

## **MINUTES**

### **North Dakota State Water Commission Bismarck, North Dakota**

**December 10, 2004**

The North Dakota State Water Commission held a meeting at the Best Western Ramkota Hotel, Bismarck, North Dakota, on December 10, 2004. Lt. Governor-Chairman, Jack Dalrymple, called the meeting to order at 9:00 AM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, to call the roll. Lt. Governor Dalrymple announced a quorum was present.

#### **STATE WATER COMMISSION MEMBERS PRESENT:**

Lt. Governor Jack Dalrymple, Chairman  
Jeff Olson, representing Roger Johnson, Commissioner,  
Department of Agriculture, Bismarck  
Larry Hanson, Member from Williston  
Elmer Hillesland, Member from Grand Forks  
Curtis Hofstad, Member from Starkweather  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
Dale L. Frink, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **STATE WATER COMMISSION MEMBER ABSENT:**

Charles Halcrow, Member from Drayton

#### **OTHERS PRESENT:**

State Water Commission Staff  
Approximately 75 people interested in agenda items

The attendance register is on file with the official minutes.

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

#### **CONSIDERATION OF AGENDA**

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

**CONSIDERATION OF FINAL DRAFT  
MINUTES OF NOVEMBER 17, 2004  
STATE WATER COMMISSION AUDIO  
CONFERENCE CALL MEETING -  
APPROVED**

The final draft minutes of the November 17, 2004 State Water Commission audio conference call meeting were approved by the following motion:

*It was moved by Commissioner Olin, seconded by Jeff Olson representing Commissioner Johnson, and unanimously carried, that the final draft minutes of the November 17, 2004 State Water Commission audio conference call meeting be approved as prepared.*

**STATE WATER COMMISSION  
ALLOCATED PROGRAM  
EXPENDITURES -  
2003-2005 BIENNIUM**

In the 2003-2005 biennium, the State Water Commission has two special line items - administrative and support services, and water and atmospheric resources. David Laschkewitsch, State

Water Commission accounting manager, presented and discussed the allocated program expenditures for the period ending October 31, 2004, reflecting 67 percent of the 2003-2005 biennium. All expenditures are within the authorized budget. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. The total approved for projects is \$93,722,328, leaving a balance of \$5,461,029 available to commit to projects.

**RESOURCES TRUST FUND  
AND WATER DEVELOPMENT  
TRUST FUND REVENUES -  
2003-2005 BIENNIUM**

The oil extraction tax deposits into the Resources Trust Fund total \$7,124,425, and are \$584,482, or 8.9 percent ahead of the budgeted revenues. The increased oil extraction collections are offset by

reduced interest earnings that are currently \$537,851 below the budgeted amount.

Deposits into the Water Development Trust Fund total \$10,457,382, and are currently \$119,952 ahead of budgeted revenues.

As of December 1, 2004, the State Water Commission has drawn \$9 million against the \$25 million line of credit from the Bank of North Dakota.

**STATE WATER COMMISSION  
BUDGET - 2005-2007 BIENNIUM**

The State Water Commission submitted its 2005-2007 biennium budget to the Office of Management and Budget on August 15, 2004. On December 8, 2004, Governor Hoeven released the executive budget recommendations for the 2005-2007 biennium. The executive recommendation for the State Water Commission totals \$112,787,834:

Administrative and Support Services	\$ 2,176,060
Water and Atmospheric Resources	<u>\$110,611,774</u>
<b>Total</b>	<b>\$112,787,834</b>

General Funds	\$ 2,063,357
Federal Funds	\$ 17,680,628
Other Funds	<u>\$ 93,043,849</u>
<b>Total</b>	<b>\$112,787,834</b>

In the 2003-2005 biennium, \$9.4 million of the agency's operations were funded with general fund dollars, with an offsetting \$10.1 million transfer from the Water Development Trust Fund to the general fund. General funds totaling \$2,063,357 and federal funds totaling \$17,680,628 have been included in the executive recommendation.

The Resources Trust Fund is projected to bring in \$15,384,487 in new revenue in the 2005-2007 biennium, which is based on projections provided by the Office of Management and Budget. The Water Development Trust Fund is projected to bring in \$20,674,860 in new revenue in the 2005-2007 biennium.

These amounts, in addition to the beginning balances in the funds and cost shares from project sponsors, will provide the agency's funding for the 2005-2007 biennium. To arrive at the estimated beginning trust fund balances, it was assumed that the \$60 million of bonding authority provided in the agency's 2003-2005 appropriation bill would be issued in the 2003-2005 biennium.

Secretary Frink presented the proposed 2005-2007 budget for water projects, which is attached hereto as **APPENDIX "C"**.

**APPROVAL OF DRAFT  
2005-2007 NORTH DAKOTA  
WATER DEVELOPMENT REPORT  
(SWC Project No. 322)**

In order to maintain the 1999 State Water Management Plan and to meet the requirements of 1999 Senate Bill 2188, the draft 2005-2007 North Dakota Water Development Report was presented for the State Water Commission's consideration. Section 10, Statewide Water Development Program-Legislative Intent, of ch. 535 of the 1999 Legislative Session Laws (Senate Bill 2188) states:

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

Section 57-51.1-07.1(2) of the North Dakota Century Code (N.D.C.C.) requires that "every legislative bill appropriating moneys from the Resources Trust Fund, pursuant to subsection one, must be accompanied by a State Water Commission report." Secretary Frink explained that although the format has changed from previous reports, the 2005-2007 North Dakota Water Development Report will satisfy the requirements for funding from the Resources Trust Fund for the 2005-2007 biennium, and 1999 Senate Bill 2188 and 1999 House Bill 1475, codified in N.D.C.C. §§ 61-02-14 and 61-02-26.

It was the recommendation of the State Engineer that the State Water Commission approve the draft 2005-2007 North Dakota Water Development Report as the official update to the 1999 State Water Management Plan, the formal request for funding from the Resources Trust Fund in the 2005-2007 biennium, and the record of water development needs and funding abilities to meet those needs in the 2005-2007 biennium.

***It was moved by Commissioner Olin and seconded by Jeff Olson representing Commissioner Johnson that the State Water Commission approve the draft 2005-2007 North Dakota Water Development Report, attached hereto as APPENDIX "D":***

- 1) to serve as the State Water Commission's supplement to the 1999 State Water Management Plan;***
- 2) to serve as the State Water Commission's formal request for funding from the Resources Trust Fund in the 2005-2007 biennium; and***
- 3) to serve as the State Water Commission's record of water development needs and funding abilities to meet those needs in the 2005-2007 biennium.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF REQUEST FROM  
GRIGGS COUNTY WATER RESOURCE  
DISTRICT FOR STATE COST PARTICI-  
PATION FOR CONSTRUCTION OF  
COOPER DRAIN NO. 3  
(SWC Project No. 1925)**

A request from the Griggs County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the construction of Cooper Drain No. 3. This is a rural flood control project of which 95 percent of the drainage basin is from

agricultural land lying west of the city of Cooperstown. The project will protect the city of Cooperstown from the agricultural sheetwater ponding in the city, and removal of the runoff will reduce the water table and aid in vector control.

The proposed project involves the construction of four miles of a drain including a railroad drain lateral that will drain the slough on the west edge of the city of Cooperstown. The constructed drain will be located in Sections 23, 24, and 25 in Tier 146 North, Range 59 West, and in Sections 19, 30, and 31 in Tier 146 North, Range 58 West. Although not eligible for state cost participation, the project also includes cleaning out a natural drainage way of the original channel of Cherry Creek, eventually outletting to the Sheyenne River.

The project engineer's cost estimate is \$121,206, of which \$98,269 is considered eligible for conditional state cost participation as a rural flood control project at 35 percent of the eligible costs (\$34,394). The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$34,394.

The preliminary engineering is complete and all applicable permit applications are being submitted. Under the State Water Commission's policy, conditional approval of rural flood control drainage projects will be allowed, subject to the contingencies. Final approval will be granted upon issuance of the required state permit(s) and approval of the project's final design.

It was the recommendation of the State Engineer that the State Water Commission conditionally approve a state cost participation of 35 percent of the eligible costs, not to exceed \$34,394 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for the construction of Cooper Drain No. 3 in Griggs county.

***It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission conditionally approve state cost participation in the Cooper Drain No. 3 project at 35 percent of the eligible costs, not to exceed \$34,394 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds, satisfaction of all permit requirements, and approval of the project's final design.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***APPROVAL OF REQUEST FROM  
MAPLE RIVER WATER RESOURCE  
DISTRICT FOR STATE COST SHARE  
PARTICIPATION FOR IMPROVEMENT  
RECONSTRUCTION OF LOWER SWAN  
CREEK CHANNEL  
(SWC Project No. 847)***

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost share participation for the improvement reconstruction of the lower Swan Creek channel in Everest, Casselton, and Durbin townships in Cass county. Swan Creek is an old

NRCS facility that has become degraded and is in need of reconstruction.

Because of budget constraints resulting from the uncertainty of state cost participation funding sources, the State Water Commission deferred action on this request at its August 16, 2004 meeting pending resolution of the biennium funding. Since that time, additional and/or optional funding sources have been secured. Therefore, construction costs incurred from August 16, 2004 until completion should be considered eligible and preliminary services incurred two years preceding August 16, 2004 should also be considered eligible.

The proposed project consists of reconstructing the 60-year old NRCS constructed ditch (Swan Creek) from Casselton to U.S. Interstate 94. The reconstruction will restore Swan Creek's hydraulic capacity and bank stability. The channel improvement will consist of reconstructing the channel by widening the bottom and flattening the side slopes. The existing culverts will be removed and replaced. A sediment analysis has been provided indicating no sediment removal will occur at the site during the reconstruction.

The project engineer's cost estimate is \$440,000, of which \$400,000 is considered eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$140,000). The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$140,000.

The Maple River Water Resource District will utilize existing maintenance funds for the local share of the project. The engineering plans have been submitted, and the State Engineer has recorded Drain Permit No. 3036 dated October 14, 2004.

It was the recommendation of the State Engineer that the State Water Commission approve state cost participation in the lower Swan Creek channel improvement reconstruction project at 35 percent of the eligible costs (eligible costs will be determined using the August 16, 2004 date), not to exceed \$140,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

***It was moved by Commissioner Hofstad and seconded by Commissioner Olin that the State Water Commission approve state cost participation in the lower Swan Creek channel improvement reconstruction project at 35 percent of the eligible costs (eligible costs are to be determined using the August 16, 2004 date), not to exceed \$140,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, and Thompson voted aye. There were no nay votes. Lt. Governor Dalrymple abstained from voting. Lt. Governor Dalrymple announced the motion carried.***

**APPROVAL OF NORTH DAKOTA  
NATURAL RESOURCES TRUST  
ALLOCATION FOR FY 2004  
(SWC Project No. 1826)**

In 1986, the Garrison Diversion project was reformulated by Congress. Two new features of the project were the Municipal, Rural and Industrial (MR&I) Water Supply program and the

Wetlands Trust. Both features are widespread programs benefiting much of the state. The Dakota Water Resources Act of 2000 changed the name to the North Dakota Natural Resources Trust.

The North Dakota Natural Resources Trust is a program that provides for the preservation, enhancement, restoration, and management of wetlands and associated wildlife habitat in the state. The Natural Resources Trust operates off of the interest from a trust fund that will eventually reach \$13.2 million. Of the \$13.2 million, \$12 million is to come from the federal government and \$1.2 million from the State of North Dakota.

In 1993, the Garrison Diversion Conservancy District, the State Water Commission, and the North Dakota Game and Fish Department entered into a memorandum of agreement in which the three entities agreed to share equally the state's commitment in accordance with the terms set out in a February 14, 1991 agreement between the State of North Dakota, the Bureau of

Reclamation, and the North Dakota Wetlands Trust. That agreement provides that the state's share shall be based on 0.15 percent of the federal Garrison Diversion Unit (GDU) appropriation. The Fiscal Year 2004 state's commitment is \$51,310; the State Water Commission's share is \$17,103.33.

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. Lt. Governor Dalrymple ruled this disclosure would not be considered a conflict of interest.

It was the recommendation of the State Engineer that the State Water Commission approve the allocation of \$17,103.33 for one-third of the state's Fiscal Year 2004 North Dakota Natural Resources Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

***It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve the allocation of \$17,103.33 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for one-third of the state's Fiscal Year 2004 contribution to the North Dakota Natural Resources Trust. This motion is contingent upon the availability of funds, and an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF REQUEST FROM  
NORTH DAKOTA WATER RESOURCES  
RESEARCH INSTITUTE FOR STATE  
COST PARTICIPATION IN PROGRAM  
ADMINISTERED THROUGH NDSU  
(SWC Project No. 1403)**

A request from the North Dakota Water Resources Research Institute (WRRI) was presented for the State Water Commission's consideration for state cost participation of their 2004-2005 academic year program administered through the North Dakota State

University. The WRRI program requires a match of \$2.00 non-federal for each \$1.00 federal. Currently, the required non-federal match (in-kind) is provided for faculty and staff time, graduate student tuition waivers, work on other non-federal funded projects, and support of local utilities and industry.

Because of budget constraints resulting from the uncertainty of state cost participation funding sources, the State Water Commission deferred action on this request at its August 16, 2004 meeting pending resolution of the biennium funding. Since that time, additional and/or optional funding sources have been secured.

Anticipating the receipt of an U.S. Geological Survey 104B grant in the amount of approximately \$80,000 for the 2004-2005 academic year, the WRRRI has requested a 15 percent state cost participation of the annual federal allocation with a ceiling of \$19,500. The intent of this request is to replace a portion of NDSU's in-kind services with the proposed cost share amount in order to provide more cash for fellowships.

The fellowships support graduate students working on water-resource related topics and are granted on the basis of the relevance of programs to the management of North Dakota water resources and the overall quality of the proposals. Research topics have varied broadly and include methods for improving municipal water treatment, methods for measuring organic contaminants in water in the field, research on climate change in North Dakota, and the effects of algae on lake oxygen levels in winter.

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

It was the recommendation of the State Engineer that the State Water Commission approve state cost participation in an amount not to exceed \$19,500 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to the North Dakota Water Resources Research Institute for their fellowship program administered through the North Dakota State University.

***It was moved by Commissioner Hofstad and seconded by Commissioner Thompson that the State Water Commission approve state cost participation in an amount not to exceed \$19,500 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to the North Dakota Water Resources Research Institute for their fellowship program administered through the North Dakota State University. This motion is contingent upon the availability of funds.***

**Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.**

**APPROVAL OF REQUEST FROM  
SOUTHEAST CASS WATER  
RESOURCE DISTRICT FOR  
STATE COST PARTICIPATION  
IN SNAGGING AND CLEARING  
PROJECT ON SHEYENNE RIVER  
(SWC Project No. 568)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost share participation in snagging and clearing on the Sheyenne River. The Sheyenne River requires regular snagging and clearing to maintain the channel's

capacity during floods. The project will continue upstream from where it ended last winter in Section 33 of Normanna township and continue upstream to the Cass-Richland county line. It will also include the Sheyenne River from U.S. Interstate 94 to the Red River.

The snagging and clearing work consists of the removal and disposal of tagged standing and fallen trees, snags, driftwood, stumps, and debris occurring in the Sheyenne River channel between the upstream and downstream limits. The contractor will remove all items as shown in the specifications regardless of the number or locations of set-ups and approaches to the river required. All items which, in the opinion of the project engineer, are beneficial or helpful in reducing bank erosion and which do not interfere with streamflow will be allowed to remain. The contractor will not be required to move any earth in this project.

The project engineer's estimate is \$240,000, of which all is determined to be eligible for state cost participation at 25 percent of the eligible costs in the amount of \$60,000. The request before the State Water Commission is for a 25 percent state cost participation in the amount of \$60,000.

It was the recommendation of the State Engineer that the State Water Commission approve state cost participation in the Sheyenne River snagging and clearing project at 25 percent of the eligible costs, not to exceed \$60,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

***It was moved by Commissioner Hofstad and seconded by Commissioner Hillesland that the State Water Commission approve state cost participation in the Sheyenne River snagging and clearing project at 25 percent of the eligible costs, not to exceed \$60,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds.***

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***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***APPROVAL OF REQUEST FROM  
SARGENT COUNTY WATER RESOURCE  
DISTRICT FOR STATE COST PARTICI-  
PATION IN SILVER LAKE BANK  
STABILIZATION PROJECT  
(SWC Project No. 1303)***

A request from the Sargent County Water Resource District was presented for the State Water Commission's consideration for state cost share participation to stabilize the banks at nine identified areas on the east, south, and west sides of Silver Lake. In 2001, the District

initiated a bank stabilization project on the north and west sides of Silver Lake. Upon completion of those areas, it was concluded that additional bank stabilization work was needed. The work will prevent sedimentation into the lake and downstream channel. Sovereign Land Permit No. S-1314 authorizes the placement of rock riprap on the shoreline of Silver Lake.

The project engineer's estimate is \$98,831, of which \$46,677 is considered eligible for state cost participation as a bank stabilization project at 50 percent of the eligible costs (\$23,338). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$23,338.

It was the recommendation of the State Engineer that the State Water Commission approve a state cost participation of 50 percent of the eligible costs, not to exceed \$23,338 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for the Silver Lake bank stabilization project in Sargent county.

***It was moved by Jeff Olson representing Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve state cost participation of 50 percent of the eligible costs, not to exceed \$23,338 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for the Silver Lake bank stabilization project in Sargent county. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF ALLOCATION  
OF \$50,000 TO RED RIVER BASIN  
COMMISSION FROM JANUARY 1,  
2005 THROUGH JUNE 30, 2005  
(SWC File AOC/RBB)**

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 is a member of the board appointed by Governor Hoeven.

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 for projects.

Lance Yohe, executive director of the Red River Basin Commission, expressed appreciation to the State Water Commission for its past support. The efforts of the RRBC during 2004 were reviewed, which are attached hereto as **APPENDIX "E"**.

The 22nd annual Red River Basin Land and Water International Summit conference, "Shared Resources, Shared Responsibilities", is scheduled for January 12-14, 2005 at the Ramada Plaza Suites, Fargo, ND. The conference is sponsored by the Red River Basin Commission.

The draft Red River Basin Natural Resource Framework Plan (NRFP) will be presented at the RRBC's annual conference. Mr. Yohe explained that the plan and the work tasks will help define the RRBC's efforts to address the adverse natural resource issues that are of concern in the basin including flood damage reduction, drainage, water supply, water quality, fish and wildlife, and conservation. The NRFP will also serve as a guide for political jurisdictions at all levels to find common ground and work cooperatively toward beneficial solutions.

A request was received from the Red River Basin Commission to provide an allocation of \$100,000 from January 1, 2005 to December 31, 2005 (\$50,000 in the 2003-2005 biennium, and \$50,000 in the 2005-2007 biennium) to support the Red River Basin Commission's Natural Resource Framework Plan activities. The activities includes final review, publishing and initiating implementation of the NRFP, a public involvement role associated with the Fargo-Moorhead Upstream Feasibility Study, and promoting linkage of the NRFP in ongoing State Water Commission and water resource districts planning efforts during 2005.

Because of 2003-2005 biennial budget constraints, and that the State Water Commission cannot allocate funding beyond the current biennium, it was the recommendation of the State Engineer that the State Water Commission approve the allocation of \$50,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium to support the Red River Basin Commission's Natural Resource Framework Plan activities and the Fargo-Moorhead Upstream Feasibility study from January 1, 2005 through June 30, 2005. Secretary Frink suggested that the request could be revisited in the 2005-2007 biennium for possible additional funding prior to December 31, 2005. The Commission's approval of this expenditure will be contingent upon the availability of funds.

Commissioner Thompson explained that although the base funding allocations of \$100,000 each from the State of Minnesota and the Province of Manitoba have not been finalized, he emphasized the importance that the State Water Commission support the request from the Red River Basin Commission of \$100,000 from the State of North Dakota to continue the Natural Resource Framework Plan activities and the Fargo-Moorhead Upstream Feasibility study.

***It was moved by Commissioner Thompson and seconded by Commissioner Hillesland that the State Water Commission approve the allocation of \$100,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to support the Red River Basin Commission's Natural Resource Framework Plan activities and the Fargo-Moorhead Upstream Feasibility study from January 1, 2005 through June 30, 2005. This motion is contingent upon the availability of funds.***

***Commissioners Hillesland, Hofstad, Thompson, and Lt. Governor Dalrymple voted aye. Commissioners Hanson, Jeff Olson representing Commissioner Johnson, Olin, and Swenson voted nay. Recorded vote was 4 ayes; 4 nays. Lt. Governor Dalrymple announced the motion failed due to a tie vote.***

***It was moved by Commissioner Olin and seconded by Jeff Olson representing Commissioner Johnson that the State Water Commission approve the allocation of \$50,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to support the Red River Basin Commission's Natural Resource Framework Plan activities and the Fargo-Moorhead Upstream Feasibility study from January 1, 2005 through June 30, 2005; and, that the request be revisited in the 2005-2007 biennium for possible additional funding prior to December 31, 2005. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

***APPROVAL OF REQUEST FROM  
NORTH DAKOTA WATER EDUCATION  
FOUNDATION FOR STATE COST  
PARTICIPATION IN "NORTH DAKOTA  
WATER: A CENTURY OF CHALLENGE"  
PUBLICATION  
(SWC Project No. 322)***

The North Dakota Water Education Foundation submitted a proposal in 2003 to write and publish a comprehensive history of water development and water management in North Dakota in the 20th Century. The details, chronologies and factual information needed to tell this story will be compiled through

research, interviews, and utilization of existing materials. The proposal was presented to the State Water Commission, the Garrison Diversion Conservancy District, and the U.S. Bureau of Reclamation requesting these parties to partner in this effort with the North Dakota Water Education Foundation. The proposal includes two products, a hard-covered book entitled "North Dakota Water: A Century of Challenge", and a student guide available to teachers for classroom use.

The cost of the proposed project is \$245,511. The North Dakota Water Education Foundation received \$97,425 from the Bureau of Reclamation, \$48,712.50 has been approved by the Garrison Diversion Conservancy District, and the Foundation will contribute \$50,661. It is anticipated that the project would be completed within 24 months following execution of an agreement. A request was presented for the State Water Commission's consideration for state cost participation in the amount of \$48,800.

It was the recommendation of the State Engineer that the State Water Commission approve state cost participation, not to exceed \$48,800 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to the North Dakota Water Education Foundation for assistance in the publication of "North Dakota Water: A Century of Challenge".

***It was moved by Commissioner Olin and seconded by Commissioner Hofstad that the State Water Commission approve state cost participation, not to exceed \$48,800 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, to the North Dakota Water Education Foundation for assistance in the publication of "North Dakota Water: A Century of Challenge". This motion is contingent upon the availability of funds.***

Lt. Governor Dalrymple responded to procedural questions raised by Commissioner Swenson, and ruled that the motion on the floor is not the reconsideration of a previous motion that was defeated at the December 5, 2003 State Water Commission meeting. The request being considered at this meeting provides additional information relating to the scope of the project, therefore, Lt. Governor Dalrymple further ruled that a new motion is on the floor.

***Commissioners Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, and Lt. Governor Dalrymple voted aye. Commissioners Hanson, Swenson, and Thompson voted nay. Recorded vote was 5 ayes; 3 nays. Lt. Governor Dalrymple announced the motion carried.***

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

James Lennington, project manager for the Southwest Pipeline Project, provided the following project status report:

**Contract 2-5B - Main Transmission Pipeline, Medora-Beach Phase:** Contract 2-5B is for 46.4 miles of 12-inch through 6-inch diameter PVC pipe. The contract includes two booster pump stations and several pressure reducing valve vaults, three tank control vaults, as well as meter vaults for Medora, Sentinel Butte, and Beach. The contractor, Northern Improvement Company, Bismarck, ND, has completed all construction on this contract. Service to the cities of Beach and Sentinel Butte commenced in October, 2004. The city of Medora will begin receiving water early in 2005. The contractor is proceeding to address remaining administrative items. Final inspection is anticipated in December, 2004.

**Contracts 5-9, 5-10, and 5-11 - Belfield, Fryburg, and Beach Reservoirs:** The contractor for contracts 5-9, 5-10, and 5-11 is Advance Tank and Construction, Wellington, CO. All three reservoirs have been painted and put into service. Retainage is pending upon completion of administrative items. The Southwest Water Authority approved an expenditure for lettering on each of the tanks. The final inspection was held on December 2, 2004.

**Contract 7-8A - Fryburg Service Area, Phase I:** Contract 7-8A is for approximately 44 miles of PVC pipe ranging in size from 6 inches to 1 ½ inches in diameter serving 71 rural water users in the general area from Belfield to west of Medora. The contractor, Abbot, Arne & Schwindt, Moorhead, MN, has completed all construction on this contract and is working on completing the administrative items identified in the pre-final inspection walk through. Preparation and seeding of the right-of-way through private pastures and hayland will be completed in the spring of 2005. Seeding of the national grasslands, administered by the United States Forest Service, was completed in 2004. Final inspection is anticipated in December, 2004.

**Medora-Beach Contract Status** - The Medora-Beach regional service area is currently under construction. The first phase of construction, the installation of the main transmission pipeline and reservoirs, has been completed, as well as a portion of the Fryburg service area rural distribution system.

The following tables show the facilities constructed in the Medora-Beach regional service area in the 2003-2005 biennium, and the remaining Medora-Beach facilities to be constructed:

**Medora-Beach Phase  
2003-2005 Biennium Construction**

<b><u>Contract</u></b>	<b><u>Facility</u></b>	<b><u>Description</u></b>	<b><u>Estimated Cost</u></b>
2-5B	Main Transmission Pipeline *	46.4 miles 12"-6"	\$ 5,020,612
5-9	Belfield Reservoir	750,000 gallons	662,542
5-10	Fryburg Standpipe	480,000 gallons	456,745
5-11	Beach Standpipe	420,000 gallons	566,769
7-8A	Fryburg Service Area, Phase I **	21 miles, 33 users	<u>1,491,617</u>
<b>Total</b>			<b>\$ 8,310,000</b>

\* Includes service to Home on the Range, paid by the Southwest Water Authority - \$99,400.

\*\* Increased to 44 miles and 71 users.

**Medora-Beach Phase  
Remaining Facilities to be Constructed**

<b><u>Contract</u></b>	<b><u>Facility</u></b>	<b><u>Description</u></b>	<b><u>Estimated Cost</u></b>
7-8B	Fryburg Service Area, Remainder	91 miles, 58 users	\$ 2,064,000
7-8B	Fryburg Service Area, Fairfield Pocket	51 miles, 32 users	1,345,000
7-8B	Beach Service Area	115 miles, 82 users	2,297,000
7-8B	Beach Service Area, Trotters Pocket	44 miles, 18 users	1,154,000
7-8B	Golva Service Area, City of Golva	108 miles, 82 users	2,580,000
7-8C	South Morton County Pocket, Flasher Service Area	128 miles, 93 users	2,796,000
7-8C	North Morton County Pocket, Crown Butte Service Area	20 miles, 15 users	407,000
5-13A	Second Davis Buttes Reservoir	1,000,000 gallons	759,000
5-12	Golva Standpipe	150,000 gallons	439,000
8-2	South Morton County Standpipe	150,000 gallons	439,000
6	Telemetry, Phase II		<u>98,000</u>
<b>Total</b>			<b>\$14,408,000</b>
<b>Total Medora-Beach Phase</b>			<b>\$22,700,000</b>

**Red Trail Energy** - The Red Trail Energy, LLC, is constructing an ethanol plant on the outskirts of the city of Richardton. Red Trail Energy has informed the Southwest Water Authority of their intention to purchase between 450 and 600 gallons per minute of raw water, which would be between 236 million and 315 million gallons of water per year. This would make Red Trail Energy the second largest customer of the Authority behind the city of Dickinson, which used approximately 656 millions gallons in 2003.

***SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF CAPITAL REPAYMENT  
RATES, AND REPLACEMENT AND  
EXTRAORDINARY MAINTENANCE  
RATE FOR 2005  
(SWC Project No. 1736)***

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

year. The budget is deemed approved unless the Secretary of the Commission notifies the Authority of his disapproval by February 15. The Southwest Water Authority is currently preparing its budget.

On October 19, 1998, the State Water Commission approved an amendment to the Transfer of Operations Agreement, which changed the Consumer Price Index date used for calculating the project's capital repayment rates from January 1 to September 1. This amendment was necessary to bring the Transfer of Operations into line with the water service contracts and to streamline the budget process.

The contract specifies that the water rates for capital repayment be adjusted annually based on the Consumer Price Index. The State Water Commission has the responsibility of adjusting the capital repayment rates annually.

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

The following projected capital repayment rates, and the replacement and extraordinary maintenance rate for 2005 for the Southwest Pipeline Project were presented for the State Water Commission's consideration:

Contract Users:	\$ 0.91 per thousand gallons
Rural Users:	\$27.79 per month
Replacement and Extraordinary Maintenance:	\$ 0.35 per thousand gallons

It was the recommendation of the State Engineer that the State Water Commission approve the projected capital repayment rates for 2005 for the Southwest Pipeline Project of \$0.91 per thousand gallons for contract users; \$27.79 per month for rural users; and a rate for replacement and extraordinary maintenance of \$0.35 per thousand gallons.

***It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve the following capital repayment rates, and the replacement and extraordinary maintenance rate for 2005 for the Southwest Pipeline Project:***

- 1) Contract Users: \$ 0.91 per thousand gallons***
- 2) Rural Users: \$27.79 per month***
- 3) Replacement and  
Extraordinary Maintenance: \$ 0.35 per thousand gallons***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

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

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

**Contract 2-1B - Pretreated Water Pipeline:** On April 23, 2003, the State Water Commission authorized the award of contract 2-1B to Coughlin Construction, Minot, ND. The contract is for approximately 9.5 miles of 30-inch and 36-inch ductile iron pipe extending from the end of contract 2-1A to a point just south of N.D. Highway 23. Approximately 65 percent of the pipe in this contract was installed in 2003. The contract includes an above ground pressure reducing valve vault located adjacent to U.S. Highway 83 just south of the bored and cased highway crossing at Ward County Road 16.

The contractor completed pipe laying on June 26, 2004, and completed testing of the facilities on November 22, 2004, which signifies substantial completion of the project. The original completion date for contract 2-1B was October 31, 2004. There were some time delays due to weather and some changed conditions during execution of the contract, as well as added facilities. The primary reason for the contract being over one year beyond the completion date was production during pipe laying. The State Water Commission has incurred extra expenses for engineering inspection during this period. The contractor will be assessed for these extra expenses, which are estimated to be in the \$30,000-\$40,000 range.

**Contract 2-1C - Pretreated Water Pipeline Station 1600+00 to Max Pumping Station:** Contract 2-1C consists of approximately 61,006 feet (about 11.6 miles) of 36-inch ductile iron pipe extending from N.D. Highway 23 to the south side of the city of Max. At its March 11, 2004 meeting, the State Water Commission authorized the award of contract 2-1C to Winter Brothers Underground, Sioux Falls, SD, contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation. The contract was executed by the State Engineer on April 6, 2004.

The contractor began work on June 21, 2004, and has completed all but about 1,200 feet of pipe laying on this contract. The contract included three cast-in-place concrete valve vaults in areas where there were high water tables and one additional cast-in-place vault was added through a change order. The Canadian Pacific railroad bore at Max was extended and lowered after the contract was bid because of the presence of an equalization culvert. The additional cost requested by the boring subcontractor for this bore was rejected, and alternate locations for the bore to avoid the culvert are being considered. This has delayed the completion of pipe laying on the contract. The contractor is finishing up with the three original cast-in-place vaults and some of the pre-cast vaults and wrapping things up for the season. The completion date for contract 2-1C in the documents is December 3, 2004, but that date will have to be adjusted because of the railroad bore.

**Contract 2-1D - Pretreated Water Main Transmission Pipeline from City of Max Pump Station to Lake Sakakawea Intake:** Contract 2-1D consists of approximately 14 miles of 36-inch pipe extending from the city of Max pump station to the Lake Sakakawea intake. The plans and specifications for contract 2-1D have been received and submitted to the Bureau of Reclamation and the North Dakota Department of Health for review. Contingent upon review of the plans and specifications, it is anticipated that advertisement for bids on contract 2-1D will be in January, 2005. The project engineer's estimate for construction of this contract is \$9.8 million, and the project cost is approximately \$11.5 million. Funding could come from several sources: \$348,000 - federal Fiscal Year 2004 MR&I grant; \$2,300,000 - federal Fiscal Year 2005 MR&I grant; \$4,800,000 from other sources; and the 35 percent match (\$4,000,000) from the city of Minot. If the \$4,800,000 (from other sources) remains unavailable, the pipeline segment will be shortened to reflect available funding. The project engineer is also working on the preliminary design of the Minot water treatment plant and UV system.

*(Note: Since the December 10, 2004 State Water Commission meeting, the city of Minot has indicated its intent to make up the shortfall in federal funding that is not available from other sources. It is intended to use up to \$2 million in state funding, making the city of Minot's additional contribution \$2.8 million.)*

**Manitoba Lawsuit:** On November 14, 2003, the United States District Court for the District of Columbia, Judge Rosemary Collyer, denied motions made by the U.S. Department of the Interior and the State of North Dakota to dismiss the action that had been brought by the Province of Manitoba against the Department of the Interior. The motions to dismiss the case were based on jurisdictional and procedural issues.

The Manitoba suit, filed in October, 2002, against the Secretary of the Interior, Commissioner of Reclamation, Reclamation's Great Plains Regional Director, and Reclamation's Dakotas Area Manager, challenges the adequacy of the NAWS environmental assessment and the Finding of No Significant Impact (FONSI). Manitoba is seeking a declaratory judgment and an injunction requiring the defendants to conduct an Environmental Impact Statement (EIS) and enjoining the defendants from expending federal funds until they have fully complied with such requirements. North Dakota petitioned the court to intervene as a defendant and was unopposed.

The Bureau of Reclamation submitted the administrative record for the case. On March 8, 2004, the Province of Manitoba filed its motion for summary judgment and briefs supporting its position. Responding motions and briefs from the Department of the Interior and the State of North Dakota were filed on April 16, 2004. Judge Collyer heard oral arguments in this lawsuit on July 29, 2004 in

Washington, DC. On September 28, 2004, Judge Collyer issued an order seeking comments on two issues with respect to the consultative process with Canada which the Bureau of Reclamation and the State of North Dakota had engaged in. Briefs for this order were filed on October 19, 2004.

Fred Wagner of Beveridge & Diamond, P.C., a Washington, DC attorney, has been retained to complement the staff of the North Dakota Office of the Attorney General in the lawsuit.

**RESOLUTION OF APPRECIATION  
TO MARYANNE C. BACH, GREAT  
PLAINS REGIONAL DIRECTOR,  
U.S. BUREAU OF RECLAMATION  
(SWC Resolution No. 2004-12-511)**

Maryanne Bach, Great Plains Regional Director, U.S. Bureau of Reclamation, has served in this position since 1998. Ms. Bach has recently been appointed director of Research and Development for the Bureau of Reclamation in

Denver, Colorado. The State Water Commission presented a resolution of appreciation to Maryanne Bach.

Ms. Bach's efforts involving her commitment of time and energy to sound water resource management in North Dakota included the Dakota Water Resources Act, the Northwest Area Water Supply (NAWS) project, the Red River Valley Water Supply project and related environmental impact statement, and support of North Dakota's quest to obtain Pick-Sloan project pumping power for 28,000 acres of irrigation. Ms. Bach served as the United States chair of the International Red River Board, which earned the respect of her peers throughout the Red River Basin in the United States and Canada.

***It was moved by Commissioner Olin, seconded by Commissioner Hofstad, and unanimously carried, that the State Water Commission approve Resolution No. 2004-12-511, Resolution of Appreciation to Maryanne C. Bach, Great Plains Regional Director, U.S. Bureau of Reclamation. SEE APPENDIX "F"***

**DEVILS LAKE  
HYDROLOGIC UPDATE  
(SWC Project No. 416-01)**

Devils Lake is currently at an elevation of 1447.93 feet msl. At its current elevation, the lake has a surface area of 130,800 acres and storage of 2.56

million acre-feet of water. At this time last year, the lake was at an elevation of 1446.26 feet msl.

The current elevation of Stump Lake is 1424.08 feet msl. At this elevation, Stump Lake has a surface area of 9,250 acres and is storing 228,000 acre-feet of water. The Jerusalem channel is flowing at approximately 150 cubic feet per second. It is expected that the flow will diminish as ice builds in the channel and on the divide over the winter.

**CORPS OF ENGINEERS DEVILS  
LAKE OUTLET PROJECT STATUS  
(SWC Project No. 416-07)**

reduce flood damages and to reduce the risk of a natural overflow from Devils Lake.

The Corps of Engineers executed a Record of Decision (ROD) on October 14, 2003, recommending that an outlet be constructed from Devils Lake to

The Corps continues to address the conditions that were outlined in the ROD, which includes a determination by the U.S. State Department on whether or not the outlet project would violate the Boundary Waters Treaty Act of 1909. On January 20, 2004, U.S. Secretary of State, Colin Powell, provided a letter to the Corps of Engineers, which detailed his review of the project plans for the federal outlet and provided assurances that the project does not violate the Boundary Waters Treaty Act of 1909 as currently designed since the plans assume no biota of concern exists in Devils Lake that are not already present in the Red River system. Conditions in Secretary Powell's letter regarding the federal outlet and Boundary Waters Treaty compliance include a plan regarding biota transfer, and a design of the Dry Lake diversion, which would divert incoming water from entering Devils Lake in Six Mile Bay to Big Coulee to improve water quality for the intake for the federal (and state) outlet.

**NORTH DAKOTA DEVILS LAKE  
OUTLET PROJECT STATUS  
(SWC Project No. 416-07)**

construction timeline, with construction commencing in the fall of 2003 and operational in 2005.

The State of North Dakota is pursuing an emergency phased outlet project from West Bay to the Sheyenne River. The project is based on a two-year

On March 5, 2003, the State Water Commission approved the continued construction of the North Dakota Devils Lake outlet project, and allocated the expenditure of \$7,500,000 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for Phases I(a) and I(b).

On August 6, 2003, the State Water Commission approved the award of the Devils Lake Emergency Outlet, Initial Canal Segments, Contract 2, to Park Construction, Inc., Minneapolis, MN, in the amount of \$766,614. The contract was for 3.2 miles of 300 cubic feet per second (cfs) open channel. Park Construction commenced construction on October 21, 2003.

The state received the 402 Water Quality Discharge Permit from the North Dakota Department of Health on August 22, 2003. The Department received several requests to reconsider the permit, therefore, the comment period was extended until October 20, 2003. In letters to those individuals questioning the issuance of the permit, the Department stated that no new information

had been provided. The permit was upheld in the initial hearing held on August 23, 2004 in Valley City, ND. The first appeal was filed jointly by the People to Save the Sheyenne and the Province of Manitoba, and the second appeal was filed by the Peterson Coulee Association.

The hearings on the appeals of the condemnations have been postponed until September, 2005. Therefore, the Department's original decision to issue the permit remains intact.

At its meeting on December 5, 2003, the State Water Commission approved the funding necessary to bid and construct the final phases of the state's outlet project in the amount of an additional \$19,000,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

On March 11, 2004, the State Water Commission approved the awards of Devils Lake Emergency Outlet Contract 4, Final Canal Segments, in the amount of \$2,371,134, to Park Construction Company, Minneapolis, MN; and the Devils Lake Emergency Outlet Contract 5, Canal Structures, in the amount of \$5,041,000, to Industrial Builders, Inc., Fargo, ND.

At its meeting on April 16, 2004, the State Water Commission approved the awards of Devils Lake Emergency Outlet Contract 2A/2B, Round Lake and Josephine Pump stations, in the amount of \$5,879,700, to Excel Construction, Inc., Sheridan, WY; and the Devils Lake Emergency Outlet Contract 3, Round Lake and Josephine Pipelines, in the amount of \$3,682,120, to S. J. Louis Construction, Inc., Waite Park, MN.

The electric service agreement for the North Dakota Devils Lake outlet project was approved by the State Water Commission on June 28, 2004 with Northern Plains Electric Cooperative, Cando, ND. The agreement provides for the expenditure of \$2,400,000 for construction of the facilities necessary to provide electric power and energy to the Round Lake and Josephine pump stations.

The Western Area Power Association (WAPA) indicated that tapping its line to provide power would require additional environmental review. Because of the potential for delay that could be caused by these additional requirements, alternatives to tapping the WAPA line were investigated. It was determined that Northern Plains Electric Cooperative has a line closer to the project and is capable of supplying sufficient power to pump 150 cubic feet per second, and up to 200 cubic feet per second with some modification to the power system. This option will reduce the initial cost of the power supply by approximately \$1 million. The line that will need to be constructed for this option is on the same alignment as the line needed to utilize the WAPA line, but is only 3.25 miles long rather than the 11.1 miles of line

necessary to reach the WAPA line. The shorter line can be built to the same standards as originally planned, which would allow expansion to 300 cubic feet per second pumping capacity at approximately the same total cost as initially budgeted for the power supply. The savings that would result from reducing the line to that needed to provide 200 cubic feet per second pumping capacity are still being investigated but, if they are substantial, the current cost savings will need to be compared to possible future cost increases and the probability of the outlet being expanded to 300 cubic feet per second. The cost of power to operate the outlet will remain the same under this alternative.

On June 13, 2004, the State Water Commission received a notice of intent to file a legal challenge from The People to Save the Sheyenne, Peterson Coulee Outlet Association, National Wildlife Federation, Minnesota Conservation Federation, Minnesota Center for Environmental Advocacy, and the Government of the Province of Manitoba. The notice challenges that the State of North Dakota and the U.S. Army Corps of Engineers are in violation of the Clean Water Act Section 404 discharge permit for the North Dakota Devils Lake outlet project. The basis of their charges were on-site visits, satellite imagery, and aerial photography. Based on reviews of their information, the Corps of Engineers provided the State Engineer a letter restating that the 404 provisions were not violated.

Bruce Engelhardt, Devils Lake project manager, provided a status report noting that four contractors are mobilized on-site and construction is continuing as the weather permits. Park Construction has essentially completed the first 6.3 miles of the canal, with seeding and fencing remaining. Industrial Builders continues to make good progress on the concrete structures consisting of two drop structures, transition structures, terminal structure outlet and terminal structure pipeline. Excel Corporation has the pumps, motors, manifolds, and pipeline in place at both pump stations. Advance Tank, a subcontractor for Excel Corporation, has nearly completed the Josephine standpipe and has the Round Lake standpipe to its complete height and is installing the intake pipes. The foundations for the electrical buildings have been poured and conduits have been run, but the electrical equipment and buildings remain to be installed.

Mr. Engelhardt reported that the entire project is approximately 80 percent complete. It is anticipated that the canal will be completed in June, 2005, although the canal can be utilized while work continues on the area adjacent to the canal. It is expected the power supply should be available in June or July, 2005 which will determine the start of operation.

**APPROVAL OF EXTENSION OF  
DEVILS LAKE OUTLET AWARENESS  
PROJECT MANAGER'S CONTRACT  
FROM JANUARY 1, 2005 THROUGH  
DECEMBER 31, 2005  
(SWC Project No. 416-01)**

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. As the efforts continue toward the implementation of a state-sponsored Devils Lake outlet project and the Corps of Engineers permanent emergency outlet, Secretary Frink expressed the importance to continue to provide factual information to all downstream interests in North Dakota, Minnesota and Manitoba. The downstream education efforts provide a critical mechanism to dispense information and for people downstream to communicate their concerns.

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 January 1, 2005 through December 31, 2005, with a 33 percent state cost participation. All other parties to the previous agreement have indicated their intentions to continue this effort through 2005.

It was the recommendation of the State Engineer that the State Water Commission approve a contract extension from January 1, 2005 through December 31, 2005 for the Devils Lake Outlet Awareness project manager, with a 33 percent state cost participation, not to exceed \$15,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

***It was moved by Commissioner Hanson and seconded by Commissioner Thompson that the State Water Commission approve a contract extension from January 1, 2005 through December 31, 2005 for the Devils Lake Outlet Awareness project manager, with a 33 percent state cost participation, not to exceed \$15,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF EXTENSION OF  
DEVILS LAKE BASIN MANAGER  
CONTRACT FROM JANUARY 1, 2005  
THROUGH DECEMBER 31, 2005  
(SWC Project No. 416-01)**

position and an office has been maintained in the Ramsey county courthouse. The Joint Board formally requested continued state cost participation from January 1, 2005 through December 31, 2005.

Since 1998, the State Water Commission has participated with the Devils Lake Joint Water Resource Board in cost sharing for a full-time Devils Lake basin manager and an office for the board. Michael J. Connor occupies that

The state cost participation arrangement would remain at 40 percent provided by the State Water Commission for one year, not to exceed \$26,000. The Commission would pay the Joint Board for the actual expenses based on quarterly expense reports approved by the Commission. The remaining funds would be provided by the Devils Lake Basin Joint Board.

It was the recommendation of the State Engineer that the State Water Commission approve a contract extension from January 1, 2005 through December 31, 2005 for the Devils Lake basin manager, with a 40 percent state cost participation, not to exceed \$26,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

***It was moved by Commissioner Olin and seconded by Commissioner Hofstad that the State Water Commission approve a contract extension from January 1, 2005 through December 31, 2005 for the Devils Lake basin manager, with a 40 percent state cost participation, not to exceed \$26,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**DEVILS LAKE WATER UTILIZATION  
TEST IRRIGATION PROJECT  
STATUS REPORT  
(SWC Project No. 1882-02)**

the test project's primary objective is to further investigate a number of issues that have evolved regarding the effectiveness of the overall concept and the results of a water utilization project in the Devils Lake basin.

On August 6, 2003, the State Water Commission approved a 50 percent state cost participation in the amount of \$302,000 for the Devils Lake Water Utilization Test Irrigation project. The

The estimated cost of the project is \$1,204,000, of which all non-federal costs are eligible for state cost participation. The eligible costs (center pivot, pump engine, generator, pipe, electrical connection, appurtenances, engineering, monitoring, and test costs) are determined by reducing the total estimated cost (\$1,204,000) by the federal funding contribution (NRCS) of \$600,000. Per the 2003 state cost participation agreement, the remaining costs of \$604,000 are shared equally (\$302,000) between the Devils Lake Joint Water Resource Board and the State Water Commission. This allocation is consistent with the long-standing policy that the State Water Commission only cost shares on the non-federal portion of a project.

Michael Connor, Devils Lake basin manager, explained the scenario for moving ahead with the Devils Lake Water Utilization Test Irrigation project. He provided technical information relating to the local support for the project, North Dakota State University's involvement, landowner sign-ups, the use of existing irrigation sites, and the proposed test project schedule. Mr. Connor explained the monitoring costs being done by NDSU were underestimated, and because of revisions made to the scope of the project (number of test sites, specialty crops, and equipment), the total project cost could escalate, thus, creating financial concerns for the board.

***APPROVAL OF FUNDING FROM  
THE WATER DEVELOPMENT AND  
RESEARCH FUND FOR THE CITY  
OF CARRINGTON  
(SWC Project No. 237-03)***

A request was presented for the State Water Commission's consideration for the expenditure of \$27,625 from the Water Development and Research Fund (Garrison Diversion Conservancy District) for the city of Carrington.

The city of Carrington requested funding to conduct a study to identify an additional well that would not be adjacent to the city's two existing wells. An existing well has contamination from benzene, which the North Dakota Department of Health has monitored since the 1980s. The Department recommended the city identify an alternate well location. The estimated well study cost is \$18,500.

The city of Carrington also requested funding for a feasibility study to address an update for an expansion of their existing water system. The water system was upgraded in 1995, 1996 and 1997. The city provides water service to Ramsey Rural Water, which currently serves about 100 users in the area. The estimated cost of the feasibility study is \$24,000. The city of Carrington requested a 65 percent grant for the non-federal share, not to exceed a total of \$27,625 for the well and feasibility studies.

It was the recommendation of the State Engineer that the State Water Commission approve a 65 percent grant, not to exceed \$27,625 from the Water Development and Research Fund, for the city of Carrington to conduct a well study and a feasibility study. Affirmative action is contingent upon the availability of funds, and is subject to future revisions. As is the current practice, the State Water Commission and the Garrison Diversion Conservancy District must approve expenditures from the Water Development and Research Fund. The District's executive committee approved the request on December 3, 2004.

***It was moved by Jeff Olson representing Commissioner Johnson and seconded by Commissioner Swenson that the State Water Commission approve a 65 percent grant, not to exceed \$27,625 from the Water Development and Research Fund, for the city of Carrington to conduct a well study and a feasibility study. This motion is contingent upon the availability of funds, and is subject to future revisions.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF FUNDING FROM  
THE WATER DEVELOPMENT AND  
RESEARCH FUND FOR NORTH  
VALLEY WATER DISTRICT -  
CAPACITY FOR SERVICE TO  
CITY OF PEMBINA  
(SWC Project No. 237-03)**

A request was presented for the State Water Commission's consideration for the expenditure of \$275,800 from the Water Development and Research Fund (Garrison Diversion Conservancy District) for the North Valley Water District for capacity for service to the city of Pembina.

North Valley Water District uses the Akra System-Neché Branch to serve the north half of Pembina county. In 1998, capacity was included in the water system for future water service to the city of Pembina. The city currently uses the Red River as their water source which may not comply with surface water regulations. The estimated cost to bring water service into the city's existing water treatment plant is \$275,000. A second option is to construct a new building on the existing reservoir for the meter and controls and abandon the existing water treatment plant building. The estimated cost for this option is \$394,000. The city voted on November 2, 2004 to have North Valley as a water service provider. North Valley Water District requested a 70 percent grant to cover the non-federal share, not to exceed \$275,800, for design and construction of option two to serve the city of Pembina.

It was the recommendation of the State Engineer that the State Water Commission approve a 70 percent grant, not to exceed \$275,800 from the Water Development and Research Fund, for the North Valley Water District to include capacity for the city of Pembina. Affirmative action is contingent upon the availability of funds, and is subject to future revisions. As is the current practice, the State Water Commission and the Garrison Diversion Conservancy District must approve expenditures from the Water Development and Research Fund. The District's executive committee approved the request on December 3, 2004.

***It was moved by Commissioner Hofstad and seconded by Commissioner Olin that the State Water Commission approve a 70 percent grant, not to exceed \$275,800 from the Water Development and Research Fund, for the North Valley Water District for capacity for service to the city of Pembina. This motion is contingent upon the availability of funds, and is subject to future revisions.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**MR&I WATER SUPPLY PROGRAM -  
APPROVAL OF REVISED FISCAL  
YEAR 2004, AND FISCAL YEAR  
2005 MR&I FEDERAL BUDGETS  
(SWC Project No. 237-03)**

Secretary Frink presented and recommended the proposed revised MR&I Water Supply program budget allocation of \$3,167,000 for Fiscal Year 2004, and the proposed program budget allocation of \$2,300,000 for Fiscal Year 2005 for

the State Water Commission's consideration, contingent upon the availability of federal funds, and subject to future revisions. Secretary Frink explained that if the State Water Commission acts affirmatively on the recommendation (*shown in italics*) as presented, all federal dollars for Fiscal Years 2004 and 2005 would be committed. On December 3, 2004, the Garrison Diversion Conservancy District executive committee approved the revised budget for Fiscal Year 2004 and the proposed budget for Fiscal Year 2005:

**Northwest Area Water Supply Project (Minot Component):** Contract 2-1D consists of approximately 14 miles of 36-inch pipe extending from the city of Max pump station to the Lake Sakakawea intake. The plans and specifications for contract 2-1D have been submitted to the Bureau of Reclamation and the North Dakota Department of Health for review. Contingent upon review of the plans and specifications, it is anticipated that advertisement for bids for contract 2-1D will be in January, 2005. The project engineer's estimate for construction of this contract is \$9.8 million, and the project cost is approximately \$11.5 million.

Funding could come from several sources: \$348,000 - federal Fiscal Year 2004 MR&I grant; \$2,300,000 - federal Fiscal Year 2005 MR&I grant; \$4,800,000 from other sources; and the 35 percent match (\$4,000,000) from the city of Minot. If the \$4,800,000 (from other sources) remains unavailable, the pipeline segment will be shortened to reflect available funding. The project engineer is also working on the preliminary design of the Minot water treatment plant and UV system.

*(Note: Since the December 10, 2004 State Water Commission meeting, the city of Minot has indicated its intent to make up the shortfall in federal funding that is not available from other sources. It is intended to use up to \$2 million in state funding, making the city of Minot's additional contribution \$2.8 million.)*

*The State Engineer's recommendation provides for an additional federal Fiscal Year 2004 MR&I grant of up to \$348,000, and a Fiscal Year 2005 grant of up to \$2,300,000 (see tables), not to exceed 65 percent of the eligible project costs, contingent upon the availability of federal funds, and subject to future revisions.*

Affirmative action will increase the total federal MR&I grant to \$17,777,464 for the Northwest Area Water Supply project, Minot component.

***Fiscal Year 2004  
MR&I Water Supply Program***

<b><u>Project</u></b>	<b><u>Activity</u></b>	<b><u>FY 2004 Approved</u></b>	<b><u>FY 2004 Proposed</u></b>	<b><u>FY 2004 Total</u></b>
NAWS (Minot)	D&C	\$1,550,000	\$ 348,000	\$1,898,000
Williams Rural Water	D&C	1,060,000	0	1,060,000
Administration		209,000	0	209,000
<b>Totals</b>		<b>\$2,819,000</b>	<b>\$ 348,000</b>	<b>\$3,167,000</b>

***Fiscal Year 2005  
MR&I Water Supply Program***

<b><u>Project</u></b>	<b><u>Activity</u></b>	<b><u>FY 2005 Approved</u></b>	<b><u>FY 2005 Proposed</u></b>	<b><u>FY 2005 Total</u></b>
NAWS (Minot)	D&C	\$ 0	\$2,300,000	\$2,300,000
Administration		0	0	0
<b>Totals</b>		<b>\$ 0</b>	<b>\$2,300,000</b>	<b>\$2,300,000</b>

***It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve the MR&I Water Supply program revised allocation of \$3,167,000 for Fiscal Year 2004, and the allocation of \$2,300,000 for Fiscal Year 2005 as recommended by the State Engineer. This motion is contingent upon the availability of federal funds, and is subject to future revisions.***

***This action increases the total federal MR&I grant to \$17,777,464 for the Northwest Area Water Supply project, Minot component.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

Status reports relating to the MR&I Water Supply program projects, Fiscal Years 2004 and 2005 federal funding, and the six-year program funding plan for the Bureau of Reclamation are provided in a staff memorandum, dated November 29, 2004, and attached hereto as ***APPENDIX "G"***.

***SAFE DRINKING WATER ACT -  
APPROVAL OF PROJECT  
PRIORITY LIST IN FY 2005  
INTENDED USE PLAN,  
DATED DECEMBER 1, 2004  
(SWC File AS/HEA)***

The Drinking Water State Revolving Loan Fund was authorized by Congress in 1996 under the Safe Drinking Water Act with the intention of assisting public water systems in complying with the Act. Funding in North Dakota for public water systems is in the form of a loan program administered by the Environmental Protection Agency through the North Dakota Department of Health. North Dakota Century Code ch. 61-28.1, Safe Drinking Water Act, gives the Department the powers and duties to administer and enforce the Safe Drinking Water program and to administer the program.

Section 1452(b) of the Safe Drinking Water Act requires each state to annually prepare an Intended Use Plan. The plan is to describe how the state intends to use the funds to meet the program objectives and further the goal of protecting public health. A public review period is required prior to submitting the annual plan to the Environmental Protection Agency as part of the capitalization grant application process. The North Dakota Department of Health held public hearings on the draft Intended Use Plan on December 1, 2004; no comments were received.

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

David Bruschwein, North Dakota Department of Health, presented the Fiscal Year 2005 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, dated December 1, 2004, for the State Water Commission's consideration. The 2005 Intended Use Plan is attached hereto as **APPENDIX "H"**. The comprehensive project priority list includes 75 projects, with a cumulative total project cost of \$201.3 million. The fundable list includes \$28 million for Fiscal Years 1997 through 2005.

It was the recommendation of the State Engineer that the State Water Commission approve the project priority list for Fiscal Year 2005 as listed in the Intended Use Plan, dated December 1, 2004, and authorize the Department to administer and disburse Fiscal Years 1997 through 2005 program funds pursuant to the Fiscal Year 2005 Intended Use Plan.

***It was moved by Commissioner Olin and seconded by Commissioner Hofstad that the State Water Commission approve the project priority list for Fiscal Year 2005 as listed in the Intended Use Plan, dated December 1, 2004; and authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2005 program funds pursuant to the Fiscal Year 2005 Intended Use Plan.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**APPROVAL OF RELEASE OF  
EASEMENT AND DEDICATION  
FOR THE GAINES DAM (ALSO  
REFERRED TO AS CENTER DAM),  
OLIVER COUNTY  
(SWC Project No. 1295)**

The Works Progress Administration built the Gaines Dam (also referred to as Center Dam) in Oliver county in the 1930s. Ownership of the dam was then transferred to the State of North Dakota. Information in the State Water Commission files indicate that in 1967 there was a proposal to repair a breach in the dam, but the information is unclear as to when the dam was actually breached. During an on-site investigation, the only evidence of the dam was a high area on the creek bank that may have been part of the dam embankment. The easement area is now annexed into the city of Center, the dam is not in use, and most traces of the dam no longer remain.

The dam site easement is for land in the NE1/4NW1/4 of Section 23, Tier 142 North, Range 84 West, in Oliver county. According to records provided by the city of Center, Alvin B. Gaines and Aileen Wilson Gaines were granted the dam easement on August 23, 1935.

A letter was received in the Office of the State Engineer on October 5, 2004 on behalf of the city of Center and the Center Park District requesting that the State of North Dakota release the easement for the dam. A letter was sent to the following agencies and entities soliciting comments: North Dakota Land Department, North Dakota Department of Health, North Dakota Parks and Recreation, North Dakota Historical Society, Oliver County Water Resource District, and the Oliver County Commission. The deadline for comments was November 19, 2004.

Because the dam is no longer useful and will not be reconstructed, it was the recommendation of the State Engineer that the State Water Commission approve the Release of Easement and Dedication for the easement as described for Gaines Dam, also referred to as Center Dam.

***It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve the Release of Easement and Dedication for the easement as described for Gaines Dam, also referred to as Center Dam, in Oliver county.***

***Commissioners Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Lt. Governor Dalrymple voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.***

**GARRISON DIVERSION  
CONSERVANCY DISTRICT  
REPORT  
(SWC Project No. 237)**

The Dakota Water Resources Act of 2000 authorized the Secretary of the Interior to conduct a comprehensive study of the water quantity and quality needs of the Red River valley in North Dakota and possible options for meeting those needs. The Act identified two project-related studies which need to be completed: 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 is the sole preparer of the Needs and Options report, while the State of North Dakota and the Bureau are jointly preparing the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The Red River Valley Water Supply study will result in the completion of the Needs and Options report and a draft EIS. These reports will consider the study needs assessment, hydrology, engineering, environmental, financial analysis, and biota transfer issues. The preparation of these reports essentially began in January, 2003, and the reports are scheduled for completion in December, 2005.

Dave Koland, manager, Garrison Diversion Conservancy District, provided a status report on the efforts of the Red River Valley Water Supply study, which is attached hereto as **APPENDIX "I"**. Mr. Koland responded to questions relating to the Garrison Diversion Unit and the MR&I Water Supply program. The Commission members requested they be provided the Garrison Diversion Conservancy District's financial reports and the minutes of all meetings.

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

Bruce Engelhardt reported that the drought conditions continue to persist in the Missouri River basin. As of

December 1, 2004, system storage in the six mainstem reservoirs was 35.7 million acre-feet (MAF), 18.9 MAF below the average system storage for the end of November, 2004, and 3.0 MAF less than last year. This was a record low system storage. Lake Sakakawea was at an elevation of 1812.3 feet msl, 6.2 feet lower than a year ago, and 24.3 feet below its average end of November elevation.

The Corps of Engineers is predicting runoff above Sioux City for 2004 to be 16.5 MAF, 66 percent of normal. Under the December 1 most likely runoff simulation, the Corps is estimating that Lake Sakakawea will fall to elevation 1808.0 feet msl by the end of February, 2005. Under the December 1 lower decile simulation, the Corps is estimating that Lake Sakakawea will fall to an elevation of 1807.2 feet msl by the end of February, 2005.

The elevation of Lake Oahe was 1576.0 feet msl on December 1, 2004, 0.8 feet lower than last year and 24.0 feet lower than its average end of November elevation. Under the December 1 most likely runoff simulation, the Corps is estimating that Lake Oahe will reach 1576.7 feet msl by the end of February, 2005. Under the December 1 lower decile simulation, the Corps is estimating that Lake Oahe will fall to an elevation of 1575.7 feet msl by the end of February, 2005.

The elevation of Fort Peck Lake was 2199.8 feet msl on December 1, 2004, 7.1 feet lower than last year and 32.3 feet lower than its average end of November elevation. Under the December 1 most likely runoff simulation, the Corps is estimating that Fort Peck Lake will fall to an elevation of 2198.2 feet msl by the end of February, 2005. Under the December 1 lower decile simulation, the Corps is estimating that Fort Peck Lake will fall to an elevation of 2197.2 feet msl by the end of February, 2005.

The mountain snow pack is just beginning to accumulate, but it is already slightly below normal for this time of year. The National Weather Service climate prediction center's seasonal drought outlook shows the drought persisting across almost all of the Missouri River basin through February, 2005.

The Corps of Engineers draft 2004-2005 Annual Operating Plan (AOP) was reviewed by state agencies and indicates compliance with the criteria presented in the new Master Manual for the Missouri River.

***MOUNT CARMEL DAM  
REHABILITATION PROJECT,  
CAVALIER COUNTY  
(SWC Project No. 1346)***

A contract was executed on January 9, 2004 with GEI Consultants, Inc. to investigate the causes of the March, 2003, partial failure of Mount Carmel Dam in Cavalier county, and to develop a design to repair the structure. The estimated construction and engineering inspection costs of the repair are \$3,000,000. The State Water Commission approved funding on April 22, 2003 in the amount of \$320,000 for the initial costs associated with the emergency repairs and consulting engineering services; on February 11, 2004 in the amount of \$30,000 for the final project design costs; and on March 11, 2004 in the amount of \$2,500,000 (with an additional \$400,000 of contingency funding only if no other funding is obtained) for the costs associated with the replacement of the spillway and general repairs to Mount Carmel Dam.

The plans and specifications for the project involved the demolition of the existing concrete chute spillway, construction of a new principal spillway, and the installation of a relief well system at the dam.

The project bid opening was held on May 25, 2004, with construction commencing in June, 2004. The project was substantially complete the week of November 29, 2004, with final acceptance on July 1, 2005.

Because there are dams in the state with similar designed spillways, a contract was executed with GEI Consultants, Inc. to inspect Sweetbriar Creek Dam, Epping Dam, and Big Coulee Dam. Secretary Frink explained that there are concerns with Sweetbriar Creek Dam.

***RESOLUTION OF APPRECIATION  
TO RICHARD OPPER, MISSOURI  
RIVER BASIN ASSOCIATION  
(SWC Resolution No. 2004-12-512)***

Secretary Frink informed the State Water Commission that Governor Brian Schweitzer of Montana has appointed Richard Opper as director of the Montana Department of Environmental Quality, effective January 1, 2005. Mr. Opper served as the executive director of the Missouri River Basin Association since 1990.

It was the recommendation of the State Engineer that the State Water Commission approve a resolution of appreciation expressing appreciation to Mr. Opper for his commitment of time and energy to sound water management in North Dakota.

***It was moved by Commissioner Swenson, seconded by Commissioner Hanson, and unanimously carried, that the State Water Commission approve Resolution No. 2005-12-512, Resolution of Appreciation to Richard Opper, Executive Director, Missouri River Basin Association. SEE APPENDIX "J"***

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

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Jack Dalrymple, Lt. Governor  
Chairman, State Water Commission

SEAL

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

