

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

March 17, 2008

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on March 17, 2008. Governor John Hoeven, Chairman, called the meeting to order at 1:30 P.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Ken Junkert, representing Roger Johnson, Commissioner,
North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

STATE WATER COMMISSION MEMBER ABSENT:

Larry Hanson, Member from Williston

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

Governor Hoeven announced the agenda would include consideration of funding for Southwest Pipeline Project, contract 7-8E, for the Fairfield service area.

**CONSIDERATION OF DRAFT MINUTES
OF DECEMBER 7, 2007 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the December 7, 2007 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the December 7, 2007 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF FEBRUARY 4, 2008 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the February 4, 2008 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the February 4, 2008 State Water Commission audio conference call meeting be approved as prepared.

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

In the 2007-2009 biennium, the State Water Commission has two special line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending January 31, 2008, reflecting 29 percent of the 2007-2009 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. The total approved for projects is \$48,664,844, leaving a balance of \$49,358,286 available to commit to projects.

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

Oil extraction tax deposits into the Resources Trust Fund total \$17,895,083 and are currently \$6,612,975, or 58.6 percent ahead of the budgeted revenues.

No deposits have been received in the 2007-2009 biennium for the Water Development Trust Fund. The first planned deposit is for \$15,800,000 in April, 2008.

**DEVELOPMENT OF NOAA ATLAS
14 RELATING TO UPDATE OF
RAINFALL FREQUENCY DATA -
APPROVAL OF STATE COST
PARTICIPATION (\$184,400)
(SWC Project No. 1949)**

In May, 1961, the United States Weather Bureau published Technical Paper No. 40 (TP-40), which is the current source of rainfall frequency data. The latest data used in that analysis was from 1957 and often reflected a limited time period of collection. In the

past 50 years, there has been a significant amount of data collected at a much higher density. The National Oceanic and Atmospheric Administration (NOAA) has a cooperator in virtually every country in the nation where daily rainfall and temperatures are recorded.

A proposal has been put forth by NOAA to update TP-40 as Atlas 14, in an on-line format, that would include significant enhancements for updating the rainfall frequency data across the country in separate sections based on climatic similarity. The project is currently focusing on the Great Plains region, including North Dakota, which is scheduled to begin in 2008. Because the National Weather Service is not directly funded for this project, each state is required to secure its share of funds. North Dakota's cost is estimated at \$184,400.

Secretary Frink explained that the practice of hydrologic engineering requires the use of numerical models for analyzing a watershed. These models require the input of rainfall at different frequencies. Secretary Frink stated that an update of this information would provide a great service to many entities, both private and public, involved in the design, installation, and management of water control facilities in North Dakota. State and federal agencies expressed an interest in the proposal but, due to budgetary constraints, were unable to allocate funds at this time.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation to fund North Dakota's share of development of NOAA Atlas 14, not to exceed an allocation of \$184,400 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Berg and seconded by Ken Junkert, representing Commissioner Johnson, that the State Water Commission approve state cost participation to fund North Dakota's share of development of NOAA Atlas 14, not to exceed an allocation of \$184,400 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**IMPLEMENTATION OF STREAM
STATS WEB SITE IN NORTH
DAKOTA - APPROVAL OF STATE
COST PARTICIPATION (\$32,802)
(SWC Project No. 1393)**

Estimates of streamflow statistics are needed for a wide variety of applications including design of flood control structures, bridges, culverts, and general water resource planning, management and permitting, floodplain mapping, and

instream flow determinations for pollution and habitat.

Streamflow statistics for gaged sites can be obtained from annual surface water data reports or by analysis of existing data in the United States Geological Survey (USGS) National Water Information database. Statistics are more commonly needed at ungaged sites where no observed flow data are available. For ungaged sites, water characteristics are usually determined manually or by using Geographic Information System (GIS) methods, and then the characteristics are used as input into regional flow equations to determine flow statistics.

The manual methods for determining streamflow statistics are slow and resource intensive, and the results may not be reproducible because varying subjective methods are often used to determine basin characteristics. The methods often are not feasible for the public and non-hydrologists because they require training, multiple data sources, and expensive computer software and resources. Without adequate GIS databases and a sufficient understanding of GIS techniques, basin characteristics may be inaccurate. Streamflow statistics may be generated incorrectly with inadequate grounding in statistical techniques.

A proposal was presented for the State Water Commission's consideration for state cost participation in a study to provide a web-based interactive tool for determining streamflow statistics for any stream location in North Dakota. The application will provide current published streamflow statistics, drainage-basin characteristics, peak-flow regression equations, and other ancillary information at established hydrologic data collection stations, and at user selected stream sites in North Dakota where no hydrologic data are available.

The total estimated cost of the three and one-half year project is \$512,913. In the 2007-2009 biennium, the total cost of the project is \$234,298 with the distribution of funding as follows: United States Geological Survey (\$117,302 - 50 percent); State Water Commission (\$32,802 - 14 percent); North

Dakota Department of Health (\$32,802 - 14 percent); North Dakota Department of Transportation (\$32,802 - 14 percent); and the Red River Joint Water Resource Board (\$18,744 - 8 percent). The request before the State Water Commission is for a 14 percent state cost participation in the amount of \$32,802.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation, not to exceed an allocation of \$32,802 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S. B. 2020), to the United States Geological Survey for the implementation of a StreamStats web site in North Dakota.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission approve state cost participation, not to exceed an allocation of \$32,802 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S. B. 2020), to the United States Geological Survey for the implementation of a StreamStats web site in North Dakota. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***EVALUATION OF WATER QUALITY
SAMPLING PROGRAMS AND SULFATE
STANDARDS FOR STREAM CLASSES
AND DESIGNATED USES, NORTH
DAKOTA - APPROVAL OF STATE
COST PARTICPATION (\$43,000)
(SWC Project No. 989)***

In the late 1960s, the State Water Commission and the United States Geological Survey entered into a cooperative water resources monitoring program where surface water samples are collected for chemical analysis at specific sites during the "high flow" period and the "low flow" period. This data and

ambient surface water quality data collected by the North Dakota Department of Health are used to determine the suitability of the chemical quality for beneficial use to interpret areal hydrology and to assess changes in the quality resulting from the stresses of both man-induced and natural processes caused by climatic variations. The water quality data also provides planners with a basis to assess if waste water resulting from beneficial use can be discharged into surface water bodies. Recent examples include the siting of ethanol plants. The United States Geological Survey also has short and long-term water sampling programs with various federal agencies and local cooperators. The long-term water quality sampling programs are located along the Souris and the James Rivers.

In reviewing the criteria for the federal and state water sampling and monitoring programs, it was apparent that several of these programs overlapped resulting in a replication of sampling results. A proposal was presented for the State Water Commission's consideration for state cost participation in a study to evaluate the water quality sampling programs and sulfate standards for stream classes and designated areas throughout North Dakota. The specific objectives of the proposed study are: 1) evaluate water quality data from basins throughout the state for spatial and temporal variability, trends and loads; 2) evaluate the benefits of the data in relation to the objectives of the sampling programs or determine the objectives for future data needs; 3) determine an efficient statewide network sampling design for monitoring future water quality conditions; and 4) evaluate existing data with respect to sulfate water quality standards to refine existing stream classes and designated uses.

The total estimated study cost is \$187,000, with the proposed cost share distribution as follows: State Water Commission - \$43,000; North Dakota Department of Health - \$50,500; and the United States Geological Survey - \$93,500. The request before the State Water Commission is for state cost participation in the amount of \$43,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation, not to exceed an allocation of \$43,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the United States Geological Survey for the evaluation of water quality sampling programs and sulfate standards for stream classes and designated uses throughout North Dakota.

It was moved by Commissioner Thompson and seconded by Commissioner Foley that the State Water Commission approve state cost participation, not to exceed an allocation of \$43,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the United States Geological Survey for the evaluation of water quality sampling programs and sulfate standards for stream classes and designated uses throughout North Dakota. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven 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 completed the *Report on Red River Valley Water Needs and Options*. 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 draft EIS was released in December, 2005, public hearings were held in February and March, 2006, and all studies have been completed. The final EIS was available to the public on December 28, 2007. The Boundary Waters Treaty work group continues to discuss the necessary steps to comply with the Treaty. The Record of Decision is expected to be issued in April, 2008.

A supplemental draft EIS was completed with the comment period ending on April 25, 2007. Additional study efforts included biota plant failure analysis by the United States Geological Survey (USGS), water quality monitoring by the USGS, impact analysis of Missouri River depletions under drought conditions by the Corps of Engineers, and a cumulative impact analysis of ground-water depletions in Minnesota by the USGS.

The status reports provided by the Garrison Diversion Conservancy District relating to the specific efforts of the Red River Valley Water Supply project are attached hereto as **APPENDIX "C"**.

**RED RIVER VALLEY WATER
SUPPLY PROJECT - APPROVAL
OF STATE COST PARTICIPATION
(\$1,800,000) FOR DEVELOPMENT
OF PREFERRED ALTERNATIVE
(SWC Project No. 1912)**

A request from the Garrison Diversion Conservancy District was presented for the State Water Commission's consideration for the initial allocation of \$1,800,000 for the continued development of the preferred alternative for the Red River Valley Water Supply project (RRVWSP).

The Garrison Diversion Conservancy District has been the joint lead agency representing the State of North Dakota, in partnership with the Bureau of Reclamation, to complete the environmental impact

statement (EIS) for the RRVWSP. The final EIS has been published, with a Record of Decision expected in April, 2008. The preferred alternative selected in the EIS is the GDU Import to the Sheyenne River alternative. The next major milestone is to obtain congressional authorization to use Missouri River water.

Four parallel efforts are anticipated to be completed in 2008 to support the progression of the preferred alternative, specifically to obtain options for rights-of-way easements, develop a detailed operation plan for the project, development of permit conditions and other environmental clearances for the rights-of-way, and completion of the prefinal design for the main supply pipeline. Additionally, the Garrison Diversion Conservancy District provides the administrative and technical support for the Lake Agassiz Water Authority, who will need to further develop the financing plan for the local cost share of the project. The estimated total cost to continue the development of the preferred alternative is \$2,400,000, all of which is determined eligible for state cost participation. The Garrison Diversion Conservancy District and the local water systems have invested an estimated \$1,800,000 in developing the project through 2007, and have committed an additional \$600,000 to fund the 2008 work plans. The request before the State Water Commission is for state cost participation in the amount of \$1,800,000.

Commissioner Swenson questioned whether the project was adequately planning for the possibility that communities and industries along the pipeline route would want to tap into it for water development such as ethanol plants. Dave Koland, general manager, for the Garrison Diversion Conservancy District, responded that the request for state funds to further develop the preferred alternative intends to address those issues.

Commissioner Berg contended that Devils Lake water should be used to augment Lake Ashtabula if eastern North Dakota experiences a long-term drought. He said adding Lake Audubon water to the Sheyenne River and Lake Ashtabula interferes with the Devils Lake basin's efforts to lower Devils Lake by draining it off through the Devils Lake outlet and into the Sheyenne River. Mr. Koland explained that the Red River Valley Water Supply project does not interfere with the efforts to drain Devils Lake. He said ... "If eastern North Dakota enters into a long-term drought, Devils Lake would also be drying up and, therefore, could not provide a reliable water supply for eastern North Dakota."

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation of \$1,800,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project. Affirmative action by the State Water Commission would be contingent upon receipt of the Record of Decision from the U.S. Department of the Interior.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve an allocation not to exceed \$1,800,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Garrison Diversion Conservancy District for the continued development of the preferred alternative for the Red River Valley Water Supply project. This action is contingent upon the availability of funds, and receipt of the Record of Decision from the U.S. Department of the Interior.

Commissioners Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. Commissioner Berg voted nay. Recorded votes were 7 ayes; 1 nay. Governor Hoeven announced the motion carried.

***RURAL FLOOD CONTROL PROJECTS -
APPROVAL TO INCREASE COST
SHARE LIMITATION TO \$500,000
FOR 2007-2009 BIENNIUM
(SWC Project No. 1753)***

On August 13, 1998, the State Water Commission approved several cost share policy changes including a limitation on the amount of money that can be provided in a single biennium for a rural flood control project to no more than 5 percent of new funding available for general water projects. The limitation has been in effect for rural flood control projects since that time, although the dollar amount of the limitation has varied each biennium.

On July 17, 2007, the State Water Commission passed a motion to approve the cost share policy of limiting funding for individual rural flood control projects to \$250,000 per project for the 2007-2009 biennium.

The State Water Commission's rural flood control/flood control cost share policy committee and others met on March 17, 2007. The committee presented a recommendation for the State Water Commission's consideration to increase the cost share policy limitation for individual rural flood control to \$500,000 for the 2007-2009 biennium (applicable to projects previously approved in the 2007-2009 biennium).

Secretary Frink explained that in December, 2007, the Fiscal Year 2008 Consolidated Appropriations Act was passed by Congress and signed into law by President Bush providing \$67.89 million in funding for the Garrison Diversion Unit for 2008, of which \$24.0 million was designated and earmarked for funding projects under North Dakota's Municipal, Rural and Industrial (MR&I) Water Supply program. Some of the projects earmarked for federal Fiscal Year 2008 funds were previously approved to receive funds appropriated to the State Water

Commission in the 2007-2009 biennium. On February 4, 2008, the State Water Commission passed several motions that modified previous approvals and incorporated the federal Fiscal Year 2008 MR&I funds into the project's total amount approved. These project modifications reduced the State Water Commission's funding commitment by approximately \$8,062,750, making that amount available to allocate to other projects.

It was the recommendation of Secretary Frink that the State Water Commission approve the cost share policy limitation increase to \$500,000 for individual rural flood control projects for the 2007-2009 biennium (applicable to projects previously approved in the 2007-2009 biennium).

It was moved by Commissioner Thompson and seconded by Commissioner Olin that the State Water Commission approve the cost share policy limitation increase to \$500,000 per project for individual rural flood control projects for the 2007-2009 biennium (applicable to projects previously approved in the 2007-2009 biennium). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 14 AREA
IMPROVEMENT RECONSTRUCTION
PROJECT - APPROVAL OF STATE
COST PARTICIPATION (\$175,577)
(SWC Project No. 1070)**

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to improve two areas of Cass County Drain No. 14. Slope failures have occurred as a result of 2006 spring flooding. The proposed project will consist of flattening the slopes through the slide areas and adjacent channel to provide a more stable cross section. The areas to be reconstructed were awarded FEMA funds for a repair which will be applied toward the improved project.

The drain will be reconstructed for approximately 3,750 feet in Section 17 of Mapleton Township. The side slopes will be built to 8:1 until 6 feet vertically above the channel bottom, and then transitioned to 4:1. The project work will consist of 150,000 cubic yards of excavation, spoil bank leveling, seeding, intercept culvert purchase and installation, utility relocation, land acquisition, and engineering. Drain Permit No. 3191 was executed on September 7, 2007. A sediment analysis indicates 926 cubic yards of sediment will be removed during the improvement reconstruction. Assessment maintenance and FEMA funds will be used to finance the local share of the project. It is anticipated that construction will be completed by the summer of 2008.

The project engineer's cost estimate is \$700,000, of which \$501,648 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$175,577). The request before State Water Commission is for a 35 percent state cost participation in the amount of \$175,577.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$175,577 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple River Water Resource District for the Cass County Drain No. 14 area improvement reconstruction project.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$175,577 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple River Water Resource District for the Cass County Drain No. 14 area improvement reconstruction project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 32
IMPROVEMENT RECONSTRUCTION
PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$162,881)
(SWC Project No. 1084)**

A request from the North Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation for the improvement reconstruction of a portion of Cass County Drain No. 32. The proposed project consists of reconstructing

a section of the drain by flattening the side slopes and widening the bottom to allow for drainage improvements.

Cass County Drain No. 32, approximately 17 miles in length, was initially constructed by the Soil Conservation Service in 1962. Approximately 3¼ miles of the drain will be reconstructed in Sections 26, 27, 33, and 34 of Noble Township, Cass County. The drainage area for this improved reach is 6,400 acres. The drain flows into a natural waterway in Section 23 in Noble Township outletting into the Red River of the North in Section 14 of Noble Township. Drain Permit No. 3233 was submitted with the preliminary engineering plans.

The project reconstruction work consists of excavating the channel to a 10-foot bottom width and flattening the side slopes to 4:1. The maximum depth will be 9 feet. The project does not entail the removal and relaying of culverts, although 650 feet of 18" to 36" culverts will be installed at crossings and field inlets. Other project work includes excavation, riprap, seeding, and engineering. A sediment analysis indicates 4,750 cubic yards of sediment will be removed.

The project engineer's cost estimate is \$530,000, of which \$465,375 is determined as eligible for conditional cost share participation as a rural flood control project at 35 percent of the eligible costs (\$162,881). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$162,881.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$162,881 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Cass County Drain No. 32 improvement reconstruction project.

It was moved by Commissioner Olin and seconded by Ken Junkert representing Commissioner Johnson that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$162,881 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the North Cass Water Resource District for the Cass County Drain No. 32 improvement reconstruction project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Thompson, and Governor Hoeven voted aye. Commissioner Swenson voted nay. Recorded votes were 7 ayes; 1 nay. Governor Hoeven announced the motion carried.

**CASS COUNTY DRAIN NO. 45
EXTENSION CONSTRUCTION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$150,800)
(SWC Project No. 1093)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to extend Cass County Drain No. 45 to improve

agricultural lands within the assessment district and to mitigate existing channel erosion issues.

The project consists of extending Cass County Drain No. 45 from the existing outlet at 32nd Avenue North to the crossing of U.S. Interstate 29 in Sections 4 and 9 of Reed Township. The proposed extension construction work will consist of widening and flattening the side slopes of the existing natural watercourse and extending the legal drain corridor through Sections 4 and 9 approximately ½ mile in length. With the extension, the total length of the drain will be approximately 8 miles in length. Of the 8 miles of Drain No. 45, 2 miles remain a natural watercourse of which the District anticipates reconstruction at a later date.

The extension channel will be constructed with a 10-foot bottom, 4:1 side slopes, a depth of 6 feet, and at a grade of 0.05 percent. The drain flows through Lake Shure. A sheetpile weir drop structure will be installed on the north end of the lake to solve the existing channel erosion.

The estimated excavation is 30,000 cubic yards and no culverts will be removed, disposed of, purchased or installed. The project will outlet into Cass County Drain No. 40, which outlets into the Red River of the North. Other construction items include riprap, riprap filter blanket, seeding, storm water management during construction, material testing, contingencies, rights-of-way, legal, financing, and administrative costs, utility relocations, and engineering services.

Using the watershed and assessment areas, approximately 18 percent of the runoff contributing to Cass County Drain No. 45 is urban, and approximately 82 percent of the runoff contribution is from agricultural lands. The 35 percent state cost participation for rural flood control projects was adjusted to 29 percent to reflect only the corresponding improvement for agricultural lands.

The project engineer's cost estimate is \$590,000, of which \$520,000 is determined eligible for conditional state cost participation as a rural flood control project at 29 percent of the eligible costs (\$150,800). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engine-

ering plan. A sediment analysis is not required as this is new construction. The request before the State Water Commission is for a 29 percent state cost participation in the amount of \$150,800.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 29 percent of the eligible costs, not to exceed an allocation of \$150,800 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Cass County Drain No. 45 extension construction project.

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve conditional state cost participation as a rural flood control project at 29 percent of the eligible costs, not to exceed an allocation of \$150,800 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Southeast Cass Water Resource District for the Cass County Drain No. 45 extension construction project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 67
CONSTRUCTION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$334,250)
(SWC Project No. 1948)**

A request from the Maple River-Rush River Joint Water Resource District was presented for the State Water Commission's consideration in the District's project to construct Cass County Drain No. 67. The proposed project consists of

constructing a drain in Raymond Township to improve agricultural lands. The current road and field ditches are not adequate for draining agricultural lands in the watershed. The drain will also aid in directing the runoff of summer rain events.

The proposed channel in Sections 1, 12, 13, 14 and 23 of Raymond Township in Cass county will be approximately 4 miles in length to create a legal assessed drain, a 10-year design channel with an 8-foot bottom width, 4:1 side slopes, and a 0.05 percent grade. The project will have a total contributing drainage area of 3,263 acres, and will outlet into the lower branch of the Rush River.

The estimated excavation is 135,000 cubic yards and all existing in-line culverts will be removed, disposed of, and replaced with arch pipes and intercept culverts will be installed at the existing field inlets. Other project work consists of riprap, clearing and grubbing, storm water management, seeding, and engineering and administrative services.

The project engineer's cost estimate is \$1,150,000, of which \$955,000 is determined eligible for conditional state cost participation as a rural flood control project at 35 percent of the eligible costs (\$334,250). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to a six-month time period for receiving a positive local assessment vote, satisfaction of the required drain permit, and receipt of the final project engineering plan. A sediment analysis is not required as this is new construction. The local assessment vote is scheduled in the spring of 2008, with construction to be completed by the end of 2008.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$334,250 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Cass County Drain No. 67 construction project.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$334,250 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Maple River-Rush River Joint Water Resource District for the Cass County Drain No. 67 construction project. This action is contingent upon the availability of funds, a positive local assessment vote, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**MULBERRY CREEK DRAIN
IMPROVEMENT RECONSTRUCTION
PROJECT, PHASE II -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$61,920)
(SWC Project No. 1438)**

A request from the Cavalier County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to reconstruct a portion of the Mulberry Creek drain. This is a rural flood control project designed to

control floodwaters by providing for the efficient removal of runoff by upgrading the channel to a design standard. Mulberry Creek drain has been designed for a 10-year event.

Mulberry Creek drain was originally constructed in 1979 and is approximately 31 miles in length. The headwaters of the drain are located approximately 5 miles southeast of Langdon and flows in a northern direction to the Canada border. Mulberry Creek empties into the Pembina River at a point approximately 4 miles north of the United States-Canada border. The District is reconstructing the drain in phases, with 6 miles immediately downstream currently being reconstructed in Phase I.

Project construction work consists of widening the bottom width up to 20 feet and the side slopes will be constructed to a uniform 3:1. The drain will remain at its depth of 8-10 feet. Two structures along the centerline will be reconstructed with low water crossing culverts. One bridge upstream will be eliminated and the other bridge will be replaced with 84-inch culverts. An estimated 33,000 cubic yards of material will be excavated, of which 660 cubic yards are sediment. Other project work includes riprap, seeding, engineering and administrative costs. No land acquisition expenses are expected to be incurred. The project will be financed with maintenance funds, and construction is anticipated to initiate in the fall of 2008.

The project engineer's cost estimate is \$182,696, of which \$176,914 is determined to be eligible for conditional state cost participation as a rural flood control project at 35 percent of the eligible costs (\$61,920). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$61,920 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Mulberry Creek Drain improvement reconstruction project, Phase II.

It was moved by Commissioner Berg and seconded by Ken Junkert representing Commissioner Johnson that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$61,920 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Cavalier County Water Resource District for the Mulberry Creek Drain improvement reconstruction project, Phase II. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**PEMBINA COUNTY DRAIN NO. 42
IMPROVEMENT RECONSTRUCTION
PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$67,070)
(SWC Project No. 1155)**

A request from the Pembina County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project for the improvement reconstruction of Pembina County Drain No. 42. The proposed project

consists of reconstructing approximately 5 miles of the drain to establish a workable grade. The drain will be flattened, widened, and deepened where needed to allow for drainage improvements.

Pembina County Drain No. 42 was constructed in 1927 and is approximately 10 miles in length. In 1956, the drain was reconstructed with 3:1 side slopes and a maximum bottom width of 13 feet. This improvement project involves reconstructing the lower portion of the drain in Sections 23, 22, 21, 16, and 17 in Pembina Township. The drainage area pertaining to the reconstruction is 10,760 acres. The drain outlets into the Tongue River in Section 23 in Pembina Township. It is anticipated that the project will be completed by the fall of 2008.

The channel will be excavated to a uniform 14-foot bottom width and side slopes established to 3:1. The maximum depth will be 13.5 feet. Although the project does not entail the removal and relaying of culverts, 24-inch and 36-inch pipe will be installed at field drain inlets. Other project work involves excavation, riprap, erosion control, seeding, engineering, and legal and bond costs. A sediment analysis was filed indicating 3,232 cubic yards of sediment to be removed.

The project engineer's cost estimate is \$204,092, of which \$191,628 is determined to be eligible for conditional state cost participation as a rural flood control project at 35 percent of the eligible costs (\$67,070). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$67,070 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Pembina County Drain No. 42 improvement reconstruction project.

It was moved by Commissioner Hillesland and seconded by Commissioner Berg that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$67,070 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Pembina County Water Resource District for the Pembina County Drain No. 42 improvement reconstruction project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***RICHLAND COUNTY DRAIN NO. 2
IMPROVEMENT RECONSTRUCTION
PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$35,102)
(SWC Project No. 1176)***

bring the channel up to present-day standards, improve the stability of the channel, and replace a structure through a railroad crossing.

A request from the Richland County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to improve a portion of Richland County Drain No. 2. The purpose of the reconstruction is to

In 2003, the Natural Resources Conservation Service designed a reconstruction of the entire drain but the work was not completed. In 2005, approximately 1 mile of channel reconstruction east of Richland County Road No. 1 was completed.

The proposed project consists of the reconstruction of approximately 0.32 mile of the existing channel of Richland County Road No. 1, and a cleanout for the remaining 0.5 mile in Section 30, Township 135 North, Range 49 West. An existing box culvert through the county road, which is the downstream control for this portion of the drain, will not be replaced and/or lowered. A 1.5-foot high wall is proposed to be added to block the lower portion of one of the existing box culverts. It has been determined that this structure is larger than needed to handle the design flows as drainage from the west that was anticipated in the 1984 design has not been redirected to this location. This drop wall is intended to slow the flow of the water to lessen downstream impacts due to the improvements.

The existing channel centerline will be shifted approximately 20-30 feet to the south to allow a 4:1 slope to be established along the township road and back slope. A new bottom width of 14 feet will be constructed. The steep grade in the channel bottom will be flattened by lowering the railroad structure approximately 3 feet. A drop wall will be incorporated into the structure and an additional rock drop installed to bring the channel back to its existing grade. It is anticipated that the project will be completed in 2008.

The project engineer's cost estimate is \$192,000, of which \$100,292 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$35,102). Pursuant to the State Water Commission's cost share policy, conditional approval of a rural flood control drainage project is allowed subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$35,102.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$35,102 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Richland County Drain No. 2 improvement reconstruction project.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$35,102 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Richland County Water Resource District for the Richland County Drain No. 2 improvement reconstruction project. This action is contingent upon the availability of funds, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**TRAILL COUNTY DRAIN NO. 34
IMPROVEMENT RECONSTRUCTION
PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$500,000)
(SWC Project No. 1249)**

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to improve Traill County Drain No. 34. Due to spring flooding, the channel has begun to erode through the

bottom and slides have occurred along the banks. The purpose of the project is to increase the hydraulic capacity and improve the drain's crossings.

Traill County Drain No. 34, known locally as Leirness Drain, was constructed in 1955 with a bottom width ranging from 6 to 8 feet, a depth of 0 to 10 feet, and side slopes of 3:1. The drain will be reconstructed in Sections 20, 21, 22, 23, and 24 in Hillsboro Township, and in Sections 19, 20, 21, and 22 in Herberg Township. The last mile of the drain in Section 23, Herberg Township, outletting into the Red River of the North will not be reconstructed at this time. The improvements consist of reconstructing the bottom width to 10 feet, a depth of 10-14 feet, and 5:1 fore slopes and 4:1 back slopes. As the drain is an eroding system, there is no buildup of sediment.

The project work entails approximately 550,000 cubic yards of excavation, spoil bank leveling, culvert and bridge removal and disposal, installation of a drop structure, and 3,200 linear feet of culverts, riprap, storm water management during construction, material testing, seeding, utility relocation, land acquisition, legal, fiscal, and administrative services, and engineering. FEMA repair funding in the amount of \$252,415 is anticipated and will be applied toward the improved project. A public hearing will be held in the spring of 2008 for a project vote, and it is anticipated that construction could be completed by the end of 2009.

The project engineer's cost estimate is \$2,400,000, of which \$2,300,000 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$805,000). Pursuant to the State Water Commission's cost participation policy for rural flood control projects, the funding limitation for individual rural flood control projects is \$500,000 per project for the 2007-2009 biennium. The Commission's policy allows conditional approval of a rural flood control drainage project subject to satisfaction of the required drain permit, which is being processed, and receipt of the final project engineering plan. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Traill County Drain No. 34 improvement reconstruction project.

It was moved by Commissioner Hillesland and seconded by Commissioner Berg that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill County Water Resource District for the Traill County Drain No. 34 improvement reconstruction project. This action is contingent upon the availability of funds, a positive local assessment vote, satisfaction of the required drain permit, and receipt of the final project engineering plan.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

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

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

2006 Construction Season Contracts:

Final change orders have been approved and final payments were made on contracts 7-8B, 7-8C, and 7-9A.

2007 Construction Season Contracts:

Contract 7-8D, South Fryburg Pocket, and contract 4-1C/4-2A, Richardton and Dodge Pump Stations Standby Engine Generators, are substantially complete.

Medora-Beach Regional Service Area, Phase III:

Bids were opened on March 14, 2008 for contract 7-8E, Fairfield Service Area; contract 8-2, Fairfield Reservoir; and contract 7-8G/7-9B, Grassy Butte Service Area and Killdeer Mountains Area. The State Water Commission will consider authorization for the award of bids under separate actions on March 17, 2008.

Oliver-Mercer-North Dunn Regional Service Area:

A signup canvassing campaign performed in the fall of 2007 by the Southwest Water Authority in the Oliver, Mercer, and the north Dunn area yielded an additional 613 rural sign ups bringing the total in the area to approximately 1,200. Contract users signed up in the area include the cities of Hazen, Center, and Stanton, and all mines and power plants in the area. Specific authorizations have been signed for the preliminary engineering report and environmental assessments for the Oliver, Mercer, and north Dunn regional service area to be completed by the project engineer.

A pilot study is being planned in 2008 to examine the best treatment methods for the water treatment plant to be constructed at the Zap raw water reservoirs. This plant will serve the Oliver, Mercer, and north Dunn regional service area.

Final design of the treatment plant can commence upon completion of the pilot plant study anticipated in early 2009. Construction of the treatment plant will take an estimated 12-18 months. A 500,000 gallon potable water reservoir at the treatment plant site and main transmission pipeline leading past Zap to Hazen are intended to be completed prior to the completion of the treatment plant. The treatment plant will serve the cities of Hazen and Zap and the 60 rural users on the Beulah interim service area.

Construction of the pipeline, reservoir, and treatment plant could begin in the 2007-2009 biennium contingent upon the availability of funds. The pipeline could serve the city of Hazen by 2010.

***SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, TROTTERS POCKET -
AUTHORIZE AWARD OF CONTRACT 7-8F
(SWC Project No. 1736)***

On February 7, 2008, bids were opened for Southwest Pipeline Project contract 7-8F, Medora-Beach Regional Service Area, Phase III, Trotters Pocket. There were four bids received from the following for contract 7-8F: Abbot, Arne, Schwindt, Inc., Moorhead, MN; Northern Improvement Company, Fargo, ND; and Nygaard Construction, Garrison, ND. A bid from Agri-Industries was not opened, under recommendation of legal counsel, due to an incomplete bid bond form. The apparent low bid received for base bid schedule I was \$1,205,786 from Northern Improvement Company, Fargo, ND, which was \$260,733 under the project engineer's estimate.

The project under bid schedule No. 1 involves the furnishing and installation of approximately 65.1 miles of 4" - 1½" PVC gasketed joint pipe, 53 rural hookups, road crossings, connections to existing pipelines, and related appurtenances. Approximately 14,000 feet of the pipeline route will be located within road right-of-way. The project is located in Golden Valley county, and the substantial completion date is September 1, 2008.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Northern Improvement Company for the construction of bid schedule No. 1 appears to be in accordance with the advertisement for construction bids and the bid documents, and is considered to be a responsible and responsive bid. It was recommended by the project engineer to award contract 7-8F to Northern Improvement Company, Fargo, ND. The award of the contract and notice to proceed are dependent on the completion of the contract documents, approval by USDA Rural Development, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8F, Medora-Beach Regional Service Area, Phase III, Trotters Pocket, to Northern Improvement Company, Fargo, ND, in the amount of \$1,205,786.

It was moved by Commissioner Thompson and seconded by Commissioner Swenson that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8F, Medora-Beach Regional Service Area, Phase III, Trotters Pocket, to Northern Improvement Company, Fargo, ND, in the amount of \$1,205,786. This action is contingent upon completion of the contract documents, approval by USDA Rural Development, and a legal review.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, FAIRFIELD SERVICE
AREA - FUNDING FOR CONTRACT 7-8E
(SWC Project No. 1736)**

In March, 2008, USDA Rural Development approved funds from the USDA REAP (Rural Economic Area Partnership) program for the Medora-Beach Regional Service Area, Phase III, Fairfield Service Area, contract 7-8E,

which consists of a loan in the amount of \$3,005,000 and a grant in the amount of \$1,995,000. These funds are a set aside program and will not come out of USDA Rural Development funding for other water projects in North Dakota. In order to comply with the requirements of USDA Rural Development, loan and grant documents were presented for the State Water Commission's consideration.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission and the Southwest Pipeline project manager to execute said USDA Rural Development documents to provide loan and grant funds for the Medora-Beach Regional Service Area, Phase III, Fairfield Service Area, contract 7-8E.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission and the Southwest Pipeline project manager to execute the USDA Rural Development loan and grant resolutions and the grant agreement to provide funds for the Medora-Beach Regional Service Area, Phase III, Fairfield Service Area, contract 7-8E. SEE APPENDIX "D" for executed documents.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, FAIRFIELD SERVICE
AREA - AUTHORIZE AWARD OF
CONTRACT 7-8E
(SWC Project No. 1736)***

On March 14, 2008, bids were opened for Southwest Pipeline Project contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area. There were three bids received from the following for contract 7-8E: Abbot, Arne, Schwindt, Inc., Moorhead, MN; Northern

Improvement Company, Fargo, ND; and Agri Industries, Inc., Williston, ND. The bid from Agri-Industries was not opened, under recommendation of legal counsel, due to an incomplete bid bond form. The apparent low bid received for base bid schedule I was \$4,058,143.50 from Abbot, Arne, Schwindt, Inc., Moorhead, MN, which was \$306,963.25 under the project engineer's estimate.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Abbot, Arne, Schwindt, Inc. for bid schedule No. 1 appears to be in accordance with the advertisement for construction bids and the bid documents, and is considered to be a responsible and responsive bid. It was recommended by the project engineer to award contract 7-8E to Abbot, Arne, & Schwindt, Inc., Moorhead, MN. The award of the contract and notice to proceed are dependent on the completion of the contract documents, approval by USDA Rural Development, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$4,058,143.50.

It was moved by Commissioner Foley and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$4,058,143.50. This action is contingent upon completion of the contract documents, approval by USDA Rural Development, and a legal review.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, GRASSY BUTTE AREA
AND KILLDEER MOUNTAINS AREA -
AUTHORIZE AWARD OF
CONTRACT 7-8G/7-9B
(SWC Project No. 1736)***

On March 14, 2008, bids were opened for Southwest Pipeline Project contract 7-8G/7-9B, Medora-Beach Regional Service Area, Phase III, Grassy Butte Area and Killdeer Mountains Area. Three bids were received from the following for contract 7-8G/7-9B: Abbot, Arne, Schwindt, Inc., Moorhead, MN; Northern Improvement Company, Fargo, ND; and Agri Industries, Inc., Williston, ND. The bid from Agri-Industries was not opened, under recommendation of legal counsel, due to an incomplete bid bond form. The apparent low bid received for contract 7-8G base bid schedule 1 was \$1,601,872.78 from Northern Improvement Company, Fargo, ND; the project engineer's estimate was \$91,006.28. The apparent low bid received for contract 7-9B base bid schedule 2 was \$2,067,662.50 from Abbot, Arne, Schwindt, Inc., Moorhead, MN, which was \$179,277.80 under the project engineer's estimate.

The Killdeer Mountains area (contract 7-9B) is located entirely within Dunn county and was not intended to be built with the Medora-Beach regional service area. The decision to build it now was made because it will be easier to serve from the west than the east and immediately adjacent to current projects. The contract designation of 7-9B is being used since it is in the Oliver, Mercer, and north Dunn area. The Grassy Butte and Killdeer Mountains contracts were advertised together with two bid schedules in an effort to get a more competitive bid through economy of scale.

The project under contract 7-8G/7-9B involves the furnishing and installation of approximately 917,845 feet (173.8 miles) of 6" to 1 1/2" PVC gasketed joint pipe, road crossings, one booster station, connections to existing pipelines, and related appurtenances. Approximately 7,350 feet of the pipeline route will be located within road right-of-way and 47,655 feet (9.03 miles) will be installed in the U.S. Forest Service lands. The project is to be substantially complete by August 1, 2009.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bids received from Northern Improvement Company for bid schedule No. 1 and from Abbot, Arne, Schwindt, Inc. for bid schedule No. 2 appears to be in accordance with the advertisement for construction bids and the bid documents, and are considered to be responsible and responsive bids. It was recommended by the project engineer to award contract 7-8G to Northern Improvement Company, Fargo, ND, and contract 7-9B to Abbot, Arne, Schwindt, Inc., Moorhead, MN. The award of the contracts and notices to proceed are dependent on the completion of the contract documents, approval by USDA Rural Development, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8G, Medora-Beach Regional Service Area, Phase III, Grassy Butte area, to Northern Improvement Company, Fargo, ND, in the amount of \$1,601,872.78; and award contract 7-9B, Medora-Beach Regional Service Area, Phase III, Killdeer Mountains area, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$2,067,662.50.

It was moved by Commissioner Foley and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8G, Medora-Beach Regional Service Area, Phase III, Grassy Butte area, to Northern Improvement Company, Fargo, ND, in the amount of \$1,601,872.78; and to authorize the award of contract 7-9B, Medora-Beach Regional Service Area, Phase III, Killdeer Mountains area, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$2,067,662.50. This action is contingent upon completion of the contract documents, approval by USDA Rural Development, and a legal review.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, FAIRFIELD RESERVOIR -
AUTHORIZE AWARD OF CONTRACT 8-2
(SWC Project No. 1736)**

On March 14, 2008, bids were opened for Southwest Pipeline Project contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield Reservoir. There were four bids received from the following for contract 8-2: Industrial Builders, Inc., Fargo, ND; Maguire Iron, Inc., Sioux Falls, SD; Dakota Pump & Control, Inc., Watertown, SD; and USA Storage Tank, Watertown, SD. The bid from USA Storage Tank was not opened, under recommendation of legal counsel, due to an incomplete bid bond form. The work under contract 8-2 includes furnishing and installing a 197,300 gallon potable water reservoir complete with inlet/outlet piping, under drain system, overflow discharge piping, foundation, site work, access road, and appurtenances. The apparent low bid received was on bid schedule No. 4 in the amount of \$469,820 from Dakota Pump & Control, Inc., Watertown, SD, which was \$21,820 over the project engineer's estimate.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Dakota Pump & Control, Inc. appears to be in accordance with the advertisement for construction bids and the bid documents, and is considered to be a responsible and responsive bid. It was recommended by the project engineer to award contract 8-2 to Dakota Pump & Control, Inc., Watertown, SD. The award of the contract and notice to proceed are dependent on the completion of the contract documents, a satisfactory review of the performance of the tanks, erector, and contractor, approval by USDA Rural Development, and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield Reservoir, to Dakota Pump & Control, Inc., Watertown, SD, in the amount of \$469,820.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield Reservoir, to Dakota Pump & Control, Inc., Watertown, SD, in the amount of \$469,820. This action is contingent upon completion of the contract documents, approval by USDA Rural Development, and a legal review.

Commissioners Berg, Foley, Hillesland, Ken Junkert representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

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

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

NAWS Environmental Impact Statement: The Bureau of Reclamation released the draft NAWS environmental impact statement (EIS) on December 21, 2007. Public hearings were held on February 4, 5 and 7, 2008 in Bismarck, Minot, and New Town, respectively. The draft EIS and the public comments received are posted on the Bureau of Reclamation's website. The EIS evaluates four levels of water treatment to address biota transfer concerns. The EIS is clear that the risk of transferring invasive species through the NAWS project would be low to very low for all four treatment options. The EIS also states that the risks of transferring invasive species through avenues other than the project are higher than through the NAWS project. Manitoba requested a 30-day extension to the public comment period, and the Bureau of Reclamation extended the public comment period to March 26, 2008.

Manitoba Lawsuit: The joint state and federal request was presented to the federal court on March 3, 2008 to allow construction to move forward on the entire northern tier. The request identified a priority to address the arsenic issues in Kenmare. The deadline for Manitoba to present a response to the court was March 14, 2008; no response from Manitoba was received.

Design Work Update: The State Water Commission intends to bid NAWS contract 4-2A on April 15, 2008. This contract includes the Minot high service pump station and a 2 million gallon reservoir. Estimates of cost for the facility are \$13-16 million dollars.

Construction Contracts Update:

Contract 4-2A Interim: This contract involves a 2400 gallon per minute booster pump station at the HSPS/reservoir site adjacent to the Minot water treatment plant. The project will pump water to the Berthold line and Minot's south hill until the long-term contract 4-2A, high service pump station, work is completed. On February 4, 2008, the State Water Commission authorized the award of contract 4-2A interim, in the amount of \$246,250 to Construction Engineers, Ltd., Grand Forks, ND.

Contract 2-1D: This contract covers 15 miles of 36-inch pipe between the city of Max and Lake Sakakawea. Concerns with the high failure rate on the welded tangentials on the pipe in the vaults are being addressed with the contractor. Development of a maintenance bond has been proposed to provide a one-year

warranty on the tangentials, which would start once water can be delivered to the city of Minot. The contract cost is \$9,661,735.95, with remaining payments totalling \$533,275.60.

Contract 2-2A: The State Water Commission authorized the award of Contract 2-2A to ERS Constructors, Centennial, CO, on April 19, 2007. Contract 2-2A covers 10 bores, approximately 4 miles of 36" - 24" pipe, and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to North Hill. Construction activities commenced the week of June 4, 2007.

Contract 2-2A costs are \$7,161,713, with the remaining payments totaling \$1,469,780. Nine (9) of the 10 bores including 1 river bore have been completed. The remaining bore is the Max railroad bore. The remaining pipe laying work is from the U.S. Highway 83 bypass near the gravel pit heading to North Hill.

Contract 2-2B: This contract includes approximately 20 miles of 16" - 10" pipe and 3 booster pump stations between Minot at U.S. Highway 52 and the city of Berthold. The State Water Commission authorized the award of contract 2-2B on May 9, 2007 to Northern Improvement Co., Fargo, ND. Construction activities commenced the week of June 25, 2007. The contract cost is \$3,222,995.46, with the remaining payments totaling \$719,556.05.

The line between Des Lacs and Burlington was pressure tested and passed the bacTs. The portion of the line near Burlington and Minot will be flushed and disinfected in the spring of 2008, and delivery of the booster pump stations have been delayed until the spring of 2008.

Contract 5-2B: The State Water Commission authorized the award of contract 5-2B on July 17, 2007 to Engineering America. Acquisition issues relating to the reservoir site property were resolved, and the Notice to Proceed was issued October 31, 2007. Contract 5-2B covers a 750,000 gallon reservoir and a 500,000 gallon storage reservoir along the contract 2-2B pipeline between Minot and Berthold. The contract cost is \$1,135,000, with the remaining payments totaling \$593,885.

The ring wall for the second tank site near Speedway Hill was poured on November 15, 2007. The ring wall for the second tank was delayed until the spring of 2008.

Other NAWS Activities: The FONSI for the supplemental environmental assessment on the Kenmare-Upper Souris project was executed by the Bureau of Reclamation on February 7, 2008.

A new Specific Authorization in the amount of \$9,500 was executed on February 6, 2008 with Houston Engineering for a water rate analysis to prepare the interim water rate structure for the NAWS project. Houston Engineering will use the treatment cost information from the city of Minot's water rate study to compile the operation, maintenance, and replacement costs associated with the interim operation of NAWS using the city of Minot's water supply.

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

As Devils Lake and Stump Lake have equalized, the U.S. Geological Survey gage on Devils Lake indicated an approximate water surface elevation of

1446.95 feet msl on March 2, 2008. The combined storage of Devils Lake and Stump Lake is 2.92 million acre-feet with 138,643 surface acres. This is an increase from November, 2007 of 1,068 acres.

Snow pack measurements were made throughout the Devils Lake basin during March 3-6, 2008. The measurements indicated snow depths in open areas from 5.89 inches of snow with water content of 1.31 inches, and in the tree rows, the average snow depth was 7.77 inches with water content of 1.80 inches. The gage readings on Morrison and Dry Lakes indicated the lakes have storage available, therefore, some runoff from snowmelt will be held by the upper lakes of the basin and will not reach Devils Lake.

The predicted peaks at differing exceedance levels from the National Weather Service forecast for February 22, 2008 are shown below for Devils Lake and Stump Lake:

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake	1447.2	1447.6	1448.6
Stump Lake	1447.2	1447.6	1448.6

A new U.S. Geological Survey paper by Aldo (Skip) V. Vecchia entitled "Climate Simulation and Flood Risk Analysis for 2008-40 for Devils Lake, North Dakota" has been published. The website for the paper is <http://pubs.er.usgs.gov/usgspubs/sir/sir20085011>. The paper describes two major precipitations patterns that have been occurring over the past 5,000 years in the Devils Lake basin as well as other areas in the upper Midwest. The wet cycle lasts an average of 30 years and the dry cycle average length is 120 years. The 27-year duration of the current wet cycle period for the Devils Lake basin has no influence on the remaining length of the period. There is a 72 percent chance the current wet cycle will last at least another 10 years, a 37 percent chance it will last at least another 30 years, and a 14 percent chance it will last at least another 60 years. The paper indicates the annualized 1 percent flood elevation over the next 10 years for Devils Lake to be 1454.6 feet msl.

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

The State of North Dakota pursued an emergency phased outlet project from West Bay to the Sheyenne River. Construction commenced in the fall of 2002,

and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit issued by the North Dakota Department of Health.

The North Dakota Department of Health authorized modifications to the NDPDES water quality discharge permit that would allow a more effective operation of the outlet. The modifications included: 1) allow pumping beyond the original May 1 to November 1 constraint as long as ice-free conditions exist on the Sheyenne River; 2) remove the total suspended solids limit; and 3) adjust the current 300 mg/L instream sulfate level that would allow the outlet to be operated if the instream sulfate level is greater than 260 mg/L as long as the sulfate levels in the Sheyenne River were not increased more than 15 percent up to a maximum level of 450 mg/L. The NDPDES water quality discharge permit has an expiration date of June 30, 2008. The State Water Commission has filed an application with the North Dakota Department of Health for a five-year water quality discharge permit for the North Dakota Devils Lake outlet project.

On September 14, 2006, the People to Save the Sheyenne River, Inc., the Peterson Coulee Outlet Association, the Government of the Province of Manitoba, and the National Wildlife Federation filed an appeal to challenge the North Dakota Department of Health's modifications to the NDPDES water quality discharge permit. The judge dismissed the appeal by the Province of Manitoba and other groups. The modified water quality permit was appealed to the North Dakota Supreme Court. Oral arguments were heard on October 10, 2007.

On February 21, 2008, the North Dakota Supreme Court ruled on the appeal to the North Dakota Department of Health's modifications to the NDPDES water quality discharge permit. Three items of the modified permit, which were disputed in the September 14, 2006 appeal, included: 1) modification of sulfate limitations; 2) the method of measuring the total dissolved solids; and 3) the period of operation during the years of the outlet. The Supreme Court upheld the sulfate criteria and the operational period of the outlet, but did not uphold the total dissolved solids considerations for the modified permit.

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

Secretary Frink reported that the Aasmundstad, et al. v. State, et al. lawsuit has been appealed to the North Dakota Supreme Court.

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

The Planning and Education division of the State Water Commission has initiated the process of developing an update to the State Water Management

Plan last published in 1999. Work on the plan began in late 2007 and is scheduled to be completed by the end of 2008. The plan will be available for the 2009 legislative session.

Because water projects can take many years to move from concept, design, and final implementation, it is essential to become more aware of potential projects as early as possible. The new plan will address the immediate needs expected in the 2009-2011 timeframe as well as potential developments expected or desired in the next 10-15 years. The plan will outline current and future management policies and will help serve as a guide for decision-makers. It is intended to be a realistic vision of water management with emphasis on regional and local projects that are constant with the plan's goals and objectives.

Because a comprehensive overview of the state's current and future water needs and issues is essential, survey forms have been provided to federal, state, and local entities typically involved in water management. The information received will be compiled and supplemented with public meetings.

In addition to the recommendations, the plan will address the State Water Commission's policies, rules and regulations that govern water management and use, and the plan will also address the appropriation of ground and surface waters under the water rights system.

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

On March 4, 2008, the system storage in the six mainstem reservoirs was 36.7 million acre-feet (MAF), 16.6 MAF below

the average system storage for the end of February and 2.3 MAF more than in 2007. The record minimum system storage for the end of February was 34.3 MAF in 2007. The Corps of Engineers predicted runoff above Sioux City for 2008 to be 19.99 MAF, 79 percent of normal. This resulted in a forecast that the system will have 37.5 MAF at the end of 2008, the previous minimum end of year system storage was 34.0 MAF in 2007. The mountain snow pack water content above Fort Peck on March 1, 2008 was 104 percent of normal, the mountain snow pack water content between Fort Peck and Garrison was 100 percent of normal. The peak accumulation of snow has normally occurred by April 15.

Lake Sakakawea was at an elevation of 1807.5 feet msl on March 4, 2008, 0.5 feet higher than in 2007 and 23.7 feet msl below its average end of February elevation. The record minimum end of February elevation was 1806.9 feet msl in 2007. The elevation forecast for Lake Sakakawea from summer through the end of November, 2008 is 1812-1814 feet msl.

The elevation of Lake Oahe was 1581.9 feet msl on March 4, 2008, which is 9.5 feet higher than a year ago and 18.7 feet lower than its average end of February elevation. Lake Oahe is forecast to peak at 1582.7 feet msl at the end of March, 2008. The record minimum end of March, 2008 elevation for Lake Oahe was 1573.6 feet msl in 2007.

Fort Peck Lake was at an elevation of 2198.8 feet msl on March 4, 2008, which is 2.6 feet lower than a year ago and 28.8 feet below its average end of February elevation. The forecast calls for Fort Peck Lake to fall to 2202.8 feet msl by the end of June, 2008.

The Corps of Engineers basic forecast of 19.99 MAF of runoff indicates the navigation season being shortened by 46 days. The actual length of the navigation season will be determined by the amount of water in storage by July 1.

The storage requirement of 36.5 MAF on March 1 was met. Since the implementation of the new Master Manual, the early spring rise will be conducted from Gavins Point Dam. For a spring rise, an additional 5,000 cubic feet per second (cfs) will be added to the normal dam release for 2 days. As the Corps of Engineers basic forecast shows that a system storage of 40.0 MAF will not be met by May 1, there will not be a May spring rise. The spring rises are measures laid out by the Master Manual to help the recovery of the pallid sturgeon along the Missouri River.

MISSOURI RIVER JOINT WATER BOARD - 2007 ANNUAL REPORT (SWC Project No. 1392)

Sioux entered into a joint powers agreement creating a joint water board. The mission of the joint water board is to bring the Missouri River political entities into a partnership in order to develop and implement solutions to water resource problems and issues within the corridor.

The Missouri River Joint Water Board was established on July 28, 2005. The counties of Burleigh, Dunn, Emmons, Mercer, Morton, Mountrail, Oliver, and

The Missouri River Joint Water Board 2007 annual report was presented, which is attached hereto as **APPENDIX "E"**.

**NORTH DAKOTA OPEN RECORDS
AND OPEN MEETINGS LAWS**

public officials guide to the laws was explained, which states, in part, ..."As public servants, the performance of official duties is subject to public scrutiny. Like other states, North Dakota has "sunshine laws" which provide that all government records and meetings must be open to the public unless a specific statute authorizes a meeting or record to be closed. The best protection for public officials is to have a good working knowledge of the laws, and the exceptions that apply."

Mary Kae Kelsch, North Dakota Office of Attorney General, provided a technical briefing of North Dakota's open records and open meetings laws.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 4:45 P.M.



John Hoeven, Governor
Chairman, State Water Commission

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

