

**Meeting To Be Held At
State Office Building
Lower Level Conference Room
Bismarck, North Dakota**

**June 21, 2011
8:30 A.M., CDT
AGENDA**

- A. Roll Call
- B. Consideration of Agenda - *Information pertaining to the agenda items is available on the State Water Commission's website at <http://www.swc.nd.gov> (select 'News and Information')*
- C. **Consideration of Draft Minutes of March 28, 2011 SWC Meeting** **
- D. State Water Commission Financial Updates:
 - 1) Agency Program Budget Expenditures
 - 2) 2009-2011 Biennium Resources Trust Fund and Water Development Trust Fund Revenues
 - 3) **Project/Program Obligations Carryover - 2011-2013 Biennium** **
- E. **Rural Flood Control Projects Cost Share Limitation - 2011-2013 Biennium** **
- F. Consideration of Following Requests for State Cost Participation:
 - 1) **North Dakota Water Magazine** **
 - 2) **North Dakota Irrigation Association** **
 - 3) **Red River Basin Commission** **
 - 4) **Red River Basin Flood Control Coordinator** **
 - 5) **Upper Sheyenne River Joint Board** **
 - 6) **Dead Colt Creek Emergency Action Plan** **
 - 7) **Sheyenne River and Horace Diversion Improvements** **
 - 8) **City of Pembina - FEMA Analysis** **
 - 9) **United States Geological Survey Missouri River Topography** **
- G. Fargo Moorhead Metropolitan Feasibility Study Update
- H. Western Area Water Supply (WAWS):
 - 1) Project Update
 - 2) **Phase I Approval and Funding** **
 - 3) Independent Water Providers
- I. Water Supply Funding:
 - 1) **2011 Federal MR&I Water Supply:**
 - a) **South Central Regional Water District** **
 - 2) **2011-2013 Biennium State Water Supply:**
 - a) **North Central Rural Water Consortium** **
 - b) **Stutsman Rural Water District** **

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- J. Devils Lake:
 - 1) Hydrologic Update
 - 2) Devils Lake Outlet Project Update
 - 3) East Devils Lake Outlet Project:
 - a) Project Update
 - b) **Pipe Procurement Contract** **
 - c) **Pumps Procurement Contract** **
 - d) **Electric Supply Contract** **
 - e) **Land Acquisition** **
 - 4) **Tolna Coulee Funding Request** **
 - 5) **City of Fargo Water Treatment Plant Pilot Study** **
 - 6) **Devils Lake Outlet Awareness Project Manager** **
 - 7) **Devils Lake Basin Joint Water Resource Board Manager** **
 - 8) **Devils Lake Draft Outlet Mitigation Plan** **
 - 9) **Flood Water Storage in Devils Lake - Johnson Farms** **

- K. Southwest Pipeline Project Update

- L. Northwest Area Water Supply (NAWS) Project Update

- M. 2011 Legislative Session:
 - 1) Legislative Summary
 - 2) **S.B. 2020 Legislative Intent - City of Fargo, \$30,000,000** **
 - 3) **S.B. 2020 Legislative Intent - Nelson County, \$250,000** **
 - 4) **S.B. 2020 Legislative Intent - USDA, Wildlife Services, \$250,000** **

- N. Missouri River:
 - 1) Project Update
 - 2) **Missouri River Joint Water Board** **
 - 3) **Missouri River Joint Board - Funding Request for North Dakota's Missouri River Restoration Implementation Committee (MRRIC) Representative** **

- O. Garrison Diversion Conservancy District

- P. Other Business:
 - 1) Statewide Flood Update

- Q. Adjournment

- ** **BOLD, ITALICIZED ITEMS REQUIRE SWC ACTION**

To provide telephone accessibility to the State Water Commission meeting for those people who are deaf, hard of hearing, deaf and/or blind, and speech disabled, please contact Relay North Dakota, and reference ... TTY-Relay ND ... 1-800-366-6888, or 711.

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

June 21, 2011

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on June 21, 2011. Governor Jack Dalrymple, Chairman, called the meeting to order at 8:30 A.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
Kenneth Junkert, representing Doug Goehring, Commissioner,
North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

OTHERS PRESENT:

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

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF DRAFT MINUTES
OF MARCH 28, 2011 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the March 28, 2011 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Olin, and unanimously carried, that the draft minutes of the March 28, 2011 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 April 30, 2011 reflecting 92 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 \$203,317,921, leaving a balance of \$696,278 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 \$127,998,849 and are currently \$40,963,465 or 47.1 percent above budgeted revenues.

Deposits into the Water Development Trust Fund (tobacco settlement) total \$18,248,834 in the 2009-2011 biennium and are currently \$1,497,702 or 7.6 percent below the budgeted revenues.

**APPROVAL OF 2009-2011 BIENNIUM
UNEXPENDED OBLIGATIONS CARRIED
FORWARD TO 2011-2013 BIENNIUM
(SWC Project No. 1753)**

Water projects commonly require several years to implement due to regulatory issues, funding needs, and contracting, bidding and construction delays. The projects administered under the cost share program have been reviewed to identify the status of those remaining obligated funds to determine which projects are still active, completed, or were not/will not be undertaken.

On June 23, 2009, the State Water Commission passed a motion to inquire into the progress and future intention of projects with unexpended obligations not spent within three years following the Commission's approval. As a result, all of the cost share projects with obligated funds are either still active or will begin in the foreseeable future.

It was the recommendation of Secretary Sando that the State Water Commission carry forward all of its unexpended cost share obligations for the incomplete projects to the 2011-2013 biennium.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission carry forward all of its unexpended cost share obligations for the incomplete projects to the 2011-2013 biennium, July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

APPROVAL OF RURAL FLOOD CONTROL PROJECTS COST SHARE LIMITATION OF \$500,000 FOR 2011-2013 BIENNIUM (SWC Project No. 1753)

On August 13, 1998, the State Water Commission approved several cost share policy changes including a limitation on the amount of funding that can be provided in a single biennium for a rural flood control project to no more

than 5 percent of new funding available for general projects. This limitation has been in effect for rural flood control projects since that time, although the dollar amount of the limitation has varied each biennium.

The State Water Commission's budget for the 2011-2013 biennium includes approximately \$10,000,000 for general water projects, therefore, the funding limitation for the 2011-2013 biennium was recommended to be set at 5 percent of \$10,000,000 (\$500,000) for rural flood control projects. The amount available per project would be limited to \$500,000 from the 2011-2013 biennium appropriated funds, although the total amount approved per project consists of all biennium cost share approvals.

It was the recommendation of Secretary Sando that the State Water Commission approve limiting funding for rural flood control projects to \$500,000 per project for the 2011-2013 biennium.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve limiting funding for individual rural flood control projects to \$500,000 per project for the 2011-2013 biennium. This motion is contingent upon the availability of funds.

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

***NORTH DAKOTA WATER MAGAZINE -
APPROVAL OF ALLOCATION (\$36,000)
FROM JULY 1, 2011 TO JUNE 30, 2013
(SWC File AOC/WEF)***

A request from the North Dakota Water Education Foundation was presented for the State Water Commission's consideration to continue its participation in the *North Dakota Water* magazine from July 1, 2011 through June 30, 2013.

The State Water Commission has contributed to this effort since 1994 to support the magazine and its own pages, the "Oxbow" and the "Water Primer" sections, and to assist in the mailing distribution of the magazine. Secretary Sando said that "with the Commission's support, the *North Dakota Water* magazine will provide continued communication among people interested in North Dakota's water resources."

It was the recommendation of Secretary Sando that the State Water Commission approve funding to the North Dakota Water Education Foundation not to exceed an allocation of \$36,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to assist in the publication of the *North Dakota Water* magazine from July 1, 2011 through June 30, 2013.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission approve funding to the North Dakota Water Education Foundation not to exceed an allocation of \$36,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to assist in the publication of the North Dakota Water magazine from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

NORTH DAKOTA IRRIGATION ASSOCIATION - APPROVAL OF \$100,000 IN 2011-2013 BIENNIUM FOR STRATEGIC PLAN INITIATIVES FOR IRRIGATION DEVELOPMENT IN NORTH DAKOTA (SWC File AOC/IRR)

A request from the North Dakota Irrigation Association was presented for the State Water Commission's consideration for state cost participation in the amount of \$100,000 from July 1, 2011 through June 30, 2013 to pursue the initiatives outlined in the Strategic Plan for Irrigation Development in North Dakota.

The North Dakota Irrigation Association's Strategic Plan identified six components necessary for the development of irrigation and diversification of the state's economic base. These components include communications and coordination, irrigation project development, marketing, funding and financing, research related to irrigation, and the pursuit of federal hydropower and affordable energy. These elements together provide the basis for substantially increasing the irrigated acreage and economic output in North Dakota.

It was the recommendation of Secretary Sando that the State Water Commission support the efforts of the North Dakota Irrigation Association with an allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), in pursuance of the activities outlined in the Strategic Plan for Irrigation Development in North Dakota.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission support the efforts of the North Dakota Irrigation Association and approve an allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), from July 1, 2011 through June 30, 2013, in pursuance of the activities outlined in the Strategic Plan for Irrigation Development in North Dakota. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN COMMISSION -
APPROVAL OF ALLOCATION
(\$200,000) FROM JULY 1, 2011
THROUGH JUNE 30, 2013
(SWC File AOC/RRBC)**

The Red River Basin Commission (RRBC) was formed in 2001 to serve as a grassroots effort to address land and water issues in a basinwide context. The RRBC was originally known as the Red River Basin Board, and is a result of the amalgamation of the Board, The International Coalition, and the Red River Water Resource Council. The organization is comprised of a 41-member board of directors representing a broad cross-section of local and state/provincial governments and other interests. The State Engineer, appointed by Governor Hoeven, is a member of the board.

The states of North Dakota and Minnesota, the Province of Manitoba, and the local governments in the three major jurisdictions have participated in funding the activities of the Red River Basin Board/Commission for several years. Contributions of \$100,000 per year are requested of each of the six primary sponsors to fund the Red River Basin Commission's operating costs.

A request from the Red River Basin Commission was presented for the State Water Commission's consideration to provide an allocation not to exceed \$200,000 from July 1, 2011 through June 30, 2013 to support the following areas of Commission activity: 1) efforts relating to the Natural Resource Framework Plan (NRFP); 2) water supply issues in the basin through the implementation of some of the recommendations of the drought scoping document from the last biennium; 3) work related to the LTFS project which is related to NRFP Goal #6; 4) continued efforts related to the basin mainstem model; 5) continued efforts related to the basin water quality (NRFP Goal #9) where the RRBC documents will be refined and linked to the water quality efforts at the international boundary and their relationship to water quality standards that effect North Dakota strategies such as Devils Lake; 6) continued efforts related to conservation land-use issues (NRFP Goal #9), and the Commission will continue to assist in seeking USDA funding for future retention in the next farm bill and under the current farm bill (Agricultural Water Enhancement Program-AWEP); and 7) continue to provide opportunities and efforts for jurisdictional dialogue and efforts as needed and directed by the board.

The Red River Basin Commission will also continue to address efforts relating to basin-wide activities including drought issues, long-term flood solutions, basin water quality initiatives, mainstem modeling and tributary goals, conservation-land use issues, and jurisdictional dialogue and efforts as needed and directed by the Board.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support the Red River Basin Commission's efforts from July 1, 2011 through June 30, 2013.

It was moved by Commissioner Vosper and seconded by Commissioner Thompson that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support the efforts of the Red River Basin Commission from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

**RED RIVER BASIN FLOOD CONTROL
COORDINATOR - APPROVAL OF STATE
COST PARTICIPATION (\$36,000) FROM
JULY 1, 2011 THROUGH JUNE 30, 2013
(SWC Project No. 1705)**

A request was presented for the State Water Commission's consideration for state cost participation for the Red River Basin flood control coordinator. The position was filled in January, 2003 through the hiring of a private contractor

by the Red River Joint Water Resource Board and the expenses are being shared by the Board, the State Water Commission, and the Garrison Diversion Conservancy District. The Red River Basin flood control coordinator is presently held by Thomas Fischer.

The annual salary of the Red River Basin flood control coordinator is \$50,000 plus annual expenses of up to \$10,000, with the State Water Commission and the Garrison Diversion Conservancy District each providing 30 percent of the cost up to \$18,000 (\$15,000 of salary and \$3,000 of expenses) annually. The Red River Joint Water Resource District request before the State Water Commission is for state cost participation of \$36,000 (\$30,000 of salary and \$6,000 of expenses) from July 1, 2011 through June 30, 2013 for the Red River Basin flood control coordinator.

It was the recommendation of Secretary Sando that the State Water Commission approve a 30 percent state cost participation not to exceed an allocation of \$36,000 (\$30,000 of salary and \$6,000 of expenses) from July 1, 2011 through June 30, 2013 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) to support the Red River Basin flood control coordinator.

It was moved by Commissioner Thompson and seconded by Commissioner Vosper that the State Water Commission approve a 30 percent state cost participation not to exceed an allocation of \$36,000 (\$30,000 of salary and \$6,000 of expenses) from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support the Red River Basin flood control coordinator from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

***UPPER SHEYENNE RIVER JOINT
WATER RESOURCE BOARD -
APPROVAL OF STATE COST
PARTICIPATION (\$12,000) FROM
JULY 1, 2011 TO JUNE 30, 2013
(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 and Ueland Dam in Griggs county, financially supporting 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 the development of two conceptual water management plans. The board serves an important role as a valuable resource for directing water project developments and water quality improvements in the Sheyenne River.

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 \$12,000 in the 2011-2013 biennium (July 1, 2011 through June 30, 2013). Funds would be used to fund basic 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 lead in the efforts encouraging the basin's management along watershed lines; continue efforts to coordinate the restoration and enhancement of existing dams and promote the construction of viable dams; and work to facilitate data collection and improve water quality in the basin.

The State Water Commission has a lengthy 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 Sando that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$12,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from July 1, 2011 through June 30, 2013.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$12,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to provide financial support to the Upper Sheyenne River Joint Water Resource Board from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

**DEAD COLT CREEK DAM EMERGENCY
ACTION PLAN (RANSOM COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$22,800)
(SWC Project No. 1671)**

A request from the Ransom County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the development of an emergency action plan (EAP) for Dead Colt Creek

Dam. The dam, which was constructed in 1984 for flood control and recreation, is located approximately 4.5 miles south and 1.5 miles east of Lisbon.

North Dakota Century Code section 61-03-21 requires the operator of a reservoir, with a storage capacity greater than 1,000 acre-feet of water, to submit an annual operations plan to the Office of the State Engineer. One of the required components of the operation plan, as outlined in the North Dakota Administrative Code (section 89-08-04-01), are the emergency procedures and warning plans.

The emergency action plans prepared under the cost share program will be developed in accordance with the guidelines described in the North Dakota Dam Design Handbook. Dead Colt Creek Dam is classified as a Class IV medium hazard dam requiring a dam break model considering a dam failure under both normal operating conditions and flood conditions. The State Water Commission staff will provide the hydrology. KL&J is developing the EAP and will identify detection and evaluation procedures, responsibilities and expected actions, a directory and notification flow chart, emergency remedial measures, and a listing of locally available resources and contractors. The project engineer's cost estimate is \$28,500, of which all costs are determined as eligible for state cost participation as an emergency action plan at 80 percent of the eligible costs (\$22,800). The request before the State Water Commission is for an 80 percent state cost participation not to exceed \$22,800.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, not to exceed an allocation of \$22,800 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Ransom County Water Resource District for the Dead Colt Dam emergency action plan.

It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, not to exceed an allocation of \$22,800 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Ransom County Water Resource District for the Dead Colt Creek Dam emergency action plan. This action is contingent upon the availability of funds.

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

**SHEYENNE RIVER DIVERSION
LOW-FLOW CHANNEL REPAIRS
AND IMPROVEMENTS PROJECT
(CASS COUNTY) - CONDITIONAL
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION, AREAS 1, 2, AND
SITE A (\$645,000); AND CONDITIONAL
APPROVAL OF STATE COST PARTICI-
PATION, AREAS 3 AND 4 (\$2,802,000)
(SWC Project No. 1344)**

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

and 2 is anticipated in 2010-2011, and Areas 3 and 4 in 2011-2012.

The improvements consist of reestablishing the low-flow channel at a steeper grade and lining it with rock riprap to alleviate erosion. Maintenance and repairs (erosion and sloughed slopes) were addressed concurrently with the reconstruction. The estimated total construction and engineering costs of Areas 1 and 2 were \$4,025,000, of which \$2,596,000 was determined to be eligible for state cost participation as a flood control project at 60 percent. On March 11, 2010, the State Water Commission approved a conditional allocation not to exceed \$1,557,600.

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

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

Areas 1 and 2 were let for bid on October 21, 2010, the construction contracts were awarded to Tom's Backhoe Service in the amount of \$1,862,300, of which 60 percent is \$1,117,380. The difference between

the cost share approvals (\$2,037,600) and the actual awarded construction amount (\$1,117,380) is \$920,220.

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for additional state cost participation for the improvements to the Sheyenne River diversion low-flow channel. The proposed Site A maintenance and improvement project consists of improving the low-flow portions of the Horace diversion channel in Section 7 of Stanley Township by flattening the channel gradient, shaping the channel cross-section, and armoring the channel bottom with riprap and filter blanket at that location. The estimated cost of Site A is \$1,200,000, of which all construction work (\$1,075,000) is considered eligible for a 60 percent state cost share (\$645,000). Site A construction permit No. 2288 is being reviewed.

It was the recommendation of Secretary Sando that the State Water Commission conditionally approve the inclusion of Site A into the agreement for Areas 1 and 2, and that the cost share request for Site A (\$645,000) be allocated from the remaining amount of the cost share for Areas 1 and 2 (\$920,220). The total state cost share participation for Areas 1 and 2 and Site A will be \$1,762,380 (\$1,117,380, Areas 1 and 2, and \$645,000, Site A). The remaining amount of \$275,220 will be de-obligated.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission conditionally approve the inclusion of Site A into the agreement for Areas 1 and 2, and that the cost share request for Site A (\$645,000) be allocated from the remaining amount of the cost share for Areas 1 and 2 (\$920,220). This action is contingent upon the availability of funds, receipt of the final engineering plans, and satisfaction of the permit requirements.

The total state cost share participation for Areas 1 and 2 and Site A will be \$1,762,380 (\$1,117,380, Areas 1 and 2, and \$645,000, Site A). The remaining amount of \$275,220 will be de-obligated.

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

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for a 100 percent state cost participation to construct low-flow channel improvements to the Sheyenne diversion. This request also includes funding for additional maintenance

and improvements for Areas 3 and 4 along the existing Sheyenne diversion channel. Area 3 is located north of the BNSF railroad, and Area 4 is located south of Interstate 94. No permits have been issued to date for Areas 3 and 4. The project engineer's cost estimates for Area 3 is \$1,460,000, and for Area 4 is \$3,210,000.

The Southeast Cass Water Resource District's letter requesting a 100 percent state cost participation, dated March 3, 2011, states, in part: ..."The Sheyenne diversion (diversion) project protects the communities of Horace, Fargo, and West Fargo from Sheyenne River floods. Since the diversion was completed in 1991, it has repeatedly demonstrated its value in that it has saved these communities from severe flooding numerous times, including the catastrophic spring floods of 1997, 2009, and 2010. The current wet cycle has caused the diversion to operate more often and with a greater duration than the original design intended. In addition to the recent wet period, the 2010 releases from the Devils Lake compounded the problem; 2010 was the first year in the history of the project that the diversion operated nearly the entire year after ice out. As a result of the combined effects of the wet climate and the Devils Lake releases, the diversion has suffered from severe erosion in recent years threatening the integrity of the project and subsequent flood protection benefits. In order to address this situation, the District developed a plan for improving the diversion so that it can continue to provide safe and reliable flood protection. As a result of these facts, and understanding the needs to the Devils Lake basin, the Southeast Cass Water Resource District requests the remaining segments be improved this year under a 100 percent cost share scenario so that the diversion is ready for the additional 2012 Devils Lake releases."

Based on the State Water Commission's cost share policy for flood control projects, it was the recommendation of Secretary Sando that the State Water Commission conditionally approve a 60 percent state cost participation of the eligible costs not to exceed an allocation of \$2,802,000 (Area 3-\$876,000; Area 4-\$1,926,000) from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Southeast Cass Water Resource District to support Areas 3 and 4 of the Sheyenne River diversion improvements.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission conditionally approve a 60 percent state cost participation of the eligible costs not to exceed an allocation of \$2,802,000 (Area 3-\$876,000; Area 4-\$1,926,000) from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Southeast Cass Water Resource District to support Areas 3 and 4 of the Sheyenne River diversion improvements. This action is contingent upon the availability of funds, approval of the final engineering plans, and satisfaction of the required permits.

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

CITY OF PEMBINA FLOOD CONTROL SYSTEM 2010 FEMA LEVEE CERTIFICATION AND ACCREDITATION PROJECT - APPROVAL OF ADDITIONAL STATE COST PARTICIPATION (\$16,936) (SWC Project No. 1444)

On March 11, 2010, the State Water Commission approved a request from the City of Pembina for state cost participation at 60 percent of the eligible costs not to exceed \$27,156 from the funds appropriated to the State Water Commission in the 2009-2011 biennium

(H.B. 1020) for assistance in analyzing the city's flood control levee system for compliance with the Federal Emergency Management Agency (FEMA) guidelines as outlined in the Code of Federal Regulations (CFR), Title 44 Part 65.10.

The analysis is required by FEMA to accredit the levee system, for flood insurance mapping purposes only, as being operated as designed and/or to the current standards and providing protection from the 100-year flood. A statement from a registered professional engineer whether the system elements are designed in accordance with sound engineering practices to meet the requirements of 44 CR 65.10 is anticipated.

According to FEMA's current Flood Insurance Rate Map (FIRM), the City of Pembina is protected from the 1-percent-annual-chance flood (100-year). The city was officially notified by letter dated March 26, 2009 of FEMA's intent to require levee certification within two years. FEMA's accreditation will allow the city to maintain its status as a community removed and protected from the floodplain. The levee analysis was completed in December of 2010, and indicated that the flood control system did not meet the 44 CFR 65.10 requirements. The city is currently developing plans to address the deficiencies estimated to cost approximately \$1,000,000.

The revised cost estimate for the levee analysis is \$159,633, of which \$73,487 is determined eligible for a 60 percent state cost participation (\$44,092). The cost overage is a result of unforeseen costs estimated in February of 2010 for soils investigations and additional engineering. A request from the City of Pembina was presented for the State Water Commission's consideration for an additional state cost participation in the amount of \$16,936 (eligible costs of \$44,092 less \$27,156 approved on March 11, 2010). The request before the State Water Commission is for a 60 percent state cost participation in the amount of \$16,936.

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 additional allocation of \$16,936 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support the City of Pembina's flood control system, 2010 levee certification for FEMA. The Commission's affirmative action would increase the total state cost participation to \$44,092.

It was moved by Commissioner Berg and seconded by Commissioner Vosper that the State Water Commission approve state cost participation at 60 percent of the eligible costs, not to exceed an additional allocation of \$16,936 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support the City of Pembina's flood control system, 2010 levee certification for FEMA. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$44,092 for the City of Pembina's flood control system, 2010 levee certification for FEMA.

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

***U.S. GEOLOGICAL SURVEY
MISSOURI RIVER TOPOGRAPHY -
APPROVAL OF STATE COST
PARTICIPATION (\$55,000)
(SWC Project No. 1392)***

With the unprecedented flooding happening on the Missouri River, high velocities and increased erosion in the river channel and along its banks have occurred. The United States Geological Survey has the capabilities to gather important channel bottom topographic data that can be used for investigations into the impacts of erosion and bank stability on 12-14 miles of the Missouri River through the Bismarck/Mandan area at a cost estimate of \$110,000. The North Dakota Department of Transportation has committed to provide 50 percent of the cost. A request was presented for the State Water Commission's consideration to provide the remaining 50 percent state cost participation in the amount of \$55,000.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation at 50 percent of the eligible costs, not to exceed an allocation of \$55,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the U.S Geological Survey to support the Missouri River topographic data project.

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission approve state cost participation at 50 percent of the eligible costs, not to exceed an allocation of \$55,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the U.S Geological Survey to support the Missouri River topographic data project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, 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)**

work group meeting held on May 12, 2011, and the Fargo-Moorhead Metro Area Feasibility Study FAQs, attached hereto as **APPENDIX "C"**.

Project representatives provided a report on the Fargo-Moorhead Metropolitan Feasibility Study, which included the minutes of the metro flood study

Dennis Walaker, Mayor of Fargo, provided an overview of the statewide flood events. Governor Dalrymple expressed sincere appreciation on behalf of the citizens of the State of North Dakota for the assistance that was provided especially to the Bismarck/Mandan and Minot areas during their recent flood fight efforts.

**WESTERN AREA WATER SUPPLY
(WAWS) PROJECT - APPROVAL OF
PHASE 1; AND APPROVAL OF
\$25,000,000 AUTHORIZED IN
2011 HOUSE BILL 1206
(SWC Project No. 1973)**

2011 House Bill 1206 created the Western Area Water Supply Authority (WAWSA), under chapter 61-40 of the North Dakota Century Code. The legislation is attached hereto as **APPENDIX "D"**. The following sections of the legislation were discussed:

61-40-01. Legislative declarations - Authority of western area water supply authority. "The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers." As the project develops, the authority will need to show how they have considered minimizing the impact on private water sellers.

61-40-03(1). Western area water supply authority - board of directors. "The State Engineer or designee is a voting member on the Authority's board of directors." Michelle Klose is the State Engineer's designee on the Authority.

61-40-05(20). Authority of the western area water supply authority. "The Authority may accept assignment by member entities of contracts that obligate member entities to provide a water supply, contracts that relate to construction of water system infrastructure, or other member entity contracts that relate to authorities transferred to the authority under this chapter." The WAWSA is proposing to use this legislative language to allow the work for Phase I under the contract between the McKenzie County Water Resource District and their engineering firm to continue through the Authority. The Phase II and III portions of the project will proceed following an engineering selection process.

61-40-06. Oversight of authority projects. "The authority shall comply with the policy of the state water commission as the policy relates to bidding, planning, and construction of the project. ... The authority shall report to and consult with the state water commission regarding the operation and financial status of the project, as requested by the state water commission. In relation to the initial construction of the system and debt repayment, the authority shall present the overall plan and contract plans and specifications for the project to the state water commission for approval." The WAWSA is seeking approval for Phase I of the project, which has an estimated construction cost of \$27 million.

SECTION 2. LOANS FROM BANK OF NORTH DAKOTA AND STATE WATER COMMISSION. "The state water commission shall make available from funding appropriated to the commission for the 2011-2013 biennium \$25,000,000 as a zero interest loan to the western area water supply authority, and the Bank of North Dakota shall manage this loan." Discussions were initiated with the Bank of North Dakota relative to the setup of the loans and the procedure for the transfer of funds. The level of oversight by the State Water Commission will be addressed by the Commission in the loan documents.

Authority and Bylaws. The Authority's bylaws and the initial board of directors and positions were established and conditionally approved by the entities represented, pending review of the bylaws by the Attorney General.

Engineering Selection Process. The Authority met on May 31, 2011 to discuss the engineering selection process. A subcommittee of the Authority was established to develop the proposal for the selection process.

It was the recommendation of Secretary Sando that the State Water Commission approve the Western Area Water Supply project, Phase I; and that an allocation not to exceed \$25,000,000, authorized in 2011

House Bill 1206, from the funds appropriated to the State Water Commission in the 2011-2013 biennium, be approved for project construction. It is also recommended that the State Water Commission delegate the review of the specific plans and specifications to the State Water Commission staff.

It was moved by Commissioner Hanson and seconded by Commissioner Berg that the State Water Commission:

- 1) approve the Western Area Water Supply project, Phase I;***
- 2) approve an allocation not to exceed \$25,000,000, authorized in 2011 House Bill 1206, from the funds appropriated to the State Water Commission in the 2011-2013 biennium, for project construction; and***
- 3) the State Water Commission staff be delegated to review the project specific plans and specifications.***

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

Robert Harms, representing the Independent Water Providers, appeared before the State Water Commission to voice the Providers comments relative to the WAWS project, which are attached hereto as ***APPENDIX "E"***. Mr. Harms reiterated the mission statement of the Independent Water Providers that is "to promote the sustainable, economical, and practical development of North Dakota's water resources by the private sector and to protect the rights of these independent water providers."

2011 FISCAL YEAR FEDERAL MR&I PROJECTS FUNDS - SOUTH CENTRAL REGIONAL WATER DISTRICT, PHASES III & IV - APPROVAL OF ADDITIONAL \$2,650,000 GRANT (SWC Project No. 237-04)

The 2011 proposed federal budget included funding for the Garrison Diversion Unit for 2011, of which \$15,650,000 was for funding projects under North Dakota's Municipal, Rural and Industrial (MR&I) Water Supply program for the following

projects: Northwest Area Water Supply Project - \$2,000,000; South Central Regional Water District - \$6,650,000; Southwest Pipeline Project - \$6,650,000; and Administration - \$350,000. On September 1, 2010, the State Water Commission passed motions approving the federal funding for the listed projects.

Congress recently reduced the previously approved 2011 federal Municipal, Rural and Industrial Water Supply Program budget of \$15,650,000 to \$9,600,000. The funding for the Northwest Area Water Supply project was for work under the Bureau of Reclamation's supervision on the supplemental environmental impact statement. This funding remains in the Bureau's budget. State funding for the service areas in the Southwest Pipeline Project are being addressed by the State Water Commission in the 2011-2013 budget.

South Central Regional Water District - Emmons, McIntosh, Logan, and Kidder Counties, Phase III and a portion of Phase IV: A regional water system is proposed to serve rural users and municipalities in the counties of Burleigh, Emmons, Kidder, Logan, and McIntosh, at an estimated cost of \$85,500,000. The South Central Regional Water District is developing the project with sponsors from the various counties. The water supply includes bulk water from the city of Bismarck, a new water source and treatment plant in Burleigh County, and a new water treatment plant using an intake in the Missouri River west of Linton.

On July 17, 2007, the State Water Commission approved a 29 percent grant, not to exceed an allocation of \$4,870,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the South Central Regional Water District for Phase 1 project development. On February 4, 2008, the State Water Commission modified the Phase I allocation (\$4,870,000 approved on July 17, 2007) to a federal fiscal year 2008 MR&I grant of 31 percent, not to exceed an allocation of \$2,952,000; and an allocation not to exceed \$1,918,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

On June 23, 2008, the State Water Commission approved a 53 percent grant, not to exceed an allocation of \$8,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the South Central Regional Water System, Phase II.

Federal Fiscal Year 2009 MR&I grant funds were earmarked in the amount of \$5,850,000 for the South Central Regional Water District, Phase II. On April 28, 2009, the State Water Commission modified its previous allocation (\$8,200,000 approved on June 23, 2008) to a federal Fiscal Year 2009 MR&I grant of 53 percent not to exceed an allocation of \$5,850,000; and an allocation not to exceed \$2,350,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

Federal Fiscal Year 2010 MR&I grant funds were earmarked in the amount of \$8,800,000 for the South Central Regional Water System (Emmons County, Phase II). On December 11, 2009, the State Water Commission approved a federal Fiscal Year 2010 MR&I grant of 75 percent, not to exceed an allocation of \$8,800,000.

Federal Fiscal Year 2011 MR&I grant funds were earmarked in the amount of \$6,650,000 for the South Central Regional Water System (Emmons County, Phase III). On September 1, 2010, the State Water Commission approved a federal Fiscal Year 2011 MR&I grant of 75 percent, not to exceed an allocation of \$6,650,000.

Federal Fiscal Year 2011 MR&I grant funds have been revised in the amount of \$9,300,000 for the South Central Regional Water System (Emmons county, Phase III, and a portion of Phase IV). The 2011 work includes approximately 211 miles of pipeline for 256 rural users, transmission pipeline from Linton to the Wishek standpipe and service to Wishek, and service could also be available to the cities of Braddock and Hazelton. The revised estimated cost of 2011 Phase III and a portion of Phase IV is \$12,400,000.

Commissioner Swenson disclosed that he serves as a member of the South Central Regional Water District board of directors and, therefore, to avoid a conflict of interest, Commissioner Swenson requested to be excused from discussion of the project and that an abstention vote be recorded.

It was the recommendation of Secretary Sando that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant of 75 percent, not to exceed an additional allocation of \$2,650,000 for a total federal Fiscal Year 2011 MR&I grant of \$9,300,000, to the South Central Regional Water District for Phase III and a portion of Phase IV.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve a federal Fiscal Year 2011 MR&I grant of 75 percent, not to exceed an additional allocation of \$2,650,000, for a total federal Fiscal Year 2011 MR&I grant of \$9,300,000, to the South Central Regional Water District for Phase III and a portion of Phase IV. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, Olin, Thompson, Vosper, and Governor Dalrymple voted aye. Commissioner Swenson abstained from voting. There were no nay votes. Governor Dalrymple announced the motion carried.

**NORTH CENTRAL RURAL WATER
CONSORTIUM - APPROVAL OF STATE
COST PARTICIPATION FOR BERTHOLD-
CARPIO PHASE (\$3,150,000) IN
2011-2013 BIENNIUM
(SWC Project No. 237-03)**

A North Central Rural Water Consortium was formed with the Central Plains Water District, North Prairie Rural Water, and McLean-Sheridan Rural Water. The intent of the consortium is to provide a funding mechanism and cooperative body to more efficiently serve the

most users possible while allowing each system to remain independent. On March 5, 2003, the State Water Commission approved a 65 percent grant in the amount of \$29,250 from the Water Development and Research Fund to the McLean-Sheridan Rural Water for the North Central Rural Water Consortium feasibility study, which was proposed to cost \$45,000.

On December 7, 2007, the State Water Commission approved a 65 percent grant, not to exceed an allocation of \$1,900,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to provide service for the south Benson rural water area. On February 4, 2008, the State Water Commission modified its previous allocation (\$1,900,000 approved on December 7, 2007) to a federal Fiscal Year 2008 MR&I grant allocation of 65 percent, not to exceed \$984,000; and an allocation not to exceed \$916,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

On June 23, 2008, the State Water Commission approved a 70 percent grant, not to exceed an allocation of \$7,200,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Central Rural Water Consortium II for construction to provide service to the communities of Anamoose and Benedict and approximately 250 rural users. On April 28, 2009, the State Water Commission modified its previous allocation (\$7,200,000 approved on June 23, 2008) to a federal Fiscal Year 2009 MR&I grant of 70 percent, not to exceed an allocation of \$3,905,000; and an allocation not to exceed \$3,295,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Central Rural Water Consortium II for construction to provide service to the communities of Anamoose and Benedict and approximately 250 rural users.

The 2011 Berthold-Carpio project addresses service in northwestern Ward County and extends from Des Lacs to Carpio. The water supply would be from the Northwest Area Water Supply project pipeline and would extend into the rural areas. The project involves 140 miles of pipeline for approximately 200 rural users. North Central Rural Water will obtain other funding to the city of Carpio. The city does not have a centralized water system as each resident has a well or a shared well. Carpio reports that water is limiting their ability to grow with the oil

boom in the area as businesses and residents will not locate in the community. The water quality generally has high iron, manganese and total dissolved solids. The estimated project cost is \$4,840,000. A request from the North Central Rural Water Consortium was presented for the State Water Commission's consideration for state cost participation of a 65 percent grant in the amount of \$3,150,000.

It was the recommendation of Secretary Sando that the State Water Commission approve a 65 percent grant, not to exceed an allocation of \$3,150,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the North Central Rural Water Consortium for the Berthold-Carpio phase.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve a 65 percent grant, not to exceed an allocation of \$3,150,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the North Central Rural Water Consortium for the Berthold-Carpio phase. This action is contingent upon the availability of funds, and subject to future revisions.

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

**STUTSMAN RURAL WATER DISTRICT -
APPROVAL OF STATE COST PARTICI-
PATION FOR STUTSMAN EXPANSION
(\$6,800,000) IN 2011-2013 BIENNUM
(SWC Project No. 237-03)**

The Stutsman Rural Water District is considering expansions to address inadequacies in the rural system which limits their ability for the addition of rural water users. The system initially served 1,200 rural users, the cities of Cleveland

and Montpelier, and the Northern Prairie Wildlife Research Center. On March 11, 2004, the State Water Commission passed a motion to approve a 65 percent grant not to exceed \$24,700 from the Water Development and Research Fund, for the Stutsman County Rural Water hydraulic model and feasibility study. The full-system hydraulic model and capital improvements study were completed to confirm the need for approximately \$9,580,000 in infrastructure improvements.

On March 10, 2005, the State Water Commission approved a 5 percent grant, not to exceed an allocation of \$83,500 from the Water Development and Research Fund, for the Stutsman Rural Water District infrastructure improvements project. On June 22, 2005, the Commission passed a motion to increase the grant to 10 percent of the eligible costs.

The Stutsman Rural Water District is considering an expansion project that will allow for the addition of 550 new members, and provide service to the cities of Woodworth and Streeter. The total estimated cost is \$18,000,000. The 2011 project includes the northern Stutsman and the Woodworth areas, at an estimated cost of \$9,700,000. The work would involve the construction of 298 miles of pipeline for 244 rural users and service to Woodworth. A request from the Stutsman Rural Water District was presented for the State Water Commission's consideration for state cost participation for the 2011 expansion project for a 70 percent grant in the amount of \$6,800,000.

It was the recommendation of Secretary Sando that the State Water Commission approve a 70 percent grant not to exceed an allocation of \$6,800,00 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Stutsman Rural Water District to support the Stutsman expansion project.

It was moved by Commissioner Thompson and seconded by Commissioner Olin that State Water Commission approve a 70 percent grant not to exceed an allocation of \$6,800,00 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Stutsman Rural Water District to support the Stutsman expansion project. This action is contingent upon the availability of funds, and subject to future revisions.

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

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

As of June 9, 2011, the water surface elevation for Devils Lake was 1454.26 feet msl. The water surface elevation rose 2.6 feet from its January 1, 2011 elevation of 1451.5 to June 9, 2011. The lake normally peaks near July 1st, if the Devils Lake basin avoids large rain events for the rest of the summer, it may be at or near its peak elevation for the year. The 2009 spring rise was 3.5 feet at an inflow of 540,000 feet and the 2010 spring rise was 1.8 feet at an inflow of 312,000 acre-feet. The total storage of Devils Lake, including Stump Lake is 4.14 million acre-feet and the area is 270,000 acres, which is an increase of 477,000 acre-feet of storage and an area of 28,000 acres from a year ago.

The analysis from the National Weather Service of stage/storage criteria indicates there may be inaccuracies in the U.S. Geological Survey (USGS) water surface elevation tables. The differences were noted from LIDAR elevations, which indicates that the surface area of the lake complex holds significantly higher storage than shown on the Survey's stage/storage curves. Comparison of stage/storage data from the State Water Commission's website indicates that this data is between the USGS stage/storage and the LIDAR stage/storage data. Additional analysis is being conducted.

**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 East Devils Lake 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 the open channel segments.

The releases of Devils Lake water from the outlet into the Sheyenne River began on May 26, 2011 at 150 cfs. The flow was increased to 250 cfs on June 8, 2011.

***EAST DEVILS LAKE OUTLET
PROJECT STATUS REPORT;
AND CONTRACTS APPROVAL
(SWC Project No. 416-15)***

To alleviate flooding in the Devils Lake basin and to protect the downstream communities, the State of North Dakota has selected a project plan to build a second water outlet at Devils Lake. The

project calls for constructing an underground pipeline from East Devils Lake to the downstream side of Tolna Coulee. The outlet will be capable of transferring between 250 cubic feet per second (cfs) of water and 350 cfs from Devils Lake to the Sheyenne River. From East Devils Lake, the pipeline will run approximately 5.5 miles southeast to Tolna Coulee. The project is scheduled for completion in the spring of 2012, and is expected to cost between \$75,000,000 and \$85,000,000.

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 East Devils Lake outlet project, and \$500,000 for the geotechnical investigation of Tolna Coulee from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

Bartlett & West/AECOM, project engineer for the East Devils Lake outlet project, is continuing the design work. The initial geotechnical investigation has been completed, and the second phase is ongoing. The wetland criteria requirements have been addressed with the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and Natural Resources Conservation Service. The cultural resource Class I: Literature Search, and Class II: Reconnaissance Inventory, have been completed within the reservation boundaries.

The following contracts for the East Devils Lake outlet project were presented for the State Water Commission's consideration:

1) Pipe Procurement Contract:

The pipe procurement bids were opened on May 31, 2011; four bids were received and were publicly opened and read. Three of the bids were for the steel bid package and one bid for the reinforced concrete pipe bid package:

Schedule A, based on the bids received for the 96-inch diameter pipe, (high pressure steel, 8,000 linear feet), the apparent low bidder was Northwest Pipe Company, Saginaw, Texas, in the amount of \$5,012,073.

Schedule B, based on the bids received (low pressure, 19,400 linear feet), the apparent low bidder was Cretex Concrete Products Midwest, Menoken, North Dakota, in the amount of \$10,386,375.

In discussion of the pipe procurement bids for Schedule A and the potential issues, it was the consensus of the State Water Commission that in the best interests of the state/project and in an effort to resolve the issues, all bids received for the pipe procurement contract, Schedule A, be rejected.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission reject all bids received for the East Devils Lake outlet project pipe procurement contract, Schedule A.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. Kenneth Junkert representing Commissioner Goehring abstained from voting. Governor Dalrymple announced the motion carried.

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 award of contract for pipe procurement, Schedule B, to Cretex Concrete Products Midwest, Menoken, North Dakota, in the amount of \$10,386,375.

2) Pump Procurement Contract:

Five pumps are required for the East Devils Lake outlet project, one 50 cfs and four 75 cfs pumps. One additional 75 cfs pump was included in the price quote, which can be used as a back up pump or to increase the discharge capacity. Pre-purchasing of the pumps was completed from quotes from applicable pump manufacturers. Weir Floway would supply the pumps, motors, and pump cans at

a cost of \$2,850,000. The estimated cost for five 42-inch butterfly valves and ten 30 to 42-inch check valves is \$750,000 from Val-matic and/or Pratt. The total estimated cost for the pumps, motors, and valves is \$3,600,000.

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 award of contracts to Weir Floway to supply 6 pumps, in the amount of \$2,850,000; and to Val-matic and/or Pratt to supply the valves, in the amount of \$750,000.

3) Electric Supply Contract:

Two electric utilities are capable of supplying power to the pump location; proposals were received from Ottertail Power Company and Nodak Electric/Minnkota Power. The proposals from the electric utilities were comparable in power costs, Ottertail's proposal does not require capital costs to construct the infrastructure, while the proposal from Nodak Electric/Minnkota Power does require substantial infrastructure capital costs.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to negotiate and finalize an electric supply contract in the best interest of the East Devils Lake outlet project.

4) Property Acquisition:

Easement and land acquisition for the East Devils Lake outlet project, which includes the intake, pump station, terminal structure, and route alignment is estimated to cost \$400,000.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$400,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), and authorize the secretary to the State Water Commission to finalize and execute the property acquisition contract.

5) Site Preparations:

A contract is required for clearing, grubbing, and site preparations for the intake area and pipe delivery areas, at an estimated cost of \$1,100,000.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$1,100,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), and authorize the secretary to the State Water Commission to finalize and execute the site preparations contract.

6) Engineering Services:

A contract is required for the completion of the final engineering design and construction phase services which includes the procurement of materials, contractor prequalification, bidding, construction observation, initial construction surveying and staking, and contract administration for the time frame of June, 2011 to June, 2012, at an estimated cost of \$4,950,000.

It was the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$4,950,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), and authorize the secretary to the State Water Commission to finalize and execute the engineering design and construction services contract.

It was moved by Commissioner Thompson and seconded by Commissioner Hanson that the State Water Commission approve all recommendations as presented for item 1, Schedule B; and items 2 through 6. This action is contingent upon the availability of funds for items 4, 5 and 6.

Commissioners Berg, Foley, Hanson, Olin, Thompson, Vosper, and Governor Dalrymple voted aye. Commissioner Swenson voted nay. Kenneth Junkert representing Commissioner Goehring abstained from voting. The recorded votes were 7 ayes, 1 nay, and 1 abstention from vote. Governor Dalrymple announced the motion carried.

TOLNA COULEE CONTROL STRUCTURE PROJECT - APPROVAL OF STATE COST PARTICIPATION (\$3,000,000) (SWC Project No. 416-13)

The U.S. Army Corps of Engineers and the State Water Commission are developing the Tolna Coulee control structure project that would allow the natural erosion of the divide between

Stump Lake and the Tolna Coulee while protecting the downstream communities from an uncontrolled release of the water in Stump Lake. The project consists of a combination of sheet pile, embankment, and a steel stop log weir structure. The structure is designed to allow flow in the Tolna Coulee to cause erosion the same as would occur naturally while providing the ability to lower the lake elevation in a controlled manner as the divide erodes. It is not the purpose of this project to impound water in Stump Lake above the natural outlet elevation as it exists now or what it may become in the future.

The Corps of Engineers estimates the total project cost at \$9,100,000, with \$8,200,000 being cost shared 75 percent federal/25 percent state, and the remaining \$900,000 being 100 percent state. This results in a net cost allocation rate of 32.8 percent to the state for actual project costs of

\$3,000,000. A request was presented for the State Water Commission's consideration for a 32.8 percent state cost participation not to exceed \$3,000,000 for the design and construction of the Tolna Coulee control structure project. It is anticipated that the project will be completed in the spring of 2012.

It was the recommendation of Secretary Sando that the State Water Commission approve a 32.8 percent state cost participation not to exceed an allocation of \$3,000,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) for the design and construction of the Tolna Coulee control structure project. It was also the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to negotiate and finalize the contract between the U.S. Army Corps of Engineers and the North Dakota State Water Commission (the contract would be executed by Governor Dalrymple, chairman of the State Water Commission).

Mike Grafsgaard, Devils Lake city engineer, reaffirmed the opposition of the Devils Lake City Commission to the Tolna Coulee control structure project. He said, in part, "the Corps would build a control structure on the coulee whether the city likes it or not, and whether it is on the city's property or not. What they are planning is not in the best interest of the city of Devils Lake or the Lake Region, it is a downstream flood protection project."

Governor Dalrymple emphasized the importance that "it is in the best interests of everyone in North Dakota, Minnesota, and Manitoba to begin taking control of Devils Lake. It is a complicated, enormous task and undertaking, and will involve a tremendous amount of work - how best to manage Devils Lake, provide for the safety and welfare of all downstream interests, and ensure a future for the Lake Region." Governor Dalrymple said he is convinced that the downstream communities will realize it is in their best interest to work with the state, the city of Devils Lake, the Governor, and the State Water Commission to get a handle on this lake." He insisted that managing Devils Lake is in everyone's interest.

Governor Dalrymple further recommended that the State Water Commission adopt a motion that would authorize the secretary to the State Water Commission and the Commission's staff to explore the development of a gravity flow outlet from the Devils Lake complex, subject to the timely progress of building a control structure at Tolna Coulee and the construction of a pump-flow outlet at East Devils Lake. He said "the concept of a new gravity flow outlet will require extensive communication and cooperation with affected parties downstream from the lake. We will ask all affected parties to help manage the elevation of Devils Lake to minimize the potential for detrimental effects of releases."

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission and the Commission's staff to explore the development of a gravity flow outlet from the Devils Lake complex, subject to the timely progress of building a control structure at Tolna Coulee and the construction of a pump-flow outlet at East Devils Lake.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. Commissioner Swenson voted nay. Kenneth Junkert representing Commissioner Goehring abstained from voting. Recorded votes were 7 ayes; 1 nay; and 1 abstention from vote. Governor Dalrymple announced the motion carried.

It was moved by Commissioner Foley and seconded by Commissioner Swenson that the State Water Commission:

1) approve a 32.8 percent state cost participation not to exceed an allocation of \$3,000,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) for the design and construction of the Tolna Coulee control structure project, contingent upon the availability of funds; and

2) that the State Water Commission authorize the secretary to the State Water Commission to negotiate the contract for the Tolna Coulee control structure project between the U.S. Army Corps of Engineers and the North Dakota State Water Commission (the contract would be executed by Governor Dalrymple, chairman of the State Water Commission).

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

**CITY OF FARGO WATER TREATMENT
PLANT PILOT STUDY USING
REVERSE OSMOSIS TREATMENT
PROCESS - APPROVAL OF STATE
COST PARTICIPATION (\$600,000)
(SWC Project No. 237-FAR)**

A request from the city of Fargo was presented for the State Water Commission's consideration for state cost participation of the costs associated with drinking water treatment plant improvements that are necessary to address the downstream water quality

impacts from operation of the Devils Lake outlet. The city has been conducting a facility planning study related to this project and has identified several important steps including a pilot study. The city intends to conduct a pilot study using reverse osmosis membranes to define engineering design details that are critical to applying reverse osmosis membrane treatment in Fargo.

The purposes of the pilot study include:

1) demonstrate the effectiveness of the proposed processes in meeting the targeted finished water quality goals (sulfate reduction, hardness reduction, bromide reduction, etc.); 2) establish a full-scale design and operating parameters for the proposed processes; 3) determine the pretreatment requirements for downstream processes; 4) determine the potential for fouling and means of mitigating fouling; and 5) project the expected long-term performance of the membrane processes.

The pilot study will be conducted at the Fargo water treatment plant beginning in July, 2011 and continuing through April, 2012 to evaluate seasonal water supply variation impacts on the membrane processes. Upon the successful demonstration of the pilot study, the city intends to start the design and equipment procurement process for the necessary improvements. The total estimated cost for the pilot study is approximately \$1,200,000. The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$600,000.

It was the recommendation of Secretary Sando that the State Water Commission approve a 50 percent state cost participation grant of the eligible costs not to exceed an allocation of \$600,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the city of Fargo to support the pilot study of the reverse osmosis treatment process at the water treatment plant.

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve a 50 percent state cost participation grant of the eligible costs not to exceed an allocation of \$600,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the city of Fargo to support the pilot study of the reverse osmosis treatment process at the water treatment plant. This action is contingent upon the availability of funds, and is subject to future revisions.

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

**DEVILS LAKE OUTLET AWARE-
NESS PROJECT MANAGER -
APPROVAL OF CONTRACT FROM
JULY 1, 2011 THROUGH JUNE 30, 2013;
AND APPROVAL OF COST SHARE
PARTICIPATION (\$32,340)
(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 intended goal of this position is to work with and educate downstream interests through an approved information program associated with the Devils Lake outlet project.

A request from the Devils Lake Joint Water Resource Board was presented for the State Water Commission's consideration to continue funding for the Devils Lake outlet awareness project manager from July 1, 2011 through June 30, 2013, with a 33 percent state cost participation (\$32,340). Other parties to the previous agreement have indicated their intentions to continue this effort.

It was the recommendation of Secretary Sando that the State Water Commission approve a 33 percent state cost participation not to exceed an allocation of \$32,340 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Devils Lake Basin Joint Water Resource Board to support the Devils Lake outlet awareness project manager from July 1, 2011 through June 30, 2013.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve a 33 percent state cost participation not to exceed an allocation of \$32,340 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Devils Lake Basin Joint Water Resource District to support the services of the Devils Lake outlet awareness project manager from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

**DEVILS LAKE BASIN JOINT WATER
RESOURCE BOARD MANAGER -
APPROVAL OF CONTRACT FROM
JULY 1, 2011 THROUGH JUNE 30, 2013;
AND APPROVAL OF STATE COST
PARTICIPATION (\$60,000)
(SWC Project No. 416-01)**

(ESAP) and the Sweetwater-Morrison storage program, Graham's Island road raise, long-term water quality sampling and analysis in the basin coulees, and their most recent update of the Devils Lake Basin Water Management Plan.

Since 1998, the State Water Commission has promoted watershed management along the watershed lines in the Devils Lake Basin. The Joint Board has shown a commitment to this concept demonstrated through their support of the state outlet, management of the Extended Storage Acreage program

The State Water Commission has supported watershed management along the watershed lines through the cost share of a managerial position for the Board, which is an essential position in ensuring that the goals and objectives of the Board are carried out in a timely and professional manner. A request from the Devils Lake Basin Joint Water Resource Board was presented for the State Water Commission's consideration for a 50 percent state cost participation in the amount of \$60,000 for the 2011-2013 biennium. The remaining funds would be provided from the Devils Lake Basin Joint Water Resource District.

It was the recommendation of Secretary Sando that the State Water Commission approve a 50 percent state cost participation not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Devils Lake Basin Joint Water Resource Board to support the services of the Devils Lake Basin Joint Water Resource board manager from July 1, 2011 through June 30, 2013.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve a 50 percent state cost participation not to exceed an allocation of \$60,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Devils Lake Basin Joint Water Resource Board to support the services of the Devils Lake Basin Joint Water Resource board manager from July 1, 2011 through June 30, 2013. This action is contingent upon the availability of funds.

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

**2011 DEVILS LAKE OUTLET
MITIGATION PLAN APPROVAL
(SWC Project No. 416-10)**

Beginning in 1993, as Devils Lake began its historically unprecedented rise, the State Water Commission has been at the forefront of the efforts to

combat flooding in the basin. The lake level has risen 30 feet expanding from approximately 49,000 acres to more than 200,000 acres. At its overflow elevation of 1458 feet msl, where it naturally spills into the Sheyenne River, Devils Lake will cover more than 261,000 acres.

To combat the growing flooding problem, local, state, and federal authorities adopted a three-prong approach in the mid-1990s: 1) infrastructure protection for roads, levees, and relocations; 2) upper basin water management including water storage; and 3) discharge of flood water through an emergency west end Devils Lake outlet to the Sheyenne River. This approach was designed with the interests of both the Devils Lake basin and downstream residents in mind. The principal concept has been to manage water and flood damage within the Devils Lake basin, while attempting to prevent a potentially catastrophic natural overflow through Tolna Coulee to the Sheyenne River.

The 2011 draft Devils Lake Outlet Mitigation Plan, attached hereto as **APPENDIX "F"**, was presented for the State Water Commission's consideration. The plan was developed by the Commission staff with input from the stakeholders including the Devils Lake Outlet Advisory committee. The plan provides important directions in addressing the problems that could arise downstream from emergency measures taken at Devils Lake to protect the safety and general welfare of both basin and downstream residents. The draft plan has two key components: 1) construction of emergency outlets to remove floodwater from Devils Lake; and 2) a course of action to address downstream issues along the Sheyenne River that may result from operating the emergency outlet projects.

It was the recommendation of Secretary Sando that the State Water Commission approve the 2011 draft Devils Lake Outlet Mitigation Plan, and direct its use as a guide in addressing problems along the Sheyenne River that may result from operation of the Devils Lake outlets.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve the 2011 draft Devils Lake Outlet Mitigation Plan, and direct its use as a guide in addressing problems along the Sheyenne River that may result from operation of the state's emergency Devils Lake outlets.

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

DEVILS LAKE BASIN FLOOD WATER STORAGE - APPROVAL OF STATE COST PARTICIPATION FOR JOHNSON FARMS WATER STORAGE (\$125,000) (SWC Project No. 416)

the Extended Storage Acreage Program (ESAP), and projects by the North Dakota Natural Resources Trust, and the U.S. Fish and Wildlife Service. The new Devils Lake executive committee action plan has reinforced and placed emphasis on the need to increase upper basin storage where possible.

The State Water Commission is committed to a three-prong approach to flooding in the Devils Lake basin, of which upper basin water management is an integral part. Several programs exist relative to the storage of water including

The North Dakota Natural Trust is pursuing a plan to acquire privately-held land for a multi-purpose, multi-wetland restoration project in northeastern Ramsey county, which could store approximately 631 acre-feet of additional water over existing conditions. The project will put the land under a 30-year Wetland Reserve Program easement with the North Dakota Game and Fish Department taking title to the land or use as a public access wildlife conservation area. The total project cost is estimated at \$2,048,000, and requires commitments from multiple funding sources including the Wetland Reserve Program, North American Wetlands Conservation Act, North Dakota Game and Fish Department, and the North Dakota Natural Resources Trust.

A request from the North Dakota Natural Resources Trust was presented for the State Water Commission's consideration for state cost participation in the amount of \$125,000 to develop a seven-year contract for water storage at the Johnson Farms site that would include annual inspections to ensure water storage at the site. This expenditure equates to about \$30.00/acre-foot per year of storage for the duration of the contract, which is comparable to the rates for the existing ESAP temporary storage easements.

Commissioner Olin disclosed that he currently serves on the North Dakota Natural Resources Trust board of directors, and questioned if a conflict of interest exists relative to this project. Governor Dalrymple stated this disclosure would not be considered a conflict of interest.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation not to exceed an allocation of \$125,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the North Dakota Natural Resources Trust to support the Johnson Farms water storage site under a seven-year contract.

It was moved by Commissioner Swenson and seconded by Commissioner Vosper that the State Water Commission approve state cost participation not to exceed an allocation of \$125,000 from the funds appropriated to the State Water Commission in the 2011-

2013 biennium (S.B. 2020), to the North Dakota Natural Resources Trust to support the Johnson Farms water storage site under a seven-year contract. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Olin, Swenson, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. Kenneth Junkert representing Commissioner Goehring abstained from voting. Governor Dalrymple announced the motion carried.

Because of schedule commitments, Governor Dalrymple left the meeting at 12:45 P.M.; Commissioner Olin assumed the chair.

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

The Southwest Pipeline Project update was presented, which is detailed in the staff memorandum, dated June 1, 2011, and attached hereto as **APPENDIX "G"**.

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

The Northwest Area Water Supply (NAWS) project update was presented, which is detailed in the staff memorandum, dated June 13, 2011, and attached hereto as **APPENDIX "H"**.

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

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 June 13, 2011, attached hereto as **APPENDIX "I"**.

**FARGO FLOOD CONTROL PROJECT -
TOTAL PROJECT EARMARK (\$75,000,000);
2009 HB 1020 (\$45,000,000) APPROVED;
2011 SB 2020 LEG. INTENT (\$30,000,000)
(SWC Project No. 1928)**

The 2009 North Dakota Legislature included in House Bill 1020, the State Water Commission's appropriation bill for the 2009-2011 biennium, an earmark of \$75,000,000 for the Fargo Flood Control project, with an allocation of \$45,000,000 for the 2009-2011 biennium, and legislative intent that included \$30,000,000 for the 2011-2013 biennium. On June 23, 2009, the State Water Commission approved the legislative mandate allocation not to exceed \$45,000,000.

The 2011 North Dakota Legislature mandated legislative intent in Senate Bill 2020, the State Water Commission's appropriation bill for the 2011-2013 biennium, that \$30,000,000 be dedicated to the City of Fargo to support the Fargo Flood Control project. The legislative intent states:

SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.

Of the funds appropriated in the water and atmospheric resources line item in section 7 of this Act, \$30,000,000 is for Fargo Flood Control projects, for the biennium July 1, 2011, and ending June 30, 2013. Any funds not spent by June 30, 2013, are subject to section 54-44.1-11 and must be continued into the next subsequent bienniums and may be expended for only Fargo Flood Control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings.

It was the recommendation of Secretary Sando that the State Water Commission approve an additional allocation not to exceed \$30,000,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the City of Fargo to support the Fargo Flood Control project. The Commission's affirmative action would provide the total Legislative earmark allocation of \$75,000,000 for the Fargo Flood Control project.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve an additional allocation not to exceed \$30,000,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the City of Fargo to support the Fargo Flood Control project. This action is contingent upon the availability of funds.

This action increases the total state participation to \$75,000,000 to the City of Fargo to support the Fargo Flood Control project.

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, Swenson, Thompson, Vosper, and Chairman Olin voted aye. There were no nay votes. Chairman Olin announced the motion unanimously carried.

**NELSON COUNTY WATER
RESOURCE DISTRICT -
APPROVAL OF 2011 LEGISLATIVE
EARMARK (\$250,000); AND
USDA-APHIS-NORTH DAKOTA
WILDLIFE SERVICES -
APPROVAL OF 2011 LEGISLATIVE
EARMARK (\$250,000)
(SWC Project No. 1753)**

The 2011 North Dakota Legislature mandated legislative intent in Senate Bill 2020, Section 8, of the State Water Commission's appropriation bill for the 2011-2013 biennium, that \$250,000 be dedicated to the Nelson County Water Resource District for flood-related projects; and \$250,000 to USDA-APHIS North Dakota Wildlife Services for the administration and support of animal

control/beaver management in order to restore normal water flows in rivers, streams, and creeks.

It was the recommendation of Secretary Sando that the State Water Commission approve an additional allocation not to exceed \$250,000 to the Nelson County Water Resource District from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to support flood-related projects. It was also the recommendation of Secretary Sando that the State Water Commission approve an allocation not to exceed \$250,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to USDA-APHIS-North Dakota Wildlife Services for the administration and support of animal control/beaver management in order to restore normal water flows in rivers, streams, and creeks.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission:

- 1) approve an additional allocation not to exceed \$250,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Nelson County Water Resource District to support flood-related projects; and***
- 2) approve an allocation not to exceed \$250,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to USDA-APHIS-North Dakota Wildlife Services for the administration and support of animal control/beaver management in order to restore normal water flows in rivers, streams, and creeks. These actions are contingent upon the availability of funds.***

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, Swenson, Thompson, Vosper, and Chairman Olin voted aye. There were no nay votes. Chairman Olin announced the motion unanimously carried.

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

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

**MISSOURI RIVER JOINT WATER
BOARD - APPROVAL OF STATE
COST PARTICIPATION (\$20,000)
FROM JULY 1, 2011 THROUGH
JUNE 30, 2013
(SWC FILE PS/WRD/MRJ)**

On July 28, 2005, the counties of Burleigh, Dunn, Emmons, Mercer, Morton, Mountrail, Oliver, and Sioux entered into a joint powers agreement, which created the Missouri River Joint Water Board. The purpose of the board is to provide a cooperative and coordinated approach to water and related land management in the Missouri River basin

portion of North Dakota. In consideration of how valuable a resource the Missouri River is to North Dakota, an organization of this type is extremely important in keeping North Dakota's interest in the Missouri River in the forefront.

On August 30, 2005, the State Water Commission approved an allocation not to exceed \$20,000 to the Missouri River Joint Water Board to retain a water resource consultant and secretary-treasurer, develop an action plan and bylaws, and assist with operating costs to get the board properly functioning. In the 2007-2009 and 2009-2011 bienniums, the State Water Commission assisted with a biennial amount of \$20,000, which is used to accommodate costs associated with maintaining the activities of the board.

The Board has acted as a local sponsor for the current study being undertaken by the Corps of Engineers relative to the Missouri River Protection and Improvement Act, Title VII, which is an effort to study and determine mitigation measures for siltation and erosion issues of the Missouri River. The board has also provided an effective forum for the local member water boards to jointly exercise certain powers and provide a cooperative and coordinated effort in addressing the management, conservation, protection, development, and control of water resources in the Missouri River basin.

A request from the Missouri River Joint Water Board was presented for the State Water Commission's consideration for the continued cost share involvement with a 50 percent state cost participation in the amount of \$20,000 in the 2011-2013 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 allocation of \$20,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020), to the Missouri River Joint Water Board.

It was moved by Commissioner Swenson and seconded by Commissioner Berg that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed an allocation of \$20,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) from July 1, 2011 though June 30, 2013 to the Missouri River Joint Water Board. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, Swenson, Thompson, Vosper, and Chairman Olin voted aye. There were no nay votes. Chairman Olin announced the motion unanimously carried.

MISSOURI RIVER JOINT WATER BOARD - APPROVAL OF STATE COST PARTICIPATION (\$40,000) FOR NORTH DAKOTA REPRESENTATION ON MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE (MRRIC) FROM JULY 1, 2011 THROUGH JUNE 30, 2013 (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 stakeholders 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; and the State Water Commission approved an additional \$7,500 on March 28, 2011.

A request from the Missouri River Joint Water Board was presented for the State Water Commission's consideration for continued cost share involvement to the Missouri River Joint Water Board for coordination and support for funding of Terry Fleck to represent the interests of North Dakota on the Missouri River Recovery Implementation Committee. The request seeks funding for the 2011-2013 biennium as follows: State Water Commission - 50 percent of total cost, \$40,000; Garrison Diversion Conservancy District - 37.5 percent of total cost, \$30,000; and Missouri River Joint Water Board - 12.5 percent of total cost, \$10,000.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation of 50 percent of the total cost, not to exceed an allocation of \$40,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) from July 1, 2011 through June 30, 2013 to the Missouri River Joint Water Board to assist with expenses associated with Terry Fleck's representation of the State of North Dakota on the Missouri River Recovery Implementation Committee (MRRIC).

It was moved by Commissioner Foley and seconded by Commissioner Hanson that the State Water Commission approve state cost participation of 50 percent of the total cost, not to exceed an allocation of \$40,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S.B. 2020) from July 1, 2011 through June 30, 2013 to the Missouri River Joint Water Board to assist with 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.

Commissioners Berg, Foley, Kenneth Junkert representing Commissioner Goehring, Hanson, Swenson, Thompson, Vosper, and Chairman Olin voted aye. There were no nay votes. Chairman Olin 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.

John Leininger, chairman of the Garrison Diversion Conservancy District executive board, presented a status report relating to the specific efforts of the Red River Valley Water Supply project, and the District's ongoing activities.

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

Secretary Sando reported on the flood response efforts in the cities of Bismarck, Mandan, and Minot and the surrounding areas. Information relating to the management of the Missouri River system, and the Souris/Mouse River basin in the United States and Canada was also provided. Secretary Sando reiterated the sentiments of Governor Dalrymple expressing sincere appreciation and gratitude to the people for their flood response efforts.

Secretary Sando reported on the flood response efforts in the cities of Bismarck, Mandan, and Minot and the surrounding areas.

There being no additional business to come before the State Water Commission, Chairman Olin adjourned the meeting at 1:15 P.M.

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Jack Dalrymple, Governor
Chairman, State Water Commission

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