI) was presented for the State Water Commission's consideration for state cost participation of their 2009-2010 academic year fellowship program administered through the North Dakota

The WRRRI is a program funded annually by a United States Geological Survey (USGS) 104B grant. Annual grants have varied from \$20,000 to \$200,000 with 2009-2010 federal funding at \$92,335. The total program costs for the 2009-2010 academic year are estimated at \$160,000. The \$92,335 federal grant is apportioned for administrative/personnel costs and for individual fellowships.

The fellowships support graduate students working on water resource related topics and are granted on the basis of the relevance of programs to the management of North Dakota water resources and the overall quality of the projects. Research topics have varied broadly including methods for improving municipal water treatment, methods for measuring organic contaminants in water in the field, research on climate change in North Dakota, effects of algae on lake oxygen levels in winter, and many other topics. Two priorities of the WRRRI are providing information useful for solving state regulatory and policy problems, and state support and participation.

Anticipating the receipt of a USGS 104B grant in the amount of approximately \$92,335 for the 2009-2010 academic year, the WRRRI requested a 15 percent state cost participation of the annual federal allocation (\$13,850). The intent of this request is to replace a portion of NDSU's in-kind services with the proposed cost share amount in order to provide more cash for fellowships.

Although the eligible state cost participation amount is less than \$20,000, Secretary Frink explained that because of the uncertainty of future federal allocations for the program, it is anticipated this will be an annual request for state cost participation. Therefore, the WRRRI will be required to submit an annual cost participation request for the State Water Commission's future consideration of support for the program.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation, not to exceed an allocation of \$13,850 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Dakota Water Resources Research Institute for their 2008-2009 academic year fellowship program administered through the North Dakota State University.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve state cost participation, not to exceed an allocation of \$13,850 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Dakota Water Resources Research Institute for their 2009-2010 academic year fellowship program administered through the North Dakota State University. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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.

**RAY AND TIOGA WATER SUPPLY
IMPROVEMENTS - DEFERRAL OF
2007-2009 BIENNIUM STATE
FUNDS (\$4,200,000)
(SWC Project No. 237-03)**

The Ray and Tioga Water Supply Association (R&T) has developed an interim solution for its east R&T water demands, which includes the cities of Tioga and Stanley, to meet the oil impacted water demands. The interim

improvements include the following major components: 1 million gallons per day iron/manganese and membrane treatment plant, well improvements/modifications, new pipeline (from water treatment plant to Tioga HP reservoir), Stanley transmission main enhancements including booster pumps, membrane procurement documents, and engineering plans and specification. The total cost of the interim improvements, Phase I, is estimated at \$6,000,000, and is part of an overall project estimated to cost \$13,800,000. A request from the Ray and Tioga Water Supply Association was presented for the State Water Commission's consideration for a 70 percent grant in the amount of \$4,200,000 for Phase I.

R&T has evaluated its water treatment plant for expansion because the plant is near capacity. The study considered water treatment, supply, distribution, storage, expansion of the facility, and provided cost estimates with rate impacts. R&T serves the communities of Ray, Tioga, Stanley, Ross, and a gas-processing plant owned by Amerada Hess. Long-term water demand projections have been completed indicating that the demands could possibly double/triple in the next 20-30 years.

The project engineer provided information relating to options that are being considered to address the short and long-term water demands the service area is experiencing due to the increase in the work force population and the growing industrial demands. Proposed improvements to the existing R&T system include new groundwater wells, construction of a pipeline, and expansion to the water treatment plant for additional capacity of 2.5 million gallons per day, at an estimated cost of \$13,800,000.

The Williams Rural Water is developing a feasibility study, Phase IV, in cooperation with R&T. The expansion service would include areas within and adjacent to the existing service area, the communities of Wild Rose and Powers Lake, and rural users. The estimated cost to create a regional system is \$20,800,000 and would involve the construction of a 38-mile transmission pipeline from Williston to the R&T system. The study will also evaluate the construction of a new system in the Ray and Tioga region that would be provided bulk service from R&T.

It was the recommendation of Secretary Frink that the State Water Commission approve a 70 percent grant, not to exceed an allocation of \$4,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Ray and Tioga Water Supply Association, Phase I, for interim improvements.

Following considerable discussion, it was the consensus of the State Water Commission members that action be deferred on the request being considered, and directed that a committee (Commissioners Berg, Foley, and Hanson) meet with representatives of the Ray and Tioga Water Supply Association to re-evaluate the short and long-term options which are being considered to meet the Association's water demands.

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

Michelle Klose, project manager for the Northwest Area Water Supply (NAWS) project, provided the following project status report:

NAWS Environmental Impact Statement: A cooperating agency meeting was held on September 25, 2008. The Bureau of Reclamation provided information relative to addressing the public comments received on the NAWS draft environmental impact statement, which was released to the public on December 21, 2007. The draft EIS and the public comments received are posted on the Bureau of Reclamation's website. The final EIS was released on December 5, 2008.

Manitoba Lawsuit: The joint state and federal request to the federal court was approved on March 18, 2008 to allow construction to move forward on the entire northern tier. The court further ordered that the parties file a joint status report at the end of each construction season. The State Water Commission staff has drafted the construction status report and it will be presented to the court in December, 2008.

Design and Construction Contracts:

Contract 4-2A Interim: Contract 4-2A Interim involves a 2400 gallons per minute booster pump station at the HSPS/reservoir site adjacent to the Minot water treatment plant. The project will pump water to the Berthold line and Minot's south hill until contract 4-2A, high service pump station, is completed. On February 4, 2008, the State Water Commission authorized the award of contract 4-2A Interim, in the amount of \$246,250 to Construction Engineers, Ltd., Grand Forks, ND, and the notice to proceed was executed on March 7, 2008. The contract completion date was August 15, 2008. Following substantial completion,

an error in programming caused the pump station to run excessively resulting in damage to the pump and motor components. The walk through will be completed once factory certification for the pumps and motors are provided. The project is near completion.

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallons reservoir and an 18 million gallons high service pump station adjacent to the Minot water treatment plant, as well as demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under the NAWS 2-2A contract and the existing Minot water distribution system. On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58, to John T. Jones Construction, Fargo, ND, and the notice to proceed was executed on May 20, 2008. The contract completion date is December 31, 2009.

The project is underway, and Houston Engineering is reviewing a \$500,000 claim submitted by the contractor.

Contract 2-1D: This contract covers 15 miles of 36-inch pipe between the city of Max and Lake Sakakawea. The State Water Commission authorized the award of contract 2-1D on April 18, 2005 to Molstad Excavating, Grand Forks, ND. An agreement was reached in April, 2008 with the contractor for a one-year warranty on the pipes with tangential welds. The warranty will start once water can be delivered to Minot from Lake Sakakawea. The pressure testing passed, the punch list was generated on the September 8-10, 2008 walk through, and the project is near completion; half of the retainage has been released.

Contract 2-2A: The State Water Commission authorized the award of contract 2-2A to ERS Constructors, Centennial, CO, on April 19, 2007. Contract 2-2A covers 10 bores, approximately 4 miles of 24-36 inch pipe, and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to north hill. A walk through was completed on October 29, 2008 and the final punch list was generated. The project is near completion.

Contract 2-2B: This contract includes approximately 20 miles of 10-16 inch pipe and 3 booster pump stations between Minot at U.S. Highway 52 and the city of Berthold. The State Water Commission authorized the award of contract 2-2B on May 9, 2007 to Northern Improvement Co., Fargo, ND. The walk through was completed on September 24, 2008, the power disconnects for the pump stations were installed the week of November 24, 2008, and the project is near completion.

Contract 5-2B: The State Water Commission authorized the award of contract 5-2B on July 17, 2007 to Engineering America. Contract 5-2B covers a 750,000 gallons reservoir and a 500,000 gallons storage reservoir along the contract 2-2B pipeline between Minot and Berthold. The project is closed out.

Contract 2-2C: The design work covers 52 miles of 10-12 inch pipeline for the Kenmare/upper Souris pipeline. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. The contract has not been executed pending the satisfaction of insurance issues.

Contract 2008-A: The NAWS portion includes 13 miles of 6-inch and 10-inch pipeline between the All Seasons water treatment plant and Gardena, ND. The NAWS-All Seasons-Upham project under bid schedule 1 of contract 2008-A was opened on October 21, 2008. The apparent low bidder is Swanberg Construction, Grand Forks, ND; the contract award is pending. The engineering related work for this project is estimated at \$112,500. On July 29, 2008, the State Water Commission approved NAWS funding for the project and authorized the secretary to the Commission to execute the necessary contracts with All Seasons Water Users for completion of the project.

Design 5-2C: The design work covers a 1 million gallons storage reservoir for the Kenmare/upper Souris pipeline. The storage reservoir was near the Kenmare airport and the initial response from FAA denied approval based on disruption of air traffic, but FFA has approved a new location. The geotechnical work and cultural resource survey has been completed, design work continues, and a 90 percent design review is anticipated in December, 2008. The bid opening is possible in January/February, 2009.

Design 2-2D: The design work will cover the pipeline for the Mohall/All Seasons pipeline. A preliminary route review with the State Water Commission staff was completed on September 23, 2008. The cultural resource surveys are being completed, and the 30 percent design review was held on November 18, 2008. The bid opening is possible in February/March, 2009.

Water Service Contracts: The city of Burlington and the West River Water and Sewer District appeared before the NAWS advisory committee on November 20, 2008 to request service from NAWS. The committee passed a motion to recommend that NAWS service be discussed with the existing contract users to determine if the service could be provided. North Prairie Rural Water District/North Central Consortium also appeared during the meeting and requested they provide the service.

The city of Kenmare was presented with a draft water service contract. Their connection to NAWS will require approval with the existing users prior to finalizing the contract.

Berthold Pipeline Operation Status: In September, 2008, 2.5 million gallons flowed through the metered turnouts along the NAWS Berthold pipeline. Berthold's usage was 860,000 gallons over the 27-day period, which is an average usage of 32,000 gallons per day. The city of Minot started up operations of their south hill pipeline and usage at the meter vault was 1.7 million gallons. Minot's water usage for service to North Prairie was 66,500 gallons at the turnout near Burlington and 19,200 gallons at the Ward County 10A turnout. Additional usage along the line would be beneficial for operations and water turnover.

***NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
RECOMMENDATION OF COMMISSION
MEMBER, MAURICE FOLEY, TO SERVE
ON NAWS ADVISORY COMMITTEE
(SWC Project No. 237-04)***

On April 4, 1991, Senate Bill 2357 was signed by Governor Sinner establishing the Northwest Area Water Supply (NAWS) Project advisory committee. The advisory committee consists of nine members appointed by the State Engineer according to the guidelines speci-

fied in the legislation. North Dakota Century Code chapter 61-24.6-02 specifies that one of the members of the committee shall be a member of the State Water Commission, recommended by the State Water Commission. Larry Hanson, Commission member from Williston, currently represents the Commission on the Northwest Area Water Supply Project advisory committee.

Secretary Frink explained that when Commissioner Hanson, who resides in the original NAWS project area, was appointed to represent the Commission on the advisory committee, the membership of the State Water Commission did not include a representative from the city of Minot. On December 8, 2006, Governor Hoeven appointed Maurice Foley, Minot, ND, to serve as a member of the State Water Commission. Secretary Frink said it would be appropriate for Commissioner Foley to now represent the State Water Commission on the NAWS advisory committee.

It was moved by Commissioner Hanson, seconded by Commissioner Berg, and unanimously carried, that the State Water Commission recommend Commission member, Maurice Foley, be appointed as the State Water Commission's representative on the Northwest Area Water Supply Project advisory committee.

Secretary Frink appointed Commission member, Maurice Foley, to serve on the Northwest Area Water Supply Project advisory committee to represent the State Water Commission. Appreciation was extended to Commissioner Hanson for his commendable efforts of service on the NAWWS advisory committee.

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

Tim Freije, project manager for the Southwest Pipeline Project, provided the following project status report:

Contract 7-8D, South Fryburg Service Area:

The close out documents for contract 7-8D, South Fryburg service area, have been forwarded to the contractor; the final inspection is anticipated in December, 2008.

Contract 4-1C/4-2A, Standby Generators for Dodge and Richardton Pump Stations: The close out documents for contract 4-1C/4-2A, the standby generators for Dodge and Richardton pump stations, have been forwarded to the contractor.

Medora-Beach Regional Service Area, Phase III:

Bids were opened on March 14, 2008 for contract 7-8E, Fairfield service area; contract 8-2, Fairfield reservoir; and contract 7-8G/7-9B, Grassy Butte service area and Killdeer Mountains area. At its meeting on March 17, 2008, the State Water Commission authorized the award of contracts 7-8E and 7-9B to Abbot, Arne, Schwindt, Inc.; contract 7-8G to Northern Improvement Co; and contract 8-2 to Dakota Pump and Control, Inc., with American Structures, Inc. as the reservoir erector. All contract documents were executed and work commenced in late April on contract 7-8G and early May on contract 7-8E.

Contract 7-8E consists of 206 miles of pipeline serving 215 users. Two high consumption users, 27 standard users, and 43 pasture taps were added to contract 7-8E after the contract was bid. The special use permits for the U.S. Forest Service land in Billings and McKenzie counties were received on October 1, 2008 and November 14, 2008, respectively. The contractor intends to complete the installation of the pipeline on the Forest Service lands by the end of November, 2008, complete the installation of the remaining service lines, and testing and chlorinating most of the pipeline with the intention of turning over another approximately 65 users as ready for service. To date, 84 users of the 215 have been turned over to the Southwest Water Authority as ready for service. This would leave approximately 45 users not being turned over as ready for service until 2009. The substantial completion date of contract 7-8E is July 1, 2009. There are two intermediate completion dates of September 1, 2008 to turn over all 62 users south of the Fairfield reservoir for service, and May 1, 2009 to deliver water to contracts 7-8G and 7-9B.

Contract 7-8G, Gassy Butte service area, consists of 82 miles of pipe serving 88 users. One (1) high consumption user and 5 standard users were added after the contract was bid. The contractor, Northern Improvement Company, began work on October 29, 2008. There are approximately 10 miles of the contract on U.S. Forest Service land; the permit was received on November 14, 2008. The substantial completion date is August 1, 2009.

Work commenced on contract 7-9B, Killdeer Mountains service area, in July, 2008, and is essentially 40 percent complete. This contract consists of 112 miles of pipeline serving 111 users. Nineteen (19) standard users and 11 pasture taps were added after the contract was bid. There are no U.S. Forest Service lands on this contract. The substantial completion date for contract 7-9B is August 1, 2009.

Foundation work has been completed on contract 8-2, Fairfield reservoir. The reservoir erection began in September, 2008, the substantial completion date was October 1, 2008, and the final completion date was November 15, 2008.

Contract 7-8F, Trotters Pocket, is substantially complete. Eighty-six (86) miles of pipe have been installed to serve 78 users. Three standard users and 21 livestock users were added to contract 7-8F after the contract was bid. The substantial completion date for contract 7-8F was November, 2008.

On September 29, 2008, the Bureau of Reclamation approved a finding of No Significant Impact on the environmental assessment for the areas currently under contract. The Bureau has also required an environmental assessment relating to the expansion of the work area, and the federal funding received under the Municipal, Rural and Industrial (MR&I) Water Supply Project.

Oliver-Mercer-North Dunn Regional Service Area:

The service area water treatment plant pilot study is underway at the Dickinson water treatment plant. Data collected from the study will be used in the final design report.

The Oliver-Mercer-North Dunn regional service area preliminary engineering report is currently being reviewed by Bartlett and West Engineers. Issues relating to funding scenarios and future capacity for cities not presently signed up for service could delay release of the publication.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF CAPITAL REPAYMENT
RATES, AND REPLACEMENT AND
EXTRAORDINARY MAINTENANCE
RATE FOR 2009
(SWC Project No. 1736)**

Under the Agreement for the Transfer of Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project, the Southwest Water Authority is required to submit a budget to the Secretary to the State Water Commission by December 15 of each

year. The budget is deemed approved unless the Secretary to the Commission notifies the Authority of his disapproval by February 15. The Southwest Water Authority submitted its proposed budget in November, 2008.

On October 19, 1998, the State Water Commission approved an amendment to the Transfer of Operations Agreement, which changed the Consumer Price Index date used for calculating the project's capital repayment rates from January 1 to September 1. This amendment was necessary to bring the transfer of operations into line with the water service contracts and to streamline the budget process. The agreement specifies that the water rates for capital repayment be adjusted annually based on the Consumer Price Index. The State Water Commission has the responsibility of adjusting the capital repayment rates annually.

The rate for replacement and extraordinary maintenance was approved by the State Water Commission at its February 9, 1999 meeting at \$0.35 per thousand gallons. The original rate of \$0.30 per thousand gallons was approved in 1991. The rate of \$0.35 per thousand gallons is satisfactory and, therefore, no change was recommended at this time.

At the June 22, 2005 meeting, the State Water Commission approved the 2005 capital repayment rate for rural users in Morton county receiving water through the Missouri West water system transmission pipelines at \$22.00 per month. Applying the Consumer Price Index adjustment to this figure results in a 2009 rate for these users of \$25.44 per month.

The following projected capital repayment rates, and the replacement and extraordinary maintenance rate for 2009 for the Southwest Pipeline Project were presented for the State Water Commission's consideration:

Contract users	\$ 1.05 per thousand gallons
Rural users	\$32.13 per month
Morton county users receiving water through Missouri West water system	\$25.44 per month
Replacement and extraordinary maintenance	\$ 0.35 per thousand gallons

It was the recommendation of Secretary Frink that the State Water Commission approve the projected capital repayment rates for 2009 for the Southwest Pipeline Project of \$1.05 per thousand gallons for contract users; \$32.13 per month for rural users; \$25.44 per month for Morton County users receiving water through the Missouri West water system; and a rate for replacement and extraordinary maintenance of \$0.35 per thousand gallons.

It was moved by Commissioner Hanson and seconded by Commissioner Johnson that the State Water Commission approve the following capital repayment rates, and the replacement and extraordinary maintenance rate for 2009 for the Southwest Pipeline Project:

- | | |
|--|-------------------------------------|
| 1) Contract users | \$ 1.05 per thousand gallons |
| 2) Rural users | \$32.13 per month |
| 3) Morton county users receiving water through Missouri West water system | \$25.44 per month |
| 4) Replacement and extraordinary maintenance | \$ 0.35 per thousand gallons |

Commissioners Berg, Foley, Hanson, Johnson, 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. 416-01)**

Stump Lake is 2.90 million acre-feet with a total surface area of both lakes at 138,000 acres.

The current water surface elevation of Devils Lake is 1446.87 feet msl and Stump Lake is 1446.87 feet msl. The combined storage of Devils Lake and

There has been significant precipitation in the Devils Lake basin, which has saturated the soil profile and has filled potholes and sloughs. This wet condition could result in high runoff from the spring snow melt.

The National Weather Service's long range outlooks for raising and lowering Devils Lake and Stump Lake are shown on the following page. Since the lakes have equalized, the outlook forecasts for both lakes are identical:

Long-Range Outlook for the Lakes Raising

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake and Stump Lake	1446.7	1446.7	1447.0

Long-Range Outlook for the Lakes Lowering

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake and Stump Lake	1446.6	1446.3	1446.1

***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.

The intake structure for the outlet was submerged in Round Lake on April 16, 2008. Releases from the outlet into the Sheyenne River occurred at various intervals during the months of April - September, 2008. The outlet discharged approximately 190 acre-feet of water in August, 2008 and 15.5 acre-feet from September 1-8, 2008. Precipitation on September 23 increased the flows in the Sheyenne River allowing discharge to resume on September 24, 2008 through November 8. Pumping was halted for the season on November 8 when ice developed in the Sheyenne River. The total volume of water released in 2008 was 1,240 acre-feet. The intake was removed and the outlet winterized on November 12, 2008.

Joe Belford, Devils Lake Downstream Acceptance program manager, provided an update on the efforts of the Devils Lake interagency task force.

***SWEETWATER-MORRISON WATER
STORAGE PROGRAM CONTRACTS -
APPROVAL OF STATE COST
PARTICIPATION (\$32,745)
(SWC Project No. 1746)***

The Sweetwater-Morrison Lake outlet structure was redesigned in 1998 to accommodate an additional 0.50-foot rise above the natural outlet elevation of 1459.0 feet msl. This rise to 1459.5 feet msl added 3,500 acre-feet of storage and required storage easements on the property adjacent to the two lakes. The easements were for the land between the elevations inundated with the rise. The land-

owners agreed to a five-year easement at a cost of \$100 per acre, equivalent to \$20/acre/year. The total cost of the easements was approximately \$27,750 and was paid from the State Water Commission's water storage funds.

Because the upper basin storage is part of the three-prong approach to water management in the Devils Lake basin, on November 3, 2003, the State Water Commission passed a motion for state cost participation in the 2004-2008 Sweetwater-Morrison water storage program not to exceed an allocation of \$27,750 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. The contracts will expire on December 31, 2008.

A request from the Devils Lake Basin Joint Board was presented for the State Water Commission's consideration to fund the renewal of the Sweetwater-Morrison water storage program contracts for five years in the amount of \$32,745 (\$118.00 per acre at the current acreage of 277.5 acres, equivalent to \$23.60/acre/year). This request represents an 18 percent increase from the previous contract period.

It was the recommendation of Secretary Frink that the State Water Commission approve the request from the Devils Lake Basin Joint Board for state cost participation in the Sweetwater-Morrison water storage program at \$118.00 per acre (equivalent to \$23.60/acre/year) not to exceed an allocation of \$32,745 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Johnson and seconded by Commissioner Foley that the State Water Commission approve state cost participation not to exceed an allocation of \$32,745 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Devils Lake Basin Joint Board for renewal of the Sweetwater-Morrison water storage program contracts at \$118.00 per acre (equivalent to \$23.60/acre/year). This action is contingent upon the availability of funds.

In discussion, a substitute amendment to the original motion was offered by Commissioner Berg, and seconded by Commissioner Thompson, to increase the annual per acre amount from \$23.60 to \$35.00 per acre. Lt. Governor Dalrymple called for a voice vote on the substitute amendment, and announced the substitute amendment failed.

Lt. Governor Dalrymple called the question on the original motion:

Commissioners Berg, Foley, Hanson, Johnson, Olin, and Vosper voted aye. Commissioners Swenson, Thompson, and Lt. Governor Dalrymple voted nay. Recorded votes were 6 ayes, 3 nays. Lt. Governor Dalrymple announced the motion 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 status report provided by the Garrison Diversion Conservancy District relating to the specific efforts of the Red River Valley Water Supply project are attached hereto as **APPENDIX "D"**.

MUNICIPAL, RURAL AND INDUSTRIAL (MR&I) WATER SUPPLY PROGRAM REPORT (SWC Project No. 237-03)

itemized in a staff memorandum, dated November 25, 2008, and attached hereto as **APPENDIX "E"**.

DROUGHT DISASTER LIVESTOCK WATER SUPPLY PROJECT ASSISTANCE PROGRAM - STATUS REPORT; AND APPOINTMENT OF SWC REPRESENTATIVE TO DROUGHT LIVESTOCK APPEALS PANEL (SWC Project No. 1851)

Administrative Code chapter 89-11 was adopted by the Commission on June 24, 1991 for program management.

The State Water Commission members were provided a briefing of the Municipal, Rural and Industrial (MR&I) Water Supply program projects in various stages of development, which are

Secretary Frink provided a status report on the Drought Disaster Livestock Water Supply Project Assistance program, which is a state cost participation program administered by the State Water Commission that provides financial assistance to existing livestock producers with water supply problems caused by drought. North Dakota

On May 9, 2008, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2008-02. On May 14, 2008, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance program and approved an allocation of \$1,000,000 for the program; and on June 23, 2008, the Commission allocated an additional \$250,000, for a total state cost participation of \$1,250,000 since program reactivation on May 14, 2008.

As of November 30, 2008, approximately 572 applications, totaling 696 projects, had been received of which 120 projects did not meet program requirements. Approximately 253 projects have been completed for a total of \$621,720, at an average cost of \$2,457 per project.

At its meeting on September 30, 2008, the State Water Commission directed that the drought livestock advisory committee reconvene for the purpose of revisiting the program criteria and recommend a course of action relating to an appeals process for those projects that staff deemed did not meet the program criteria.

The program's advisory committee met on October 30, 2008 to discuss the options for an appeals process. It was the committee's recommendation that a three-member panel be formed to review the appeals. The panel would consist of one representative from the State Water Commission and two representatives selected by the advisory committee.

It was moved by Commissioner Johnson, seconded by Commissioner Berg, and unanimously carried, that the State Water Commission form a three-member drought livestock appeals panel, consisting of one representative from the State Water Commission and two representatives selected by the advisory committee.

Commissioner Swenson was appointed as the Commission's representative on the drought livestock appeals panel.

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

On November 17, 2008, the system storage in the six mainstem reservoirs was 44.6 million acre-feet (MAF), 8.6 MAF below the average system storage for the end of November and 7.3 MAF more than in 2007. The record minimum system storage for the end of November was 34.6 MAF in 2006. The November 1 basic simulation estimates runoff above Sioux City for 2008 to be 26.3 MAF, 105 percent of normal. This results in a forecast that the system will have 44.5 MAF at the end of 2008. Mountain snowpack above Fort Peck and Fort Peck to Garrison on November 14, 2008 was at normal levels.

Lake Sakakawea was at an elevation of 1826.1 feet msl on November 17, 2008, 13.1 feet higher than in 2007 and 9.3 feet msl below its average end of November elevation. The record minimum end of November elevation was 1809.2 feet msl in 2006. Lake Sakakawea is forecast to end 2008 at 1825.1 feet msl.

The elevation of Lake Oahe was 1592.9 feet msl on November 17, 2008, which is 11.1 feet higher than in 2007 and 5.6 feet lower than its average November elevation. The record minimum November elevation for Lake Oahe was 1573.6 feet msl in 2006. Lake Oahe is forecast for a elevation of 1593.2 feet msl at the end of 2008.

Fort Peck Lake was at an elevation of 2210.0 feet msl on November 17, 2008, which is 9.7 feet higher than in 2007 and 20.4 feet below its average daily November elevation. The basic forecast shows the elevation of Fort Peck to remain fairly constant, ending 2008 with an elevation of 2210.2 feet msl.

The last day of commercial navigation flow support was on October 31, 2008. Navigation was shortened by 30 days; normally, navigation flow support would end on November 30.

The Corps of Engineers released the draft annual operating plan for 2008-2009 in September, 2008. Six public meetings were scheduled, the meeting for North Dakota was held October 16, 2008 at the Radisson Hotel in Bismarck, ND. Public comments will be accepted until November 21, 2008.

MISSOURI RIVER JOINT WATER BOARD - APPROVAL OF STATE COST PARTICIPATION (\$10,000) FOR NORTH DAKOTA REPRESENTATION ON MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE (MRRIC) (SWC Project No. 322)

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 committee held its first meeting on September 29, 2008 in St. Louis, MO.

North Dakota's representatives on MRRIC include David Johnson, Garrison Diversion Conservancy District, appointed by Governor Hoeven; and Terry Fleck, appointed by the Corps of Engineers. Expenses incurred by Mr. Johnson will be covered by the Garrison Diversion Conservancy District. Costs associated with Mr. Fleck's representation of the State of North Dakota on MRRIC are estimated at \$20,000 for 2009. Proposed sources of funding include 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). 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 \$10,000 in the 2007-2009 biennium.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$10,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Missouri River Joint Water Board to assist with costs associated with Terry Fleck's representation of the State of North Dakota on the Missouri River Recovery Implementation Committee.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$10,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Missouri River Joint Water Board to assist with costs associated with Terry Fleck's representation of the State of North Dakota on the Missouri River Recovery Implementation Committee. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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.

***UPPER SHEYENNE RIVER JOINT
WATER RESOURCE BOARD -
APPROVAL OF STATE COST
PARTICIPATION (\$3,000) FROM
JANUARY 1, 2009 TO JUNE 30, 2009
(SWC Project No. 322)***

The Upper Sheyenne River Joint Water Resource Board includes representation from 12 of the basin's counties including Barnes, Benson, Eddy, Foster, Griggs, McHenry, Nelson, Pierce, Sheridan, Steele, Stutsman, and Wells. The diverse membership provides a broad-

based understanding of the needs of the basin in order to carry out its mandate "to bring the watershed above Baldhill Dam (Lake Ashtabula) into a partnership in order to review issues and create solutions through local, county, state, and federal cooperation."

The board played an important role in the restoration of the Sheyenne Dam in Eddy county, support of a water quality analysis project of the Sheyenne River, assisting to raise awareness and support among the member counties for the Red River Valley Water Supply project, and has developed and updated its conceptual basin water management plan. The board serves an important role as a valuable resource for directing water project developments and water quality improvements in the Sheyenne River.

In order to facilitate the board's ability to play a significant role in water management in the basin, a request from the Upper Sheyenne River Joint Water Resource Board was presented for the State Water Commission's consideration for a 50 percent state cost participation in the amount of \$3,000 in the 2007-2009 biennium (January 1, 2009 through June 30, 2009). Funds would be used for administrative expenses, travel, and transportation to meetings; support the services of the part-time chairman and secretary of the board; continue the board's efforts to encourage water management that recognizes hydrologic boundaries; continue efforts to coordinate the restoration and enhancement of existing dams and promote the construction of viable new flood storage reservoirs; and work to facilitate data collection and improve water quality in the basin.

The State Water Commission has a long history of supporting and encouraging the management of water along watershed lines through groups such as the Red River, Missouri River, and Devils Lake Joint Boards, which corresponds to the State Water Commission's goal of "managing water resources for the future welfare and prosperity of the people of North Dakota." Boards organized along watershed boundaries play an important role in coordinating water management that reflects the needs of multiple counties.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$3,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from January 1, 2009 through June 30, 2009.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$3,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from January 1, 2009 through June 30, 2009. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Johnson, 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.

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the meeting at 11:45 A.M.



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

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

