

MINUTES

North Dakota State Water Commission Bismarck, North Dakota February 8, 2024

The ND State Water Commission (Commission or SWC) held a meeting at the Bank of North Dakota, 1200 Memorial Highway, Bismarck, ND, and via phone conference on February 8, 2024. Lt. Governor Miller called the meeting to order at 1:00 PM. A quorum was present. The board opened the meeting by reciting the Pledge of Allegiance.

State Water Commission Members Present:

Lt. Governor Miller, Acting Chairman
Tom Bodine, Deputy Commissioner, ND Dept. of Agriculture
Michael Anderson, Lower Red River Basin
Jeff Frith, Devils Lake Basin (online)
James Odermann, Little Missouri, Upper Heart, and Upper Cannonball River Basins
Jay Volk, Lower Missouri River Basin
April Walker, Upper Red River Basin (online)
Jason Zimmerman, Mouse River Basin (online)

State Water Commission Members Absent:

Connie Ova, James River Basin
Gene Veeder, Upper Missouri River Basin

Others Present:

Dr. Andrea Travnicek, Director, ND Dept. of Water Resources (DWR) (online)
John Paczkowski, DWR State Engineer and Acting Commission Secretary
DWR Staff
Matthew Sagsveen, General Counsel, Attorney General's Office
Approximately 54 people present online and in person.

Consideration of Agenda

Commissioner Odermann moved to approve the February 8, 2024, meeting agenda as presented. The motion was seconded by Commissioner Anderson and passed by unanimous vote.

Consideration of Meeting Minutes

Commissioner Anderson moved to approve the December 8, 2023, State Water Commission meeting minutes as written. The motion was seconded by Commissioner Volk and passed by unanimous vote.

Commissioner Frith moved to approve the January 11, 2024, Pre-Commission meeting minutes as written. The motion was seconded by Commissioner Volk and passed by unanimous vote.

Disclosure of Potential Conflicts of Interest

State Water Commissioners disclosed potential conflicts of interest. Commissioner Odermann disclosed he is a member of the Southwest Water Authority Board of Directors. Commissioner Walker disclosed she is an employee of Barr Engineering, who is also the engineer for the East Broadway Dam Modification project.

Commission Secretary Update

John Paczkowski, Acting Commission Secretary, stated March 5th the Water Topics Overview Committee meets, March 7th will be the Strategic Review with the Governor's office, and Water Development Plan projects are due by the end of April. Paczkowski noted DWR Director Andrea Travnicek is currently up in Minot working with Saskatchewan and the Corps of Engineers on the International Souris River Board.

Financial Report

The Glossary of Terms, allocated program expenditures, and financial reports were presented by Chris Kadrmaz, DWR Administration Division Director (**APPENDIX A**).

The oil extraction tax deposits total \$133,878,847 estimated through January 2024 for the 2023-25 biennium, which is \$14,271,199 over the projected biennium revenue of \$79,738,432 through November 2023. Transfers in the amount of \$9.8 million from the Resources Trust Fund to the Water Projects Stabilization Fund have occurred through January 2024.

The 68th Legislative Assembly estimates oil extraction tax deposits for the 2023-2025 biennium to total \$449,859,211 through June 2025. It also provided for the transfer of oil extraction tax deposits in excess of the legislative forecast for the 2023-2025 biennium to be transferred quarterly to the water projects stabilization fund.

Commissioner Hosted Basin Meeting Policy

Abby Ebach, Director of Public Policy, presented the Commission with the Commissioner Hosted Basin Meeting policy (**APPENDIX B**), relating to North Dakota Century Code 61-02-01.3. It states the Commission shall develop a policy that outlines procedures for Commissioner hosted meetings within their various basins they represent as a part of the planning process for the biennial Water Development Plan. There were no questions, and the following motion was made:

Moved by Commissioner Odermann and seconded by Commission Walker the Commission adopt the Commissioner Hosted Basin Meetings Policy (SWC_03.2024) with an effective date of February 8, 2024.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Northwest Area Water Supply (NAWS)

Request for Reimbursement from the City of Minot

Tim Freije, NAWS Project Manager, presented a request for reimbursement from the City of Minot in the amount of \$10.7M (**APPENDIX C**). Freije stated the request is for reimbursement for repair of the wells in the Minot aquifer completed in 2016, construction of the reservoir and pumpstation near the Sundre wellfield, and construction of the new raw water pipeline designed and constructed between 2016 and 2020. The City of Minot funded these projects upfront and is now requesting reimbursement for the State's share of 65 percent of the total costs. Freije stated a lump sum option for reimbursement is preferred as it can be easily incorporated into the current accounting process between DWR and the City of Minot. DWR staff is currently working with the City of Minot in drafting a financing agreement. The credit will be applied after the financing

agreement is executed by all parties. The financing agreement is expected to be brought forward for approval at the April Commission meeting. There was no discussion, and the following motion was made:

Moved by Commissioner Zimmerman and seconded by Commissioner Odermann the Commission approve the request for reimbursement from the City of Minot and allocate \$10.7 million from the 2023-2025 Capital Assets appropriation to NAWS to cover the cost of the reimbursement.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Southwest Pipeline Project (SWPP)

Feasibility Criteria for Rural Distribution

Justin Froseth, SWPP Project Manager, discussed the SWPP feasibility criteria for rural distribution. The Southwest Water Authority (SWA) has proposed an increase to the maximum cost per Equivalent Service Unit (ESU) by 40 percent without an increase in capital repayment. This would adjust the maximum cost/ESU from \$54,270 to \$75,980 using 2024 capital repayment rate and December 2023 Consumer Price Index (CPI) adjustment. DWR staff and the SWA will continue to evaluate and work towards a potential capital repayment adjustment for Commission's consideration at a later date. After a brief discussion, the following motion was made:

Moved by Commission Anderson and seconded by Commissioner Frith the Commission approve the increase in the maximum cost per Equivalent Service Unit to \$75,980 as requested by the Southwest Water Authority in order to move forward with the final design of Burt Hebron service area expansion project.

Commissioners Anderson, Frith, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. Commissioner Odermann abstained. The motion carried.

Devils Lake: RFQ – Engineer Selection for Devils Lake Outlets Operations Assistance

Yaping Chi, DWR Water Resources Engineer, stated DWR solicited submissions of qualifications from engineering firms to provide professional services and assist in maintaining the continued operations of both the West End Outlet and East End Outlet from Devils Lake. Submittals were received from HDR/AE2S and Bartlett & West/AECOM. The selection committee interviewed both engineering firms and recommended selecting the team with the highest cumulative score, Bartlett & West/AECOM. There were no questions, and the following motion was made:

Moved by Commission Volk and seconded by Commissioner Walker the Commission authorize the Secretary to negotiate a contract with Bartlett & West/AECOM to provide engineering services and assistance for maintaining the continued operations of the Devils Lake West and East Outlets for up to five years from the contract award date.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Federal Municipal, Rural, and Industrial (MR&I) Five-Year Plan

Julie Prescott, DWR Engineer Manager, presented the five-year plan for fiscal years 2024 – 2028 for the Federal Municipal, Rural, and Industrial (MR&I) Water Supply Program (**APPENDIX D**). This is a basic planning document that is updated annually and submitted to the Bureau of Reclamation for their use in estimating the state’s capacity to expend funds. It has also been provided to the Garrison Diversion Conservancy District for their review. The estimated MR&I ceiling authorization balance is up to \$12 million. This remaining \$12 million could be allocated with \$6 million towards the NAWS project, \$1 million towards the SWPP, \$3 million towards the Eastern North Dakota Alternate Water Supply (ENDAWS) project, and \$2 million for program administration costs. There were no questions.

Consent Agenda

The Consent Agenda included the following cost-share projects with requested funding amounts for approval:

Flood Control

Burleigh Co WRD	Sibley Island Flood Control	\$125,040
City of Jamestown	96” Storm Water Replacement	\$176,400

General Water

City of Dickinson	East Broadway Dam Modification Project	\$106,908
Elm River Joint WRD	Elm River Dam 3 Improvements	\$277,395

Water Supply (Municipal)

City of Mandan	2024 Street Rehabilitation	\$136,133
City of Taylor	Water Supply Improvements	\$115,200
City of Aneta	Water and Sewer Improvements	\$545,232
City of Hazen	City Wide Water Meter Replacement	\$394,485
City of Rhame	Water System Improvements	\$138,220

There were no questions, and the following motion was made:

Moved by Commissioner Anderson and seconded by Commissioner Volk the Commission approve the Consent Agenda items as presented.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. Commissioner Walker abstained from voting on the project for the City of Dickinson. There were no nay votes. The motion carried.

State Cost-Share Requests

Flood Control

Abigail Franklund, DWR Cost-Share Manager, presented the following request for flood control projects.

City of Grand Forks: South End Interior Flood Protection Master Planning \$144,295 (SWC Project No. 0830)

The City of Grand Forks is requesting additional cost-share for Phase II of their Grand Forks South End Interior Flood Protection Master Planning project. Phase I was to update existing and outdated hydrology and hydraulics models, determine flood risk for a range of conditions, evaluate alternatives to reduce flood risk, and to select a preferred overall master plan to reduce flood risk. Phase II will expand the study to examine Legal Drain 4 more in depth as a potential additional outlet for the city. The total watershed area for Phase I is 134 square-miles, of which 87 percent is rural, and resulted in a modified cost-share of 52 percent. For Phase II, the size of the rural watershed has increased, however, the city elected not to change its cost-share percentage for simplicity.

This project meets requirements of the Water Commission's cost-share policy for flood control projects. After brief discussion, the following motion was made:

Moved by Commissioner Anderson and seconded by Commissioner Bodine the Commission approve the request from the City of Grand Forks for additional state cost participation in the Grand Forks South End Interior Flood Protection Master Planning project at 52 percent of eligible costs, or \$144,295, with the total not to exceed \$440,965. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

General Water

Franklund presented the following request for general water projects.

Elm River Joint WRD: Elm River Dams 1 & 2 Improvements \$1,168,741 (SWC Project No. 2173)

The Elm River Joint Water Resource District is requesting cost-share for the construction cost increases associated with the Elm River Dams 1 and 2 Improvements. Due to current market conditions, construction costs have increased for new principal spillways (cast-in place reinforced concrete box culverts), reinforced concrete inlet and outlet energy dissipation structures, earthwork for the dam and tieback embankments, dewatering of the dams during construction, and additional construction engineering. Dam 1, also known as Steele County Dam, is located on the Elm River in Steele County, three miles northwest of the City of Galesburg, North Dakota. Dam 2, also known as Augustadt Dam, is located on the Elm River in Traill County, three miles northeast of the City of Galesburg, North Dakota.

This project meets the requirements of the Water Commission's cost-share policy for general water projects. After brief discussion, the following motion was made:

Moved by Commissioner Frith and seconded by Commissioner Walker the Commission approve the request from the Elm River Joint Water Resource District for additional state cost participation in the Elm River Dams 1 and 2 Improvements in the amount of \$1,168,741, at 60 percent of eligible costs, for a total cost-share not to exceed \$3,292,741. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Water Supply (Municipal)

Prescott presented the following municipal water supply projects.

City of Ashley: Water Tower Replacement \$933,775 (SWC Project No. 2050ASH)

The City of Ashley is requesting cost-share for their Water Tower Replacement. The project is the replacement of the city's existing 65,000-gallon water tower with a new 250,000-gallon elevated storage tank and will also include demolition of the city's water treatment plant and 300,000-gallon underground storage reservoir. Peak daily demand is 240,000 gallons. By Commission policy, only that portion of storage needed to meet peak daily demand (240,000/250,000 or 96%) is considered eligible for cost-share. The city is eligible for up to 75 percent loan forgiveness with current funding approved at \$2,328,670 from the Drinking Water State Revolving Loan Fund.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. After a brief discussion, the following motion was made:

Moved by Commissioner Walker and seconded by Commissioner Zimmerman the Commission approve the request from the City of Ashley for state cost-share participation in the Water Tower Replacement project at 58 percent of eligible costs or \$933,775, with total cost-share not to exceed \$969,775. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

City of Jamestown: 2023 Water Main Replacement \$2,185,673 (SWC Project No. 2050JAM)

The City of Jamestown is requesting construction cost-share for their 2023 Water Main Replacement project. The project is replacement of 14 blocks of aging cast iron watermain, hydrants, curb stops, and associated pavement reconstruction costs in the southwest area of the city.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There were no questions, and the following motion was made:

Moved by Commissioner Bodine and seconded by Commissioner Anderson the Commission approve the request from the City of Jamestown for state cost-share participation in the 2023 Water Main Improvements project at 60 percent of eligible costs, not to exceed \$2,185,673. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

City of Williston: 9th Avenue & 14th Street West Water Main Replacement \$1,349,006 (SWC Project No. 2050WLL)

The City of Williston is requesting construction cost-share for their 9th Avenue West and 14th Street West Water Main Replacement project. The project is replacement of nine blocks of aging cast iron water main, curb stops, and associated pavement reconstruction costs along 9th Avenue West, 14th Street West, and Jackson Place.

This project meets requirements of the Water Commission's cost-share policy for municipal water supply projects. There were no questions, and the following motion was made:

Moved by Commissioner Volk and seconded by Commissioner Bodine the Commission approve the request from the City of Williston for state cost-share participation in the 9th Avenue West and 14th Street West Water Main Replacement project at 60 percent of eligible costs, not to exceed \$1,349,006. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Water Supply (Rural)

Prescott presented the following rural water supply project.

South Central Regional Water District: Service to Ashley \$7,018,804 (SWC Project No. 2050SOU)

The South Central Regional Water District (SCRWD) is requesting construction cost-share for their Service to Ashley project. The project will connect the City of Ashley to regional water supply service provided through SCRWD. The project includes a new booster station northwest of the City of Ashley, upgrades to the existing McIntosh booster station, a 300,000-gallon ground storage tank west of the City of Wishek, and installation of approximately 22 miles of new water main at stretches east of the Jacob Butte tank, east of the McIntosh booster station, and west of the City of Ashley.

This project meets requirements of the Water Commission's cost-share policy for rural water supply projects. There were no questions, and the following motion was made:

Moved by Commissioner Odermann and seconded by Commissioner Volk the Commission approve the request from the South Central Regional Water District for state cost-share participation in the Service to Ashley project in the amount of \$7,018,804, or 75 percent of eligible

costs, for a total cost-share not to exceed \$7,357,054. This approval is contingent on available funding.

Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Project Updates

DWR staff provided brief updates on the following projects:

- Yaping Chi, Water Resources Engineer: Devils Lake.
- Sindhuja S.Pillai-Grinolds, DWR Water Development Division Director: Mouse River.
- Clay Carufel, Missouri River Engineer: Missouri River.
- Tim Freije, NAWS Project Manager: NAWS.
- Justin Froseth, SWPP Manager: SWPP.

Legal Update

Matthew Sagsveen, General Counsel, Attorney General's Office, provided a brief update on current legal matters involving the SWC and DWR.

SWPP—Intake, Contract 1-2A

Sindhuja S.Pillai-Grinolds, Water Development Division Director, provided a brief project history, summary of claim related expenses through March 2024, and over expenditures towards the SWPP Supplementary Intake project. The recommendation to approve \$150,000 towards mediation expenses was also presented.

Moved by Commissioner Volk and seconded by Commissioner Frith the Commission approve \$150,000 in additional funds be allocated and approved from the SWPP's professional services account for mediation expenses.

Commissioners Anderson, Frith, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. Commissioner Odermann abstained. There were no nay votes. The motion carried.

Executive Session

Under Authority of NDCC § 44-04-19.1(9) for Attorney Client Consultation regarding SWPP – Intake, Contract 1-2A

It was the recommendation of Lt. Governor Miller that further discussion relating to the SWPP/Fowler Intake be held in Executive Session, under the provisions of NDCC § 44-04-19.1(9), for the purpose of attorney consultation. The Commission invited the following to participate in the Executive Session:

State Water Commission Members Present:

Lt. Governor Miller, Acting Chairman
Tom Bodine, Deputy Commissioner, ND Dept. of Agriculture
Michael Anderson, Lower Red River Basin
Jeff Frith, Devils Lake Basin (online)
James Odermann, Little Missouri, Upper Heart, and Upper Cannonball River Basins
Jay Volk, Lower Missouri River Basin
April Walker, Upper Red River Basin (online)
Jason Zimmerman, Mouse River Basin (online)

State Water Commission Members Not Present:

Connie Ova, James River Basin
Gene Veeder, Upper Missouri River Basin

Others Present:

Dr. Andrea Travnicek, Director, ND Dept. of Water Resources (DWR) (online)
John Paczkowski, DWR State Engineer , Acting Commission Secretary
Matthew Sagsveen, General Counsel, Attorney General's Office
Sindhuja S.Pillai-Grinolds, DWR Water Development Division Director
Justin Froseth, Southwest Pipeline Project Manager
Chris Kadrmas, DWR Administrative Services Director
Abby Ebach, DWR Director of Public Policy
Shana Brost, DWR Administrative Officer
Ben Gehrig, DWR Data & Technology Services
Ryan Norrell, General Counsel, Governor's Office
Mark Becker, Fabyanske, Westra, Hart & Thomson, P.A.

Moved by Commissioner Volk and seconded by Commissioner Anderson that under the provision of NDCC § 44-04-19.1(9), the Commission proceed into Executive Session on February 8, 2024, at 3:12 PM for the purpose of attorney consultation relating to the Southwest Pipeline Project/Fowler Intake—Contract 1-2A.

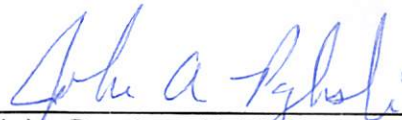
Commissioners Anderson, Frith, Odermann, Volk, Walker, Zimmerman, Bodine, and Lt. Governor Miller voted aye. There were no nay votes. The motion carried.

Following attorney consultation regarding the Southwest Pipeline Project/Fowler Intake, Contract 1-2A, Lt. Governor Miller reconvened the open session of the Commission meeting at 4:03 PM.

There being no further business to come before the Commission, Lt. Governor Miller adjourned the February 8, 2024, meeting at 4:09 PM. The next State Water Commission meeting will be held on April 11, 2024, at 1:00 PM CT in #238 Lewis and Clark Room, Bank of North Dakota, 1200 Memorial Highway, Bismarck, North Dakota.



Tammy Miller, Lt. Governor
Acting Chair, State Water Commission



John Paczkowski, DWR State Engineer
Acting Secretary to the State Water
Commission

Glossary of Terms

Allocated-To apportion for a specific purpose. To set apart or earmark.

Anticipated Construction Request-Potential construction requests for prior approved and current projects.

Appropriation-Specifies the amount of funds to be used for a particular purpose during a period of time, normally one biennium.

Original-Legislative authorization to expend.

Current-Requesting authorization to allocate funds.

Unobligated- Funding available to be obligated to a project.

Appropriation Authority-Legislative authority in an Appropriation Act for an agency to expend funds.

Appropriation Bill-A bill which appropriations are given legal effect.

Approved-Funds approved and allocated by the State Water Commission.

Beginning Balance-Resource Trust Fund cash balance that carries over from the previous biennium. This information is provided by Legislative Council and includes carryover and funds not approved or allocate by the State Water Commission.

Carryover Funds-Approved funds unpaid during the current biennium which are transferred to the appropriation for the following biennium.

Carryover Projects-Projects approved but not finished by the end of the current biennium. The time is limited to 2 years after the end of the current biennium, 6/30/21, unless approved by the State Water Commission to continue past that date.

Cash-Resource Trust Fund money received and not allocated to a specific appropriation purpose.

Cost Increase-Funding needed above original cost estimate.

De-Obligation-Funds released from project allocation made from the current biennium appropriation.

Expenditure-Payment or funds spent.

Obligation-Funds allocated from current biennium appropriation to pay based on a contract.

Unexpended-Not yet spent or paid.

Turnback-Carryover funds released from prior biennium from a project allocation.

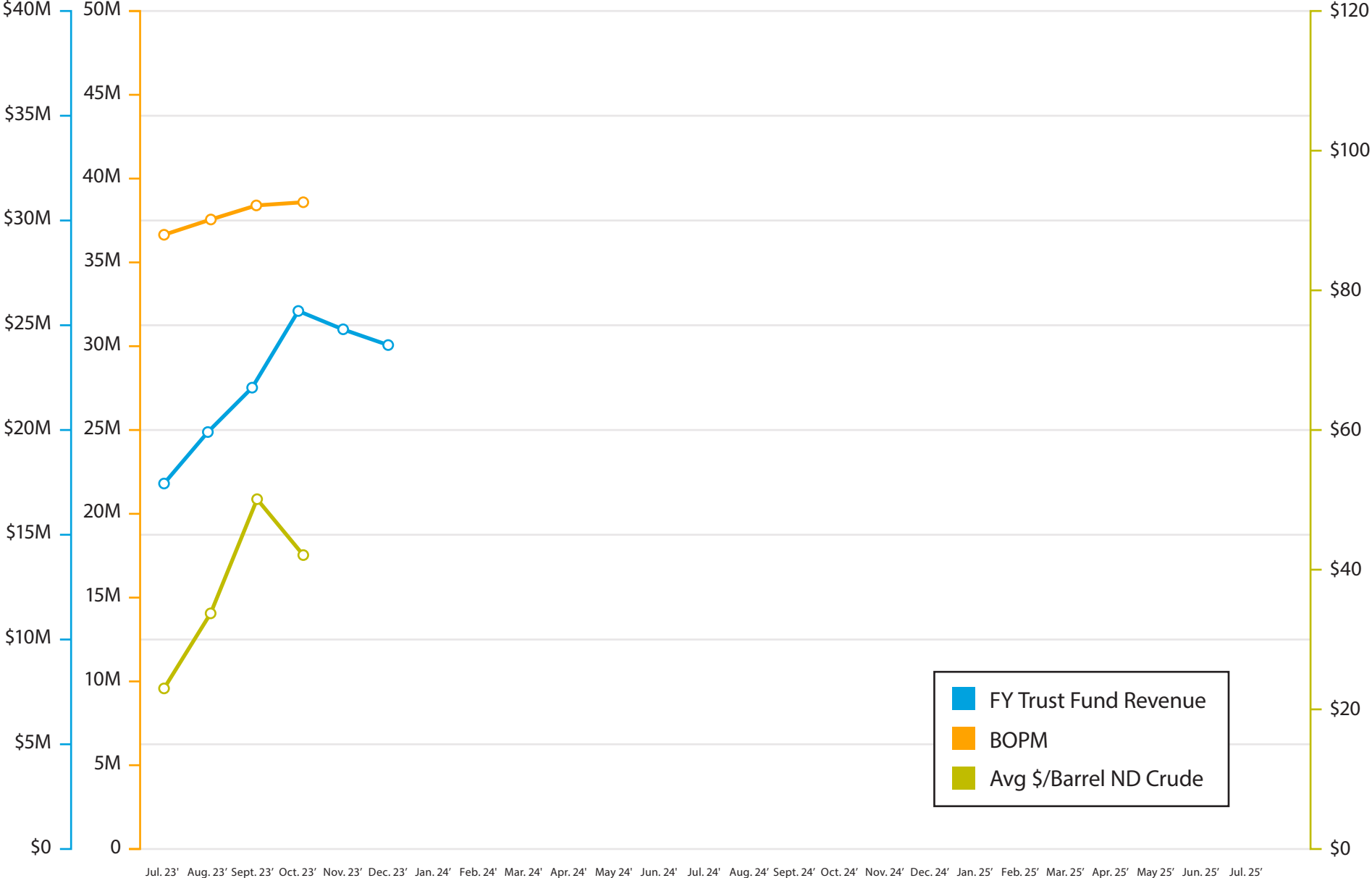
Unobligated Carryover-Previous biennium funding, not associated with a project released to the Resource Trust Fund.

Unpaid Approval-A commitment to an expense at a future date.

Water Infrastructure Revolving Loan Fund (WIRLF) Eligibility-Approval by the State Water Commission of the eligibility of projects to apply for a Water Infrastructure Revolving Loan in compliance with cost share and statutory authority. Final loan approval is by the Bank of North Dakota.

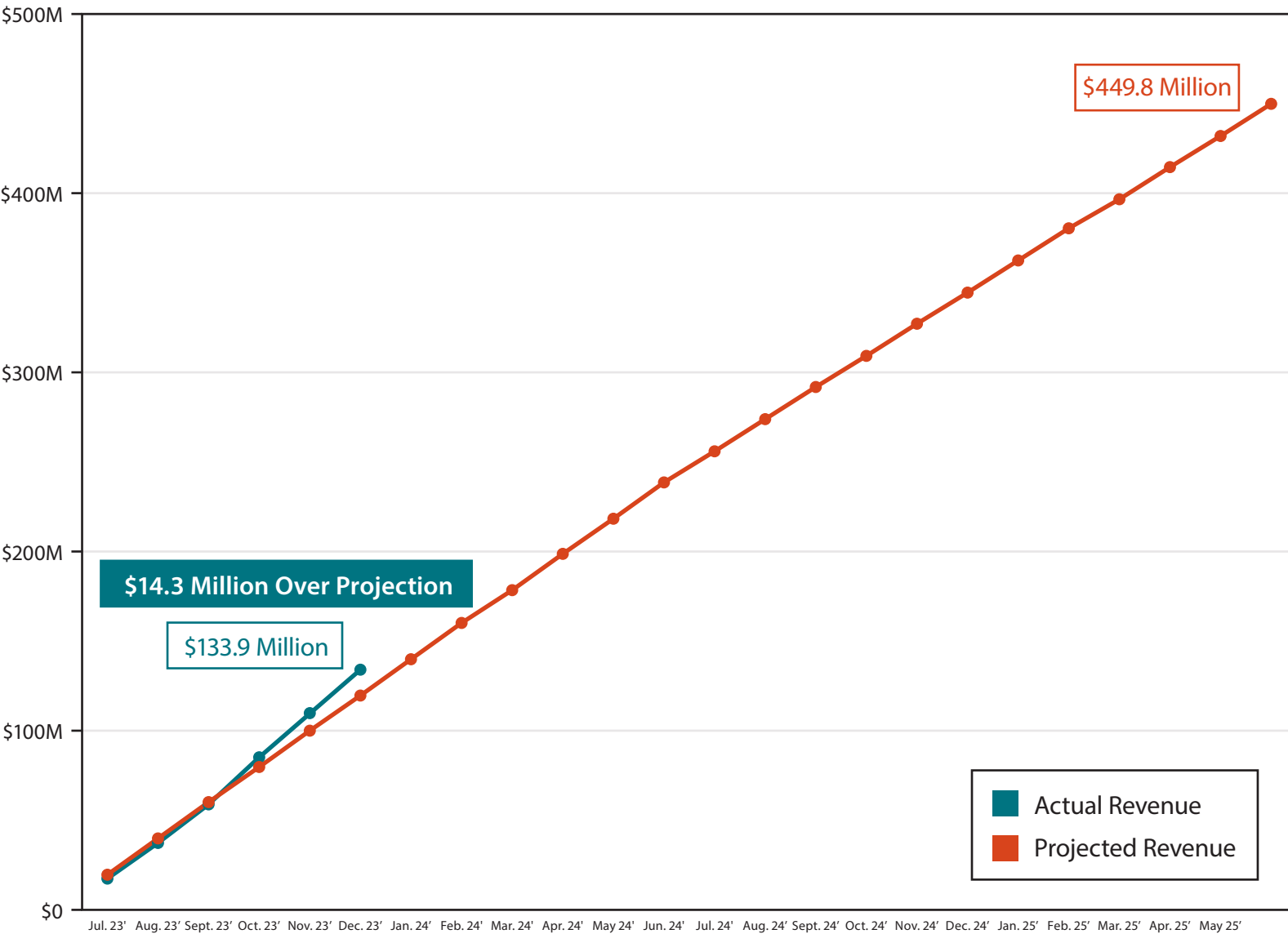
RESOURCES TRUST FUND REVENUE

2023-2025 (Month by Month) | January 2024



RESOURCES TRUST FUND REVENUE

2023-2025 (Cumulative) | January 2024



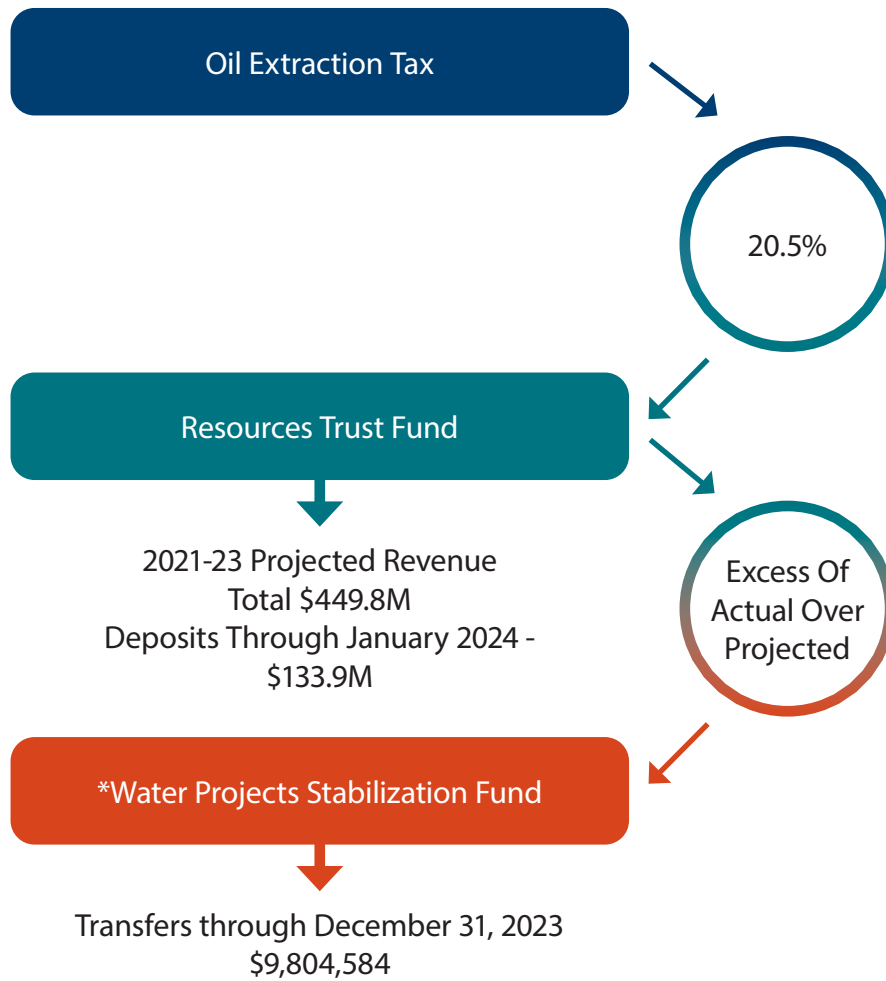
OIL EXTRACTION REVENUE
FOR THE 2023 - 2025 BIENNIUM

MONTH / YEAR	PROJECTED				ACTUAL				
	REVENUE	ENERGY CONS. ¹ ALLOCATION	RENEWABLE ¹ ALLOCATION	RESOURCES TRUST FUND ALLOCATION	REVENUE	TRANSFERS TO ¹ ENERGY CONS.	TRANSFERS TO ¹ RENEWABLE	RESOURCES TRUST FUND NET DEPOSIT	TRANSFERS TO ² WATER PROJECTS STABILIZATION FUND
AUGUST, 2023	\$19,607,811	\$98,039	\$588,234	\$18,921,538	\$17,438,367	\$87,192	\$523,151	\$16,828,025	\$0
SEPTEMBER, 2023	20,261,405	101,307	607,842	19,552,256	19,897,352	99,487	596,921	19,200,945	0
OCTOBER, 2023	20,261,405	101,307	607,842	19,552,256	22,030,025	110,150	660,901	21,258,974	0
NOVEMBER, 2023	19,607,811	98,039	588,234	18,921,538	25,681,608	128,408	770,448	24,782,752	5,308,920
DECEMBER, 2023	20,261,405	101,307	607,842	19,552,256	24,757,068	123,785	448,579	24,184,704	4,495,663
JANUARY, 2024	19,607,811	98,039	6	19,509,766	24,074,426	120,372		23,954,054	4,466,615
FEBRUARY, 2024	20,261,405	101,307		20,160,098					
MARCH, 2024	20,261,405	101,307		20,160,098					
APRIL, 2024	18,300,624	91,503		18,209,121					
MAY, 2024	20,261,405	101,307		20,160,098					
JUNE, 2024	19,607,811	98,039		19,509,772					
JULY, 2024	20,261,405	101,307		20,160,098					
AUGUST, 2024	17,366,918	7,192		17,359,726					
SEPTEMBER, 2024	17,945,816			17,945,816					
OCTOBER, 2024	17,945,816			17,945,816					
NOVEMBER, 2024	17,366,918			17,366,918					
DECEMBER, 2024	17,945,816			17,945,816					
JANUARY, 2025	17,366,918			17,366,918					
FEBRUARY, 2025	17,945,816			17,945,816					
MARCH, 2025	17,945,816			17,945,816					
APRIL, 2025	16,209,124			16,209,124					
MAY, 2025	17,945,816			17,945,816					
JUNE, 2025	17,366,918			17,366,918					
JULY 2025-JUNE REVENUE	17,945,816			17,945,816					
TOTALS	\$449,859,211	\$1,200,000	\$3,000,000	\$445,659,211	\$133,878,847	\$669,394	\$3,000,000	\$130,209,453	\$14,271,199

¹ Transfers to the renewable energy development fund and the energy conservation grant fund are established in North Dakota Century Code Section 57-51.1-07.

² Transfers to the water project stabilization fund are calculated after transfers to the renewable energy development fund and energy conservation grant fund occur

RESOURCES TRUST FUND REVENUE



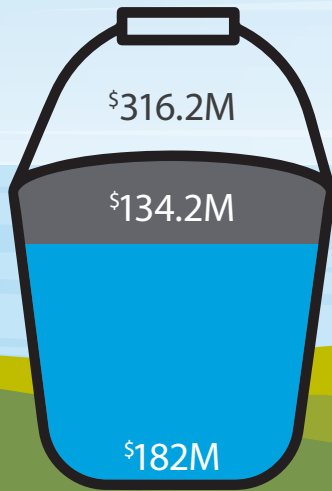
*Authorized in Sections 5-7 of Senate Bill 2020 during the November special session.

2023 - 25 PURPOSE FUNDING

December 2023

APPROVED

UNOBLIGATED



Water Supply

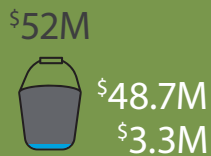


* Capital Assets



Flood Control Projects

*Capital Assets bucket includes \$100M line of credit.



Rural Water



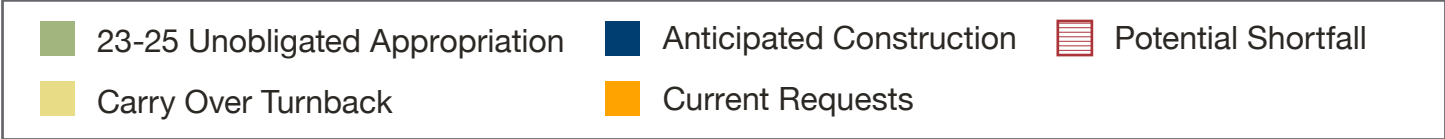
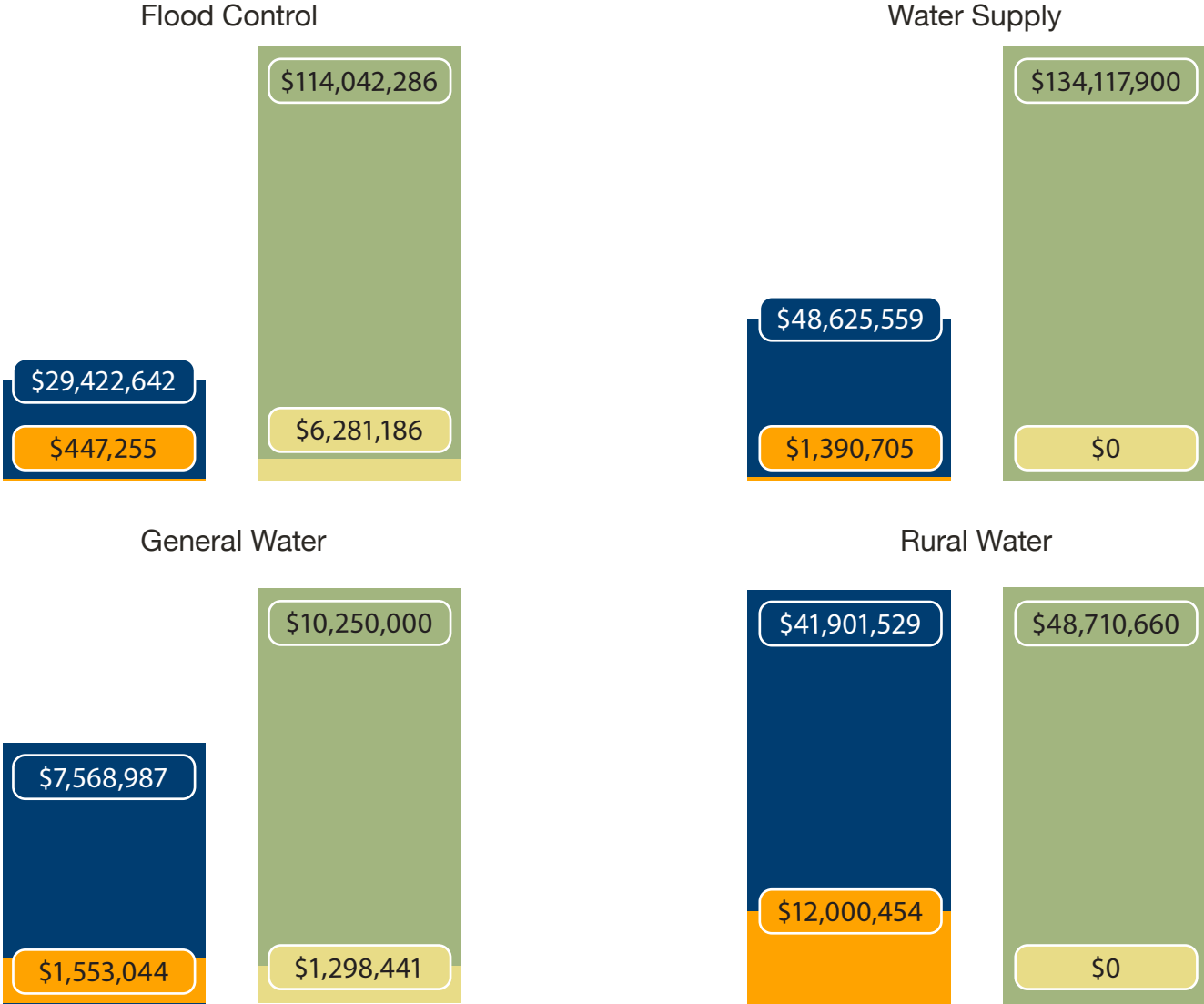
General Water



Discretionary Funds

2023-25 PURPOSE FUNDING

Project Funds | December 2023



PURPOSE FUNDING SUMMARY
State Water Commission Cost-Share
for February 8, 2024
December 31, 2023

2023-2025	Carryover
Unobligated	Turnback
Appropriation	06-30-23
12-31-23	06-30-23

Flood Control		Unobligated Appropriation	\$ 114,042,286	\$ 6,728,441
		Cost-Share		
Preconstruction	1	Burleigh Co WRD: Sibley Island Flood Control	\$	125,040
Preconstruction	2	Jamestown: Emergency 96" Storm Water Replacement	\$	176,400
Preconstruction	3	Grand Forks: South End Interior Flood Protection Plan	\$	145,815
		Current Requests	\$ -	\$ 447,255
		Estimated Unobligated Appropriation =	\$ 114,042,286	\$ 6,281,186

General Water		Unobligated Appropriation	\$ 10,125,000	\$ 1,298,441
		Cost-Share		
Preconstruction	1	Dickinson: East Broadway Dam Modification Project	\$	106,908
Cost Increase	2	Elm River Joint WRD: Elm River Dam 3 Improvements	\$ 277,395	
Cost Increase	3	Elm River Joint WRD: Elm River Dams 1 & 2 Improvements	\$	1,168,741
		Current Requests	\$ 277,395	\$ 1,275,649
		Estimated Unobligated Appropriation =	\$ 9,847,605	\$ 22,792

Water Supply		Unobligated Appropriation	\$ 134,117,900	\$ (0)
		Cost-Share		
Preconstruction	1	Mandan: 2024 Street Rehabilitation	\$	136,133
Preconstruction	2	Taylor: Water Supply Improvements	\$	115,200
Construction	3	Aneta: Water and Sewer Improvements	\$	545,200
Construction	4	Hazen: City Wide Water Meter Replacement	\$	455,952
Cost Increase	5	Rhame: Water System Improvements	\$	138,220
		Current Requests	\$ 1,390,705	\$ -
		Estimated Unobligated Appropriation =	\$ 132,727,195	\$ (0)

Rural Water		Unobligated Appropriation	\$ 48,710,660	\$ (0)
		Cost-Share		
Construction	1	Ashley: Water Tower Replacement	\$	933,775
Construction	2	Jamestown: 2023 Water Main Replacement	\$	2,185,673
Construction	3	Williston: 9th Ave W & 14th St W Replacement	\$	1,349,006
Construction	4	South Central WRD: Service to Ashley	\$	7,532,000
		Current Requests	\$ 12,000,454	\$ -
		Estimated Unobligated Appropriation =	\$ 36,710,206	\$ (0)

Discretionary		Unobligated Appropriation	\$ 9,000,000	\$ 3,569,441
		Cost-Share		
	1			
		Current Requests	\$ -	\$ -
		Estimated Unobligated Appropriation =	\$ 9,000,000	\$ 3,569,441

PURPOSE FUNDING SUMMARY
State Water Commission Cost-Share
for February 8, 2024
December 31, 2023

2023-2025 Unobligated Appropriation 12-31-23	Carryover Turnback 06-30-23
---	--

Capital Assets		Unobligated Appropriation	\$ 271,400,000	\$ 4,171,797
SWPP		Cost-Share		
1				
2				
		Current Requests	\$ -	
NAWS				
1				
2				
		Current Requests	\$ -	
		Capital Assets Current Requests	\$ -	
		Less line of credit	\$ 100,000,000	
		Anticipated Unobligated Appropriation Capital Assets =	\$ 171,400,000	

2023-2025 Unobligated Appropriation for Purpose and Capital Assets	\$ 587,395,846	\$ 15,768,120
Current Requests	\$ 13,668,554	\$ 1,722,904
2023-2025 Anticipated Unobligated Appropriation =	\$ 573,727,292	

**DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
2023-2025 BIENNIUM**

December 31, 2023

	2021-2023 CARRYOVER	2023-2025 APPROPRIATION	TOTAL	SWC/Secretary APPROVED	UNOBLIGATED APPROPRIATION
MUNICIPAL & REGIONAL WATER SUPPLY:					
MUNICIPAL WATER SUPPLY	53,021,814	2,082,100	55,103,914	54,551,253	552,661
RED RIVER VALLEY	38,269,022	180,000,000	218,269,022	218,269,022	0
OTHER REGIONAL WATER SUPPLY	27,300,734	0	27,300,734	27,300,734	0
UNOBLIGATED MUNICIPAL/REG WATER SUPPLY	(0)	134,117,900	134,117,900		134,117,900
Total	118,591,569.57	316,200,000	434,791,570	300,121,009	134,670,561
% OBLIGATED		58%			
RURAL WATER SUPPLY:					
RURAL WATER SUPPLY	55,324,661	3,289,340	58,614,001	58,590,001	24,000
UNOBLIGATED RURAL WATER SUPPLY	(0)	48,710,660	48,710,660		48,710,660
Total	55,324,660.97	52,000,000	107,324,661	58,590,001	48,734,660
% OBLIGATED		0			
FLOOD CONTROL:					
FARGO	0	0	0	0	0
MOUSE RIVER	9,425,991	0	9,425,991	9,425,991	0
MOUSE RIVER HB1431 BOND PROCEEDS	64,354,625	0	64,354,625	64,354,625	0
VALLEY CITY	10,072,490	0	10,072,490	10,072,490	0
LISBON	62,489	0	62,489	62,489	0
OTHER FLOOD CONTROL	3,291,811	1,577,022	4,868,833	4,868,833	(0)
PROPERTY ACQUISITIONS	78,332	0	78,332	78,332	0
WATER CONVEYANCE	9,807,476	80,692	9,888,168	9,856,313	31,855
UNOBLIGATED FLOOD CONTROL	6,728,441	114,042,286	120,770,727		120,770,727
Total	103,821,656.29	115,700,000	219,521,656	98,719,074	120,802,583
% OBLIGATED		0			
GENERAL WATER:					
GENERAL WATER	10,332,404	125,000	10,457,404	10,273,979	183,425
UNOBLIGATED GENERAL WATER	1,298,441	10,125,000	11,423,441		11,423,441
Total	11,630,845	10,250,000	21,880,845	10,273,979	11,606,866
% OBLIGATED		0			
SUBTOTAL	289,368,732	494,150,000	783,518,732	467,704,063	315,814,669
CAPITAL ASSETS:					
SWPP CAPITAL ASSETS	19,928,592	0	19,928,592	19,928,592	0
NAWS CAPITAL ASSETS	36,181,771	0	36,181,771	36,181,771	0
UNOBLIGATED CAPITAL ASSETS	4,171,797	271,400,000	275,571,797		275,571,797
Total	60,282,160	271,400,000	331,682,160	56,110,363	275,571,797
% OBLIGATED		0%			
DISCRETIONARY FUNDING:					
DISCRETIONARY FUNDING PROJECTS	2,033,564	0	2,033,564	2,033,564	0
UNOBLIGATED DISCRETIONARY FUNDS	3,569,441	9,000,000	12,569,441		12,569,441
Total	5,603,005	9,000,000	14,603,005	2,033,564	12,569,441
% OBLIGATED		0%			
BASINWIDE PLAN IMPLEMENTATION:					
BASINWIDE PLAN IMPLEMENTATION	773,787	0	773,787	773,787	0
UNOBLIGATED BASINWIDE PLAN IMPLEMENTATION FUNDS	0	0	0		0
Total	773,787	0	773,787	773,787	0
% OBLIGATED		0%			
STATE FISCAL RECOVERY FUND:					
STATE FISCAL RECOVERY FUNDS - SB 2345	10,972,317	0	10,972,317	10,972,317	0
UNOBLIGATED STATE FISCAL RECOVERY FUNDS	0	0	0.00		0
Total	10,972,317	0	10,972,317	10,972,317	0
% OBLIGATED		0%			
TOTAL	367,000,000	774,550,000	1,141,550,001	537,594,093	603,955,907

**DEPARTMENT OF WATER RESOURCES
PROJECT SUMMARY
2023-2025 BIENNIUM**

Dec-23

	SWC/Secretary APPROVED	EXPENDITURES	UNPAID APPROVALS
MUNICIPAL & REGIONAL WATER SUPPLY:			
MUNICIPAL WATER SUPPLY	54,551,253	13,277,582	41,273,671
RED RIVER VALLEY	218,269,022	12,769,346	205,499,675
OTHER REGIONAL WATER SUPPLY	27,300,734	6,560,254	20,740,480
TOTAL	300,121,009	32,607,182	267,513,827
RURAL WATER SUPPLY:			
RURAL WATER SUPPLY	58,590,001	18,085,770	40,504,231
FLOOD CONTROL:			
FARGO	0	0	0
MOUSE RIVER	9,425,991	1,901,740	7,524,251
MOUSE RIVER HB1431	64,354,625	11,774,100	52,580,525
VALLEY CITY	10,072,490	0	10,072,490
LISBON	62,489	0	62,489
OTHER FLOOD CONTROL	4,868,833	1,416,942	3,451,891
PROPERTY ACQUISITIONS	78,332	0	78,332
WATER CONVEYANCE	9,856,313	1,528,069	8,328,244
TOTAL	98,719,074	16,620,851	82,098,222
GENERAL WATER:			
GENERAL WATER	10,273,979	1,190,124	9,083,855
SUBTOTAL	467,704,063	68,503,928	399,200,135
CAPITAL ASSETS:			
SWPP CAPITAL ASSETS	19,928,592	507,817	19,420,775
NAWS CAPITAL ASSETS	36,181,771	2,298,483	33,883,288
TOTAL	56,110,363	2,806,300	53,304,063
DISCRETIONARY FUNDING:			
DISCRETIONARY FUNDING PROJECTS	2,033,564	0	2,033,564
BASINWIDE PLAN IMPLEMENTATION:			
BASINWIDE PLAN IMPLEMENTATION	773,787	112,408	661,379
STATE FISCAL RECOVERY FUNDS SB2345			
STATE FISCAL RECOVERY FUND PROJECTS	10,972,317	4,289,613	6,682,703
TOTALS	537,594,093	75,712,250	461,881,844



COMMISSIONER HOSTED BASIN MEETINGS

POLICY | SWC_03.2024

NORTH
Dakota | Water Commission
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POLICY OUTLINE

1	<i>POLICY STATEMENT</i>	3
2	<i>GENERAL POLICY CONSIDERATIONS</i>	4
3	<i>POLICY HISTORY</i>	5

1 POLICY STATEMENT

Biennially, the State Water Commission (Commission) develops a comprehensive water development plan. To facilitate the development of this plan, the Commission hosts meetings in each basin. The goal of the meetings is to facilitate local project sponsor participation, project prioritization, and education regarding Commission policies.

1.1 POLICY AUTHORITY OR IMPLEMENTATION

This policy garners authority from North Dakota Century Code § 61-02-01.3

1.2 ACCEPTANCE OR ENFORCEMENT

This policy will be updated as necessary to ensure the Commission fulfills its various statutory duties.

2 GENERAL POLICY CONSIDERATIONS

2.1 LOCATION

The Commission will conduct a Commissioner-hosted basin meeting in each of the drainage basins represented by a Commissioner:

- a. Upper Missouri River
- b. Lower Missouri River
- c. James River
- d. Upper Red River
- e. Lower Red River
- f. Mouse River
- g. Devils Lake
- h. Little Missouri River, upper Heart River, and upper Cannonball River

2.2 TIMING

Commissioner-hosted basin meetings are scheduled on a biennial basis.

2.3 CONTENT

At Commissioner-hosted basin meetings, Commissioners and team members from the Department of Water Resources may provide education regarding the following:

- a. Cost-Share Policy, Procedure, and General Requirements
- b. Project Prioritization Policy
- c. State Water Plan and budgeting requirements or updates
- d. Project inventory procedures
- e. Life Cycle Cost Analysis, Economic Analysis, Asset Inventories, and Capital Improvement Planning
- f. Other Commission or Department updates or requirements as necessary

Commissioners may also request supplemental information or presentations from project sponsors who have submitted projects as part of the Water Development Plan and budget development process.

3 POLICY HISTORY

Policy Adopted: 02/08/2024

Previous Revision(s): No revisions available.



✉ PO Box 5006, Minot ND, 58702

🌐 www.minotnd.org

📞 701.857.4100

📍 1025 31st St SE, Minot ND, 58701

APPENDIX C

Attachment 1

September 11, 2023

Andrea Travnicek, Ph. D., Director
North Dakota Department of Water Resources
1200 Memorial Highway, Dept 770
Bismarck, ND 58504

RE: Sundre and Well Rehab Funding Reimbursement

Dear Dr. Travnicek,

In April of 2016 Minot had discussions regarding well issues in our Minot aquifer, which is an integral part of Minot's ability to provide water for the Northwest Area Water Supply (NAWS) project until the supply from Lake Sakakawea is available for treatment and use. Well water will also serve as a supplemental and backup source of water as it was identified in the NAWS Final SEIS and Record of Decision that ground water from Minot's aquifers was to be utilized. Additionally, NAWS had intentions of rehabilitating some of the groundwater supply as part of the overall project. This is noted in the attached letter from the NAWS project manager, Tim Freije. Therefore, it was determined the repairs would be eligible for reimbursement from NAWS. Funding from the ND State Water Commission was not available at the time of repair work, so Minot funded the total cost with the understanding reimbursement would happen at a later date. The total cost for the well repairs was \$733,634.58 and the requested reimbursement is 65% or \$476,862.48.

Project design for the Mouse River Enhanced Flood Protection Project has been ongoing since 2011. In 2016 during design of one of the phases of flood control it was realized that the existing Sundre Raw Water Line would require relocation as part of this phase along with future phases of flood control. This relocation would require long periods of service interruption while new pipe is installed out of the flood protection alignment. While the fiberglass pipe that was installed was a suitable material at the time it is very fragile and great care must be taken when working near the pipe. Unfortunately, the existing pipeline has also reached the end of its usable life and should be replaced in its entirety. Relocation as a part of the flood control project alone was estimated to cost \$20 - \$40 million dollars. This did not include the replacement of the remainder of old pipeline outside of the flood control alignment. The Sundre aquifer currently provides about two-thirds of the water supply for the City of Minot Water Treatment Plant, which in turn serves the Minot Air Force Base and numerous other communities and rural water users served by NAWS.

Construction of flood control is very important and keeping design and construction on schedule is a monumental task. With the above info in hand, staff began analyzing potential options to keep flood control on track and Sundre well water flowing, while finding a solution to the Sundre pipeline that would mitigate issues on future projects as well. In the end the most effective solution was to construction a reservoir and pump station near the Sundre well field along with a new raw water pipeline that would tie into the NAWS raw water pipeline about seven and a half

miles south of Minot. Sundre well water would then flow through the last approximately seven and a half miles of the NAWS raw water line to the Minot Water Treatment Plant. This approach greatly reduced costs to the City of Minot to replace the existing Sundre line, take advantage of seven and a half miles of currently unused NAWS infrastructure, and provide multiple benefits to the NAWS project in the future.

The option to relocate the Sundre raw water line needed design and construction to progress fairly rapidly to ensure delays were minimized for the flood control and other projects working around the Sundre line. In discussions with NAWS and SWC staff and engineers it was determined this project would be eligible for cost share since Minot's well water sources were identified in the NAWS Final SEIS and Record of Decision and NAWS had intentions of performing some rehab work on Minot's well water supply in the future. Since the relocation project would require connecting the NAWS raw water pipeline to the Minot Water Treatment Plant and the NAWS project as a whole was under injunction, SWC staff worked with the City to petition the court to allow the project to continue. A copy of the declaration by then Mayor Chuck Barney is attached.

Due to the injunction, funding for this portion of the NAWS project hadn't been considered and wasn't available to the relocation project. The City of Minot advance funded the Sundre relocation project with the understanding reimbursement would happen at a later date. The final project cost was \$15,650,862.48 and respectfully request reimbursement of 65% or \$10,173,060.61.

Thank you for your consideration on this important project and reimbursement request. In addition to this letter you will find all supporting billing for each project. If you need anything further do not hesitate to reach out.

Respectfully,



Jason Sorenson, Utilities Director
City of Minot

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE GOVERNMENT OF THE)
PROVINCE OF MANITOBA,)
)
Plaintiff,)
)
v.)
)
S.M.R. JEWELL, Secretary,)
United States Department of the)
Interior, *et al.*,)
)
Defendants.)
_____)

DECLARATION OF CHUCK BARNEY
Case No. 1:02CV02057-RMC
(consolidated with 1:09-cv-00373)

1. I am Chuck Barney, Mayor of the City of Minot. I have been the Mayor of Minot since 2014.
2. In 2011, catastrophic flooding from the Mouse River (also known as the Souris River) devastated the City of Minot and neighboring communities. The Mouse River Enhanced Flood Protection Project (MREFPP) is critical to protecting Minot and the surrounding region from another devastating flood event like that endured in 2011. The MREFPP is not an optional project.
3. The location of the earthen levees and floodwalls within Minot that will comprise the MREFPP flood protection system, as well as necessary transportation network modifications, requires relocating many utilities. One of those utilities is the Sundre Aquifer transmission pipeline, which transports water from the Sundre Aquifer wellfield located southeast of Minot to the Minot Water Treatment Plant. The wellfield, pipeline, and Minot Water Treatment Plant are all located entirely within the Hudson Bay Basin.
4. This pipeline and wellfield represents a significant percentage of the total existing City of Minot raw water supply; therefore, this system may only be taken out of service for the briefest of time periods. Loss of use of the Sundre well field will result in immediate water use rationing in the City of Minot and service to the surrounding communities and rural water systems being interrupted within 24-48 hours. A longer interruption will likely result in customers being out of water prompting boil orders and emergency declarations.
5. A stormwater pump station at Broadway Avenue is the first contract anticipated to be bid for the MREFPP, with an anticipated bid date of mid to late 2017 and construction in 2018. Construction of this massive 180,000 gallon per minute pump station will require

relocating a portion of the Sundre transmission pipeline. The cost to perform that relocation as part of the pump station contract was estimated at \$ 3.2 million, with no readily identifiable options to maintain service. Upon examining the cost associated with a single reroute and the anticipated inability to maintain Minot's water supply, staff and consultants were directed to explore alternatives.

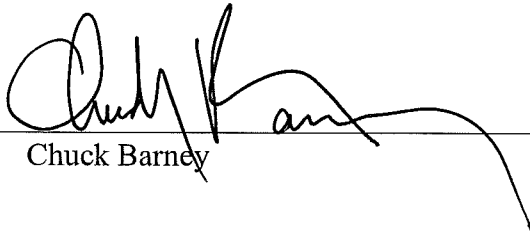
6. The existing transmission pipeline begins at the Sundre wellfield, located 3 miles SE of Minot and is routed primarily northwest through the Mouse River Valley, and through densely-populated and heavily-trafficked urban areas, to the Minot Water Treatment Plant. The existing pipeline is constructed of fiberglass and is approximately 8 miles in length. The fiberglass pipe was considered a suitable material at the time of construction, but is now very fragile and great care must be taken when working near the pipe to avoid fractures, which are difficult, costly and materials are not readily available to repair this type of pipe. As the MREFPP progresses, the flood protection measures will cross this raw water supply pipeline numerous times since the primary route of the pipeline is within the corridor where most of the flood protection measures are planned for implementation. This will result in multiple and extended service disruptions to the water supply for the City of Minot, the Minot Air Force Base, and customers outside of Minot being served on an interim basis from this Sundre well field, while also adding millions of dollars in costs to the flood protection project. In addition to the significant relocation costs associated with the flood protection system, the majority of the pipeline will still consist of the original deteriorating fiberglass material and replacement of the entire pipeline will be required at some future time.
7. Further, the bridge on US Highway 83, a major transportation corridor that runs through the center of Minot, was unusable during the 2011 Mouse River Flood and is slated for replacement with construction starting in 2017. The Sundre pipeline will be impacted at that location due to a conflict with one of the new bridge abutments. That portion of pipeline will require relocation by early 2018.
8. To avoid the multiple flood protection system impacts to the Sundre pipeline and the aggregated cost of those impacts, and to enable construction of the MREFPP system without severely impacting the Minot water supply system, Minot examined the potential for relocating the entire pipeline. Three pipeline routes were reviewed: two within the City of Minot and one rural alignment. The urban alignments both require extensive reclamation of existing streets and utilities as well as result in excessive transportation and utility system disruption. To mitigate these impacts, directional drilling was considered as a lower cost alternative for both urban routes. The preliminary Opinion of Probable Construction Cost (OPCC) for the two urban options are as follows. The North Route (primarily Valley Street and 11th Avenue) would cost approximately \$ 19.7 million and the South Route (primarily along 18th Avenue) would cost approximately \$ 20.9 million. Due to the extreme requirements of the project because of the need to meet

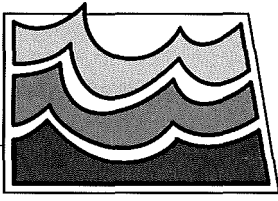
USACE requirements when passing under a flood control system, many of these costs could escalate, if the project is able to be completed at all along the northern routes.

9. The rural alignment alternative considered consisted of two construction options, open cut and directional boring, through rural agricultural areas with a connection to the existing Northwest Area Water Supply (NAWS) pipeline north of the Pressure Reducing Station (PRS) constructed under Contract 2-1B. This alignment would utilize the NAWS pipeline segment initially constructed under Contract 2-1A to transfer Sundre Aquifer water to the Minot Water Treatment Plant, as that pipeline contract initiated at the plant site and terminated at the PRS site. The NAWS pipeline segment that would be incorporated into the rural alignment alternatives lies completely within the Hudson Bay Drainage.
10. Since the Sundre pipeline will be pressurized at that connection point and a fitting will be necessary for joining the Sundre pipeline to the existing NAWS pipeline, a segment of pipe would need to be removed from the NAWS pipeline. This segment removal will also act as a physical disconnection from the rest of the NAWS water supply pipeline segments installed to the south of the PRS. The OPCCs for the rural alignment were approximately \$ 6.4 million for open cut construction and \$ 8.6 million for directional boring installation. Due to the significantly lower costs, as well as greater cost-certainty and significantly reduced disruptions for the City of Minot, the City prefers this rural alignment option. The ability to use the rural route would make a vast difference to the people of Minot in cost, convenience, and reliability of water supply.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23 day of January, 2017.

By: 
Chuck Barney



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TTY 800-366-6888 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

April 29, 2016

Dan Jonasson, Public Works Director
City of Minot
515 2nd Avenue SW
Minot, ND 58701

SUBJECT: Minot Aquifer Well Issue

Dear Dan:

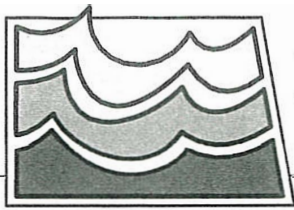
We are aware of water supply and well issues from the Minot aquifer and the potential impacts to the NAWS system and the City of Minot water supply. The preferred alternative in the NAWS Final Supplemental Environmental Impact Statement and Record of Decision includes utilizing groundwater supplies from the current supply system. We had intentions of rehabilitating some of the groundwater supply system as part of the project near the end of the project build out. In the interim, NAWS is completely dependent on the water supply provided by the City from these wells. Therefore, we would consider the efforts to maintain current water supplies from the existing sources eligible for NAWS funding. We are committed to working with the City and will continue to do to address this issue to maintain service to our citizens.

If you have any questions or need anything else, please contact me at (701) 328-1050.

Sincerely,

Tim Freije, P.E.
NAWS Project Manager
ND State Water Commission

TJF/237-4



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
(701) 328-2750 • TTY 1-800-366-6888 or 711 • FAX (701) 328-3696 • <http://swc.nd.gov>

MEMORANDUM

TO: Governor Doug Burgum
Members of the State Water Commission

FROM: Garland Erbele, P.E., Chief Engineer-Secretary

SUBJECT: NAWs – Project Update

DATE: March 6, 2017

Supplemental EIS

Reclamation issued the Record of Decision for the Final Supplemental Environmental Impact Statement (FSEIS) for the Northwest Area Water Supply on August 21, 2015. Reclamation received seven comment letters on the FSEIS, which along with point-by-point responses were included as an appendix to the Record of Decision. The Preferred Alternative includes a supply from the Missouri River (Lake Sakakawea) with an intake at Snake Creek Pumping Station along with a conventional treatment option for the Biota Water Treatment Plant near Max. This level of treatment includes five treatment processes versus two from the draft SEIS and the initial Environmental Assessment. Although all biota treatment options were considered sufficient by Reclamation, the conventional treatment option was chosen to address drinking water issues raised by the EPA.

Manitoba & Missouri Lawsuit

A Joint Motion for Entry of Case Management and Scheduling Order was submitted to the District of Columbia District Court December 22, 2015 and accepted with minor modifications December 23, 2015. The plaintiffs filed supplemental Complaints January 29, 2016, and the defendants lodged and served the Administrative Record February 5, 2016. A Motion to Modify Injunction *Pendente Lite* was filed by the State of North Dakota as intervenor defendant March 1, 2016. Oppositions by the plaintiffs were filed April 4, 2016, and a reply was filed April 25, 2016 by the State. The Plaintiffs filed a Motion for Leave to sur-reply May 18, 2016, and an opposition to that motion was filed May 20, 2016, by the State of North Dakota. The Plaintiffs then filed a response to our opposition May 25, 2016, and the Motion for Leave was accepted by the Court May 27, 2016. The Motion for Modification to the Injunction was denied by the Court June 14, 2016. A notice of appeal was filed with the DC Appellate court July 1, 2016. A Statement of Issues for Appeal and Motion to Expedite Appeal were filed August 15th, 2016. A Motion for Summary Affirmance and Opposition to Motion to Expedite Appeal were filed by Manitoba and joined by Missouri August 29, 2016. Opposition to Summary Affirmance was filed September 6, 2016, and a Reply in Motion to Expedite Appeal was filed September 8, 2016. A Reply in Support of the Motion for Summary Affirmance was filed September 22, 2016. The Briefing Schedule was set for the Appeal, the Motion for Summary Affirmance was denied and the Motion to Expedite Appeal was granted September 28th, 2016. The Brief of Merits was filed October 7, 2016 by the Appellants and Brief of Plaintiff-Appellees was filed November 7, 2016. The Reply by the Appellants was filed November 22nd, 2016. Oral arguments were held January 13, 2017 in front of circuit judges Brown and Wilkins and senior circuit judge Edwards. The decision was filed by

circuit judge Brown March 3, 2017 remanding the decision to Judge Collyer with instruction to grant the modification to the injunction. This decision, while a single step in the right direction, is a significant victory for us as it is the first ruling in our favor. There have been six other modifications to the injunction, but this is the first that wasn't consented to or unopposed by the plaintiffs in the case.

Motions for Summary Judgment were originally to be filed by the defendants April 11, 2016 with combined cross-motions/opposition by the plaintiffs due May 13, 2016 and combined oppositions/replies by the defendants due June 17, 2016. However, the briefing schedule was delayed once due to a desire by the federal defendants for additional time for review and a medical issue for the plaintiff's legal counsel and then again for the same medical issue for the plaintiffs' legal counsel. We consented on both requests to delay the briefing but filed a joinder on the second request to ask the court to expedite the judgment on the injunctive relief motion. The Motions for Summary Judgment filed by the defendants June 3, 2016 with combined Opposition/Cross-Motion by the plaintiffs filed July 8, 2016 and combined Reply/Opposition by the defendants filed August 16, 2016. Plaintiffs Manitoba filed a motion for leave to sur-reply September 12th which was accepted by the Court the next day. Motions for Leave to Sur-reply were filed by the defendants September 26, 2016, and a reply by the Plaintiffs was filed October 7, 2016. Oral argument for the cross-motions for summary judgement is scheduled for March 30, 2017, in DC District Court. The first summary judgement in this case was delivered eight months after briefing was completed and four months after oral argument, and the second summary judgement was issued four months after the final briefings. There was no oral argument for the second summary judgement.

NAWS Contract 2-2A-1

Contract 2-2A-1 included furnishing and installing roughly 300 feet of split casing to encase existing pipeline for upcoming road work in the western portion of Minot in 2017. The contract was awarded to Wagner construction in the amount of \$763,575 on August 24th. The preconstruction conference was held September 8, 2016. Work commenced October 24th, 2016 and was substantially complete prior to the end of November.

Sundre Aquifer Supply Pipeline

The Sundre raw water supply pipeline from the Sundre aquifer wellfield is currently the major water supply for the Minot water treatment plant and subsequently the NAWS system. The existing Sundre pipeline is 43,300 linear feet in length is comprised of fiberglass pipe installed between 1972 and 1974 and has reached the end of its usable life as it has become very brittle and great care must be taken when any work is performed in its vicinity. This pipeline represents nearly two thirds of the raw water capacity to the Minot treatment plant. Features of the Mouse River Enhanced Food Protection Project will cross the current Sundre pipeline which creates numerous difficulties as design standards for pipelines crossing flood control features are very strict. Additionally, the NDDOT plans to replace the Broadway Bridge in Minot, and the foundation for the new abutment will be immediately adjacent to the existing Sundre pipeline. For all these reasons, the existing Sundre Raw Water Supply Pipeline must be replaced to ensure continuity of service through the coming years. The most logical and least cost alternative is to tie a new pipeline from the Sundre well field in to the existing NAWS 'raw' water line

NAWS – Project Update

Page 3

March 6, 2017

immediately downstream of the NAWS pressure reducing station approximately four miles south of Minot. This approach would greatly reduce the costs to the City of Minot to replace the existing Sundre line, take advantage of 7.5 miles of currently unused NAWS infrastructure, and provide multiple benefits to the NAWS project in the future. It would also require connecting the existing NAWS line to the Minot water treatment plant, which requires modification of the injunction. This modification was granted by the DC district court February 8, 2017.

GE:TJF:pdh/237-04

Information Submitted to Chris Kadramas for 2023-2025 Budget Submission

	Operations/Professional Service		Capital Assets	
	Design	Construction Management Service	Contract Cost	Total Included in 2023-2025 Budget
Snake Creek Contract 2	\$ 200,000.00	\$ 1,041,900.00	\$ 6,946,000.00	\$ 8,187,900.00
Minot WTP Phase III	\$ 1,950,000.00	\$ 3,000,000.00	\$ 25,000,000.00	\$ 29,950,000.00
Bottineau Reservoir and Pump Station	\$ 50,000.00	\$ 473,051.23	\$ 6,902,716.50	\$ 7,425,767.73
Souris Reservoir and Pump Station	\$ 50,000.00	\$ 473,051.23	\$ 4,080,581.50	\$ 4,603,632.73
Raw water line start up and intialization		\$ 1,000,000.00	\$ 500,000.00	\$ 1,500,000.00
Inline BPSs	\$ 237,651.19	\$ 119,405.23	\$ 1,671,928.85	\$ 2,028,985.26
Operations Dept 9000 (Professional Services For ongoing contracts, Project management, asset management)		\$ 1,200,000.00		\$ 1,200,000.00
Agency Operations (9000)		\$ 203,115.00		\$ 203,115.00
Operations Dept 9100 (Utilities, professional services)		\$ 4,350,000.00		\$ 4,350,000.00
Equipment over \$5000			\$ 100,000.00	\$ 100,000.00
Extraordinary repairs (9100)			\$ 250,000.00	\$ 250,000.00
Agency Operations (9100)		\$ 248,500.00		\$ 248,500.00
Total		\$ 15,889,173.88	\$ 45,451,226.85	\$ 61,340,400.73

Funding Authority Needed \$ 61,340,400.73

Funding Met By

Federal \$ 25,000,000

RTF \$ 25,000,000

Minot \$ 11,200,000

Total Funding \$ 61,200,000

Funding Authority approved

Federal \$ 78,000,000

RTF \$ 25,000,000

Minot \$ 11,200,000

NAWS O&M Fund \$ 4,948,500

Line of Credit \$ 50,000,000

Total Funding \$ 169,148,500

Updates as of September 2023

	Design	Construction Management Service	Contract Cost	Total***	Minot's Share
City of Minot's Credit				\$ 10,700,000.00	
Snake Creek Contract 2-1E			\$ 6,914,001.15	\$ 6,914,001.15	\$ 2,419,900.40
CMS For Intake contract		\$ 3,300,000.00		\$ 3,300,000.00	\$ 1,155,000.00
Contract 1-1A			\$ 20,000,000.00	\$ 20,000,000.00	\$ 7,000,000.00 *
Bottineau Reservoir and Pump Station		\$ 1,041,000.00	\$ 11,444,837.25	\$ 12,485,837.25	\$ 4,370,043.04
Minot WTP Phase III	\$ 1,950,000.00	\$ 3,000,000.00	\$ 25,000,000.00	\$ 29,950,000.00	\$ 10,482,500.00
Souris Reservoir and Pump Station	\$ 50,000.00	\$ 473,051.23	\$ 4,080,581.50	\$ 4,603,632.73	\$ 1,611,271.46
Raw water line start up and intialization		\$ 1,000,000.00	\$ 500,000.00	\$ 1,500,000.00	\$ 525,000.00
Inline BPSs	\$ 237,651.19	\$ 119,405.23	\$ 1,671,928.85	\$ 2,028,985.26	\$ 710,144.84
Operations Dept 9000 (Professional Services For ongoing contracts, Project management, asset management)		\$ 1,200,000.00		\$ 1,200,000.00	\$ 420,000.00
Agency Operations (9000)		\$ 203,115.00		\$ 203,115.00	\$ 71,090.25
Operations Dept 9100 (Utlities, professional services)		\$ 4,350,000.00		\$ 4,350,000.00	
Equipment over \$5000			\$ 100,000.00	\$ 100,000.00	
Extraordinary repairs (9100)			\$ 250,000.00	\$ 250,000.00	
Agency Operations (9100)		\$ 248,500.00		\$ 248,500.00	
Total		\$ 17,552,722.65	\$ 69,961,348.75	\$ 98,214,071.40	\$ 28,897,949.99
Funding needed		\$ 98,214,071.40			
Funding Met by					
RTF	\$ 25,000,000.00				
Federal funding (2022 & 2023 BIL Funding)	\$ 38,350,000.00				
Federal funding (2023 MR&I funding)	\$ 988,523.87 **				
City of Minot's cost share	\$ 28,897,949.99				
NAWS O&M and Reserve fund	\$ 4,948,500.00				
		\$ 98,184,973.86			

*Costs beyond \$20 Million will need more than \$25 Million in RTF

**FY 2023 MR&I Funding is \$7.7 Million out of which around \$6.7 is needed for Biota Phase I

*** Changes from budget submission shown in red

NORTHWEST AREA WATER SUPPLY PROJECT FINANCING CONTRACT

1. PARTIES

This contract is by and between the North Dakota State Water Commission (the “Commission”), a state agency created and existing pursuant to North Dakota Century Code chapter 61-02, and the City of Minot (the “City”).

2. **Substitution.** This contract substitutes and replaces the January 1999 Northwest Area Water Supply Interim Financing Contract entered into by the North Dakota State Water Commission and the City of Minot and amended February 2007.

3. INTRODUCTION

3.1 Statutory Authority

North Dakota Century Code (N.D.C.C.) Chapter 61-24.6 authorizes the Commission to develop a project to deliver water throughout northwest North Dakota for multiple purposes, including domestic, rural water districts, and municipal uses. This water project is known as the Northwest Area Water Supply Project ("the Project"). The Commission, pursuant to N.D.C.C. Chapters 61-02 and 61-24.6 may enter into water service contracts to finance the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.

3.2 Background

The Commission started construction of the Northwest Area Water Supply project in 2002. Eight communities and two rural water districts in northwestern North Dakota have signed water service contracts with the Commission to receive water from the Project. The Commission may enter into formal contracts with other communities and rural water associations in the future.

3.3 Need for Financing

The Project is eligible for reimbursement of sixty-five percent (65%) of the capital costs with federal funds or state funds. This financing agreement is needed to provide for the remaining and thirty-five percent (35%) of the capital costs from local funds.

The purpose of this agreement is to commit the City to provide the 35% of the capital costs.

4. DEFINITIONS

4.1 Capital Costs

“Capital Costs” means all costs incurred by the Commission or reasonably expected to be incurred by the Commission in construction of the Project, which are properly chargeable,

in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, costs of issuance and financing in connection with any bonds issued to finance the Project, and essential legal, administrative and financial work in connection therewith.

4.2 Local Share of Capital Costs

“Local Share of Capital Costs” means the thirty-five (35%) of capital costs which are not eligible for payment from non-reimbursable federal grants and from non-reimbursable state grants.

5. FINANCING

5.1 City to Underwrite Commission’s Costs.

The City agrees to underwrite the Local Share of Capital Costs incurred by the Commission for construction of the Project with respect to the Project facilities outlined in the April 2015 Final Supplemental Environmental Impact Statement (SEIS) and August 2015 Record of Decision.

5.2 Credit to City.

The City shall be credited 65% of the expenses relating to the Sundre aquifer raw water supply pipeline and reservoir, as well as an additional well in the Sundre aquifer completed between 2016 to 2020 to bolster raw water capacity and meet the requirements identified in the SEIS. The credit for the City is estimated at \$10.7 million.

5.3 Biota Water Treatment Plant Costs.

The City is not responsible for any costs incurred related to the construction of the NAWS Biota Water Treatment Plant or other federal responsibilities identified in the SEIS.

5.4 Time of Performance

The City will make payments to the Commission in fulfillment of its obligation under this agreement in installments (which may be irregular in timing and amounts), within thirty (30) days of being called upon by the Commission to make such payments, upon a construction cost reimbursement basis. The city agrees to levy and collect all necessary taxes and use all its authority and resources available to meet its obligations under this contract and will make in full all payments to be made pursuant to this contract on or before such payments are due.

6. TERM OF CONTRACT

This contract shall remain in effect until all payments required herein have been completed.

7. TERMINATION

7.1 Termination by Mutual Consent

This contract may be terminated by mutual consent of both parties executed in writing.

7.2 Termination for Cause

The Commission may terminate this Contract effective upon delivery of written notice to the City, or any later date stated in the notice. The Contract may be terminated if City fails to may payments within the time specified or any extension agreed to in writing by the Commission. The rights and remedies of the Commission provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

7.3 Termination by Commission

The Commission may abandon the Project and terminate this contract effective upon written notice to the City.

8. BURDEN OF LOSS.

8.1 Third-Party Claims.

Each party agrees to assume its own liability for any and all claims of any nature from third parties, including all costs, expenses, and attorney's fees which may in any manner result from or arise out of this agreement. Hence the right of equitable contribution which each may have against the other is limited to accomplishing the result contemplated by the prior sentence.

9. GENERAL PROVISIONS

9.1 Access to and Inspection of Books and Records.

To the extent, if any, not already provided under the North Dakota open records law, each party shall have the right, during normal business hours, to inspect and make copies of the other party' s books and official records relating to matters covered by this contract.

9.2 Remedies Not Exclusive.

The use by either party of any remedy specified herein for the enforcement of

this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

9.3 Waiver of Rights.

Any waiver at any time by either party of its rights with respect to a default or any other matter arising in connection with this contract, must be in writing, and shall not be deemed to be a waiver with respect to any other default or matter.

9.4 Notices.

All notices that are required either expressly or by implication to be given by any party to the other under this contract shall be in writing. All such notice shall be deemed to have been given and delivered, if delivered personally or if delivered by registered or certified mail, and are complete on the date postmarked when addressed to the parties at their addresses as shown on the signature page of this contract.

10. MERGER CLAUSE

This contract constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

11. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this contract did not contain that term.

12. EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both Parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the Parties shall be deemed the Effective Date.

13. APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum

non conveniens.

14. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

By entering this Contract, the Commission does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. The Commission does not waive any right to a jury trial.

IN WITNESS WHEREOF, the parties execute this contract on the date specified below.

NORTH DAKOTA STATE WATER COMMISSION
1200 Memorial Highway
Bismarck, ND 58504

By: _____

Title: Secretary, North Dakota State Water Commission

Date: _____

Approved and entered into resolution of the State Water Commission this _____ day of _____, 202__.

Secretary

DRAFT

Dated at Minot, North Dakota, this ____ day of _____, 202__.

CITY OF MINOT

By: _____
Tom Ross, Mayor

DRAFT

January 22, 2024
Garrison Diversion Unit
State Municipal, Rural, and Industrial Water Supply Program
Five Year Plan FY2024 - FY2028
Cooperative Agreement No. R17AC00049(App) and No. R23AC00093(BIL)

Project	Grant %	Total Costs			FY2024			FY2025		
		Non Federal Share*	Federal Share	Project Total	Non Federal Share*	Federal Share	Project Total	Non Federal Share*	Federal Share **	Project Total
Northwest Area Water Supply Remaining Projects	65% - 100%	9,310,000	66,490,000	75,800,000		6,000,000	6,000,000			
Southwest Pipeline Project	75%	330,000	1,000,000	1,330,000	330,000	1,000,000	1,330,000	0	0	0
Eastern North Dakota Alternate Water Supply (ENDAWS)	75%	14,960,000	44,880,000	59,840,000	1,000,000	3,000,000	4,000,000	0	0	0
Administration (BOR / GDCD) 100%	100%	0	2,000,000	2,000,000	0	2,000,000	2,000,000	0	0	0
Total		\$33,910,000	\$180,860,000	\$138,970,000	\$1,330,000	\$12,000,000	\$13,330,000	\$0	\$0	\$0
Estimated Federal Award						\$12,000,000			\$0	
Estimated MR&I Ceiling Authorization Balance			\$12,000,000			\$0			\$0	

Project	Grant %	FY2026			FY2027			FY2028		
		Non Federal Share *	Federal Share **	Project Total	Non Federal Share *	Federal Share **	Project Total	Non Federal Share *	Federal Share **	Project Total
Northwest Area Water Supply Future Projects	65% - 100%	0	0	0	0	0	0	0	0	0
Southwest Pipeline Project***	75%	0	0	0	0	0	0	0	0	0
Eastern North Dakota Alternate Water Supply (ENDAWS)	75%	0	0	0	0	0	0	0	0	0
Administration (BOR / GDCD) 100%	100%	0	0	0	0	0	0	0	0	0
Total		\$0	\$0	\$0	\$0	\$0	0	\$0	\$0	\$0
Estimated Federal Award			\$0			\$0			\$0	
Estimated MR&I Ceiling Authorization Balance			\$0			\$0			\$0	

*The non-federal share may be Department of Water Resources, City of Minot, Garrison Diversion Conservancy District or line of credit. Costs associated with the Biota Water Treatment Plant are anticipated to be reimbursed by the federal government.

** Federal ceiling has been reached.