

North Dakota State Water Commission

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

**Meeting To Be Held At
Best Western Ramkota Hotel - Lamborn Room
Bismarck, North Dakota**

**December 11, 2009
9:00 A.M., CST**

AGENDA

- A. Roll Call
- B. Consideration of Agenda *(Information pertaining to the agenda items is available on the State Water Commission's website at <http://www.swc.nd.gov>)*
- C. **Consideration of Draft Minutes of November 12, 2009 SWC Meeting** **
- D. State Water Commission Financial Updates:
 - 1) Agency Program Budget Expenditures
 - 2) 2009-2011 Biennium Resources Trust Fund and Water Development Trust Fund Revenues
- E. Consideration of Following Requests for Cost Share:
 - 1) **North Dakota Water Resources Research Institute** **
 - 2) **Clausen Springs Dam - Barnes County** **
 - 3) **Bank Stabilization Construction - Cost Share Increase** **
 - 4) **Goose River Snag and Clear Project -Traill County** **
 - 5) **Sheyenne River Snag and Clear Project - Cass County** **
 - 6) **Sheyenne River Snag and Clear Project - Richland Co.** **
 - 7) **Wild Rice Snag and Clear Project - Cass County** **
 - 8) **Wild Rice Snag and Clear Project - Richland County** **
 - 9) **Wild Rice River Dam Study - Cass County** **
 - 10) **Swan Creek Diversion** **
 - 11) **Lower Heart River Bank Stabilization - Morton County** **
 - 12) **Missouri River 2009 Emergency Bank Stabilization** **
 - 13) **Red, Wild Rice, & Sheyenne Rivers 2009 Flood Imagery** **
- F. Northwest Area Water Supply (NAWS) Project:
 - 1) Project Report
 - 2) **Water Service Contracts/Amendments for City of Mohall, City of Sherwood, and All Seasons Water Users District** **
 - 3) **Contract 4-2A, NAWS High Service Pump Station** **

AGENDA - Page 2

- G. Southwest Pipeline Project:
 - 1) Project Report
 - 2) ***Contract 3-1C, Oliver-Mercer-North Dunn Water Treatment Plant Membrane System Procurement*** **
 - 3) ***2010 Capital Repayment and REM Rates*** **
 - 4) ***Supplement Resolution Amending 2009 Series A Bond*** **
 - 5) ***Replacement of Variable Frequency Drive Pumps in New Hradec and West Medora Pump Stations (REM Request)*** **

- H. 2010 Federal Municipal, Rural and Industrial (MR&I) Water Supply Program:
 - 1) ***Northwest Area Water Supply (NAWS) Project*** **
 - 2) ***South Central Regional Water*** **
 - 3) ***Southwest Pipeline Project, Oliver-Mercer-North Dunn Regional Service Area*** **

- I. Devils Lake:
 - 1) Hydrologic Report
 - 2) North Dakota Devils Lake Outlet Report
 - 3) ***Sheyenne River Monitoring and Modeling*** **

- J. Garrison Diversion Conservancy District Report

- K. Missouri River Report

- L. Red River Basin Commission - Long-Term Red River Flood Control Solutions Study Report

- M. Other Business

- N. Adjournment

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

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

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

December 11, 2009

The North Dakota State Water Commission held a meeting at the Best Western Ramkota Hotel, Bismarck, North Dakota, on December 11, 2009. Governor John Hoeven, Chairman, called the meeting to order at 9:00 A.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Ken Junkert, representing Commissioner Doug Goehring, North Dakota
Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Douglas Vosper, Member from Neche

STATE WATER COMMISSION MEMBER ABSENT:

Robert Thompson, Member from Page

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 75 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

CONSIDERATION OF DRAFT MINUTES OF NOVEMBER 12, 2009 STATE WATER COMMISSION MEETING - APPROVED

The draft minutes of the November 12, 2009 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Foley, and unanimously carried, that the draft minutes of the November 12, 2009 State Water Commission meeting be approved as prepared.

STATE WATER COMMISSION BUDGET EXPENDITURES, 2009-2011 BIENNIUM

In the 2009-2011 biennium, the State Water Commission has two line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending October 31, 2009, reflecting 17 percent of the 2009-2011 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget amounts. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. The total approved for projects is \$156,124,954, leaving a balance of \$41,702,445 available to commit to projects.

RESOURCES TRUST FUND AND WATER DEVELOPMENT TRUST FUND REVENUES, 2009-2011 BIENNIUM

Oil extraction tax deposits into the Resources Trust Fund total \$15,247,462 and are currently \$1,176,992 or 7.2 percent below the Commission's appropriation authority.

There have been no deposits into the Water Development Trust Fund in the 2009-2011 biennium. The first planned deposit is \$9,900,000 in April, 2010.

**NORTH DAKOTA WATER RESOURCES
RESEARCH INSTITUTE 2010-2011
FELLOWSHIP PROGRAM THROUGH
NDSU - APPROVAL OF STATE COST
PARTICIPATION (\$13,850)
(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 2010-2011 academic year fellowship program administered through the North Dakota

State University (NDSU). The WRRI program requires a match of \$2 non-federal for each \$1 federal. NDSU's match is in monetary and in-kind services.

The WRRI is a program funded annually by a United States Geological Survey (USGS) 104B grant. Annual grants have varied from \$20,000 to \$200,000 with 2010-2011 federal funding at \$92,335. The total program costs for the 2010-2011 academic year are estimated at \$160,000. The \$92,335 federal grant is apportioned for administrative/personnel costs and for individual fellowships.

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

Anticipating the receipt of a USGS 104B grant in the amount of approximately \$92,335 for the 2010-2011 academic year, the WRRI requested a 15 percent state cost participation of the annual federal allocation (\$13,850). The intent of this request is to replace a portion of NDSU's in-kind services with the proposed cost share amount in order to provide more cash for fellowships.

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

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation, not to exceed an allocation of \$13,850 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota Water Resources Research Institute for their 2010-2011 academic year fellowship program administered through the North Dakota State University.

It was moved by Commissioner Berg and seconded by Commissioner Hanson that the State Water Commission approve state cost participation, not to exceed an allocation of \$13,850 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota Water Resources Research Institute for their 2010-2011 academic year fellowship program administered through the North Dakota State University. This action is contingent upon the availability of funds.

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

**CLAUSEN SPRINGS DAM
(BARNES COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$1,300,000)
(SWC Project No. 1378)**

During the spring flood of 2009, the earthen emergency spillway on Clausen Spring Dam in Barnes county was inundated by runoff water and emergency measures were necessary to stabilize the spillway after severe erosion

threatened the integrity of the dam. Permanent repairs and modifications are required to the emergency spillway to meet the Class V, high hazard dam safety standards for North Dakota.

The Watershed Hydrology and Dam Hydraulics report completed in August, 2009, determined that Clausen Springs Dam does not meet the minimum criteria for passing the design event (100-year snowmelt) without the use of a non-structural spillway and the dam does not contain the PMP event without overtopping the dam embankment. The total watershed area was determined to be 84.3 square miles. The design report indicated that the dam was sized to safely handle the 25-year storm event with a contributing watershed of 12 square miles.

A proposal was submitted to the Barnes County Water Resource District for a preliminary engineering design including a geotechnical analysis and the development of preliminary plans and estimates for a new structural emergency spillway. The project engineer's cost estimate is \$3,000,000. The proposed cost share funding includes the State Water Commission (\$1,300,000); North Dakota Game and Fish Department (\$1,000,000); and the local cost share (\$700,000) from the Red River Joint Water Resource District (\$500,000) and the Barnes County Commission (\$200,000). Planning and design for the project will continue over the winter and bidding for the project is anticipated in the spring of 2010. Construction is expected to begin in the fall of 2010. A request was presented for the State Water Commission's consideration to provide \$1,300,000 to support the construction repairs for the Clausen Springs Dam.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$1,300,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Barnes County Water Resource District to support the construction repairs for the Clausen Springs Dam.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve an allocation not to exceed \$1,300,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Barnes County Water Resource District to support the construction repairs for the Clausen Springs Dam. This action is contingent upon the availability of funds.

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

STATE WATER COMMISSION COST SHARE POLICIES AND PROCEDURES - APPROVAL OF COST SHARE INCREASE FOR BANK STABILIZATION PROJECTS (SWC Project No. 1753)

On June 23, 2009, the State Water Commission approved the modification of the cost share policy, procedures, and general requirements guidelines by increasing the cost share percentages and the elimination of engineering ser-

vices as follows. This action became effective on July 1, 2009:

- 1) drains, channels, diversion projects - 45 percent of eligible construction items
- 2) rural/farmstead ring dikes - 60 percent of eligible construction items limited to a maximum of \$40,000 per ring dike
- 3) water supply projects - 60 percent of eligible construction items
- 4) flood control projects - 60 percent of eligible construction items
- 5) dam safety repair projects - 65 percent of eligible construction items
- 6) recreation projects - 40 percent of eligible construction projects
- 7) irrigation projects - 50 percent of eligible construction projects

It was the recommendation of Secretary Frink that the cost share policy, procedures, and general requirements guidelines be modified to allow for a cost share percentage increase from 50 percent to 60 percent on eligible construction items relating to bank stabilization projects, effective December 11, 2009, as follows:

IX. Bank Stabilization.

The State Water Commission provide cost share up to 60 percent of the eligible construction items of any cost share application approved for bank stabilization projects on public lands or those lands under easement by federal, state, or political subdivisions. Bank stabilization projects are intended to stabilize the banks of lakes and watercourses, as defined in 61-01-06 of the North Dakota Century Code, with the purpose of protecting public facilities. The State Engineer reserves the right to determine the eligibility of projects and the percentage of cost share up to 60 percent. This action is effective December 11, 2009.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve modifications to the cost share policy, procedures, and general guidelines requirements to allow for a cost share percentage increase from 50 percent to 60 percent of the eligible construction items of any cost share application approved for bank stabilization projects on public lands or those lands under easement by federal, state, or political subdivisions. This action is effective December 11, 2009.

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

**GOOSE RIVER SNAG AND CLEAR
PROJECT (TRAILL COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$46,500)
(SWC Project No. 1667)**

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear the Goose River. An assessment district has been created to finance the project.

The project will consist of snagging and clearing the north, south, and main branches of the Goose River in Traill county. The work will include the removal of all fallen trees, driftwood, snags, and loose stumps and trunks at the sites. All snagged material will be properly disposed. The district has hired a contractor to complete the project in the fall of 2009.

The project engineer's cost estimate is \$100,000, of which \$93,000 is determined as eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$46,500). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$46,500.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$46,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District for the Goose River snag and clear project.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$46,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District for the 2009/2010 Goose River snag and clear project. This action is contingent upon the availability of funds.

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

**SHEYENNE RIVER SNAG AND
CLEAR PROJECT (CASS COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$165,000)
(SWC Project No. 568)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear approximately 35 river miles of the Sheyenne

River beginning at the confluence with the Red River of the North in Section 13 of Harwood Township proceeding south to State Highway 46 (Cass-Richland county line). The removal of trees will assist with the flow of the river and prevent damage to structures.

The proposed snagging and clearing work will include the removal of all fallen trees, standing trees in eminent danger of falling into the channel, driftwood, snags, loose stumps and trunks, and standing stumps which are encountered within the Sheyenne River channel and are lodged/leaning on the immediate bank slopes between upstream and downstream limits. All snagged material will be properly disposed. The district intends to hire a competent and experienced contractor to complete the project.

The project engineer's cost estimate is \$380,000, of which \$330,000 has been determined as eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$165,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$165,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$165,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District for the 2009/2010 Sheyenne River snag and clear project.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$165,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District for the 2009/2010 Sheyenne River snag and clear project. This action is contingent upon the availability of funds.

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

**SHEYENNE RIVER SNAG AND CLEAR
PROJECT (RICHLAND COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$47,500)
(SWC Project No. 568)**

A request from the Richland County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their 2009 snag and clear project on the Sheyenne River. Maintenance funds will be used to finance the project.

The project will consist of the removal of debris in Section 7, West Walcott Township, Richland County. The proposed snagging and clearing work will include the removal of all fallen trees, standing trees in eminent danger of falling into the channel, driftwood, snags, and loose stumps and trunks at the sites. All snagged material will be properly disposed. The district intends to hire a competent and experienced contractor to complete the project in the fall of 2009.

The project engineer's cost estimate is \$95,000, all of which has been determined as eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$47,500). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$47,500.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$47,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Richland County Water Resource District for the 2009/2010 Sheyenne River snag and clear project.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$47,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Richland County Water Resource District for the 2009/2010 Sheyenne River snag and clear project. This action is contingent upon the availability of funds.

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

**WILD RICE RIVER SNAG AND
CLEAR PROJECT (CASS COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$115,000)
(SWC Project No. 1842)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in their project to snag and clear a reach of the Wild Rice River. The project will

begin at the river's outlet into the Red River of the North in Section 19, Township 138 North, Range 48 West, and south to North Dakota State Highway 46 (Cass-Richland county line). The project is being conducted in order to clear isolated tree snags for flood control efforts.

The proposed snagging and clearing work will include the removal and disposal of fallen trees and debris. Bank clearing will not be required. The snagging work will include fallen trees on the immediate bank slopes and leaning trees that overhang the channel. All snagged material will be properly disposed. The district intends to hire a competent and experienced contractor to complete the project during the winter of 2009/2010.

The project engineer's cost estimate is \$270,000, of which \$230,000 is determined as eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$115,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$115,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$115,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District for the 2009/2010 Wild Rice River snag and clear project.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$115,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District for the 2009/2010 Wild Rice River snag and clear project. This action is contingent upon the availability of funds.

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

**SHEYENNE RIVER AND WILD RICE
RIVER SNAG AND CLEAR PROJECT
(RICHLAND COUNTY) –
APPROVAL OF STATE COST
PARTICIPATION (\$39,500)
(SWC Project No. 1842)**

A request from the Richland County Water Resource District was presented for the State Water Commission's consideration for state cost participation in their 2009 snag and clear project on the Sheyenne River and Wild Rice River. Maintenance funds will be used to finance the project.

The snagging and clearing project will consist of the removal of large log jams. The work will include the removal of all fallen trees, driftwood, snags, and loose stumps and trunks at the sites. All snagged material will be properly disposed. The district intends to hire a competent and experienced contractor to complete the project in the fall of 2009.

The project engineer's cost estimate is \$79,000 (Sheyenne River - \$35,000, and Wild Rice River - \$44,000), of which all is determined as eligible for state cost participation as a snag and clear project at 50 percent of the eligible costs (\$39,500). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$39,500.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$39,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Richland County Water Resource District for the 2009 Sheyenne River and Wild Rice River snag and clear project.

It was moved by Commissioner Vosper and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a snag and clear project at 50 percent of the eligible costs, not to exceed an allocation of \$39,500 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Richland County Water Resource District for the 2009 Sheyenne River and Wild Rice River snag and clear project. This action is contingent upon the availability of funds.

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

***WILD RICE RIVER DAM STUDY,
PHASE II – APPROVAL OF STATE
COST PARTICIPATION (\$130,000)
(SWC Project No. 1792)***

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation for their Wild Rice River Dam Study, Phase

II. On June 23, 2008, the State Water Commission approved an allocation not to exceed \$60,000 for retention sites engineering feasibility studies in Cass and Richland counties. The Wild Rice River Main Stem Retention Site Engineering Feasibility Study, Phase I, was completed in September of 2009.

The Phase I report identified a three-mile stretch of the Wild Rice River located near Mantador, North Dakota, that optimizes flood water storage. The purpose of the study, Wild Rice River Dam Study, Phase II, builds on the findings of the Phase I report. The purpose of the study is to identify the specific location for constructing a dam embankment based on topography, residential

impacts, road impacts, and soil conditions. Once a specific location is identified, this study will result in a preliminary dam design, preliminary cost estimate, and a determination of downstream flood reduction benefits. The study will result in a product that will assist in obtaining required state and federal permits.

The project engineer's cost estimate is \$260,000, of which all costs are determined eligible for state cost participation as an engineering feasibility study at 50 percent of the eligible costs (\$130,000). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$130,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as an engineering feasibility study at 50 percent of the eligible costs, not to exceed an allocation of \$130,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Wild Rice River Dam Study, Phase II.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as an engineering feasibility study at 50 percent of the eligible costs, not to exceed an allocation of \$130,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Wild Rice River Dam Study, Phase II. This action is contingent upon the availability of funds.

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

**SWAN CREEK DIVERSION CHANNEL
IMPROVEMENT RECONSTRUCTION -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$76,528)
(SWC Project No. 847)**

On July 17, 2007, the State Water Commission approved a request from the Maple River-Rush River Joint Water Resource District for state cost participation for a ditch improvement reconstruction project as a rural flood control project at 35 percent of the eligible local costs, and a directive that the project type and the cost share percentage be reviewed in the second year of the 2007-2009 biennium. Pursuant to the State Water Commission's directive of July 17, 2007, the project was reviewed on June 23, 2008 and approved as a flood control project at 50 percent state cost participation to include land rights.

The existing diversion was constructed by the Soil Conservation Service over 50 years ago. The intent of the proposed construction project is to protect the city of Casselton from agricultural runoff and sheetwater. The project will be designed to FEMA standards. The diversion ditch is located in Sections 34 and 35, Tier 140 North, Range 52 West, and will be upgraded from a 25-year design to a 100-year design. The design data indicates the length of the ditch at 14,600 feet, a 10-foot bottom width, 5:1 side slopes, a maximum cut of 1.0 feet, and a 0.001 gradient. Construction work consists of excavation, spoil bank leveling, road gravel, culvert removal and new culvert installation, riprap, seeding, material testing, traffic control, 4 rock checks, storm water management, and site entrances.

The project engineer's revised cost estimate is \$4,510,000, of which \$4,079,389 has been determined eligible for state cost participation as a flood control project at 50 percent of the eligible costs (\$2,039,695). The increase in the project costs is a result of inflation, utility and road relocations, and channel excavation due to soil stability issues. Previous State Water Commission actions include \$500,000 – July 17, 2007; \$1,057,500 – June 23, 2008; and \$405,667 - September 30, 2008. A request from the Maple River-Rush River Joint Water Resource District was presented for the State Water Commission's consideration for an additional state cost participation of \$76,528 (eligible costs of \$2,039,695 less \$1,963,167 previously approved) to complete the Swan Creek diversion ditch improvement reconstruction project.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a flood control project at 50 percent of the eligible costs, not to exceed an additional allocation of \$76,528 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for completion of the Swan Creek diversion ditch improvement reconstruction project. The Commission's affirmative action would increase the total state cost participation to \$2,039,695.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve state cost participation as a flood control project at 50 percent of the eligible costs, not to exceed an additional allocation of \$76,528 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River-Rush River Joint Water Resource District for completion of the Swan Creek diversion ditch improvement reconstruction project. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$2,039,695 for the Swan Creek diversion ditch improvement construction project.

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

**LOWER HEART RIVER 2009
BANK STABILIZATION PROJECT -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$63,808)
(SWC Project No. 660)**

A request from the city of Mandan was presented for the State Water Commission's consideration for state cost participation in their emergency bank stabilization project on the Heart River to protect the integrity of the Heart

River flood protection system within the city of Mandan and the utilities within the system. Completion of sovereign lands permits, S1496 and S1947, is pending.

High water conditions in the spring of 2009 caused considerable damage to the locations within the normal water level and the toe of the Corps of Engineers dike system. Included in some of these areas are utility crossings where the loss of the banks are jeopardizing their functionality and ability to be operable.

The project engineer's cost estimate is \$395,000, of which \$106,346 is determined as eligible for state cost participation as a bank stabilization project at 60 percent of the eligible costs (\$63,808). The request before the State Water Commission is for a 60 percent state cost participation in the amount of \$63,808.

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 60 percent of the eligible costs, not to exceed an allocation of \$63,808 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Mandan to support the Lower Heart River 2009 bank stabilization project.

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 60 percent of the eligible costs, not to exceed an allocation of \$63,808 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Mandan to support the Lower Heart River 2009 bank stabilization project. This action is contingent upon the availability of funds, and satisfaction of sovereign land permits S1496 and S1497.

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

***MISSOURI RIVER 2009 EMERGENCY
BANK STABILIZATION PROJECT
(MORTON COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$33,429)
(SWC Project No. 576)***

A request from the city of Mandan was presented for the State Water Commission's consideration for state cost participation for their emergency bank stabilization project on a section of the Missouri River on the north side of Borden Harbor to protect the city's

waste water plant discharge pipe from high water conditions. The U.S. Army Corps of Engineers approved the project and the work was completed on August 2, 2009. The project was within a utility easement on sovereign lands (permit No. S1088). The request was presented to the State Water Commission on November 12, 2009, but action was deferred pending additional information.

High water conditions during the spring of 2009 changed the river's flow near the outfall pipe and damage to the pipe occurred. In August, 2009, the city of Mandan had 1,484 tons of rock placed along the eroded bank to protect the discharge pipe. An inspection in October, 2009, determined that the outfall pipe riprap was again washed out. Emergency work to repair the rock riprap was completed in October, 2009 with an additional 1,485 tons of rock placed at the site.

In 1993, the Lower Heart Water Resource District lowered the Corps of Engineers existing bank stabilization jetty in order to allow more water to flow through the Borden Harbor area. The sovereign lands permit is conditioned so that if the lowering causes downstream erosion, the jetty must be raised at the expense of the permittee. Due to the significant developments and related access, the city of Mandan is proposing a complete removal of the old jetty and bank protection along the shoreline.

The total project cost was \$100,287, all of which was determined as eligible for state cost participation as a bank stabilization project. Secretary Frink explained that although he concurs with the city's proposal, the state cost participation should be reduced to one-third of the eligible costs (\$33,429).

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a bank stabilization project at one-third of the eligible costs, not to exceed an allocation of \$33,429 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Mandan to support their Missouri River 2009 emergency bank stabilization project.

It was moved by Commissioner Swenson and seconded by Commissioner Vosper that the State Water Commission approve state cost participation as a bank stabilization project at one-third of the eligible costs, not to exceed an allocation of \$33,429 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the city of Mandan to support their Missouri River 2009 emergency bank stabilization project.

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

RED, WILD RICE, AND SHEYENNE RIVERS 2009 FLOOD IMAGERY - APPROVAL OF STATE COST PARTICIPATION (\$30,014) (SWC Project No. 1667)

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation for coordinating flood imagery work during the 2009 spring flood. Fuhr Flying

Service was hired to conduct three flights: imagery from the flights on March 28 and April 2 and 3, 2009 focused on the Red and Wild Rice Rivers, and the third flight conducted on May 2, 2009 focused on the breakout flows from the Sheyenne River.

The total project cost was \$80,028, of which \$60,028 was determined eligible for a 50 percent state cost participation (\$30,014). The ineligible amount of \$20,000 is the contribution from the Corps of Engineers. The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$30,014.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation at 50 percent of the eligible costs, not to exceed an allocation of \$30,014 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Red, Wild Rice, and Sheyenne Rivers 2009 flood imagery.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation at 50 percent of the eligible costs, not to exceed an allocation of \$30,014 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Southeast Cass Water Resource District to support the Red, Wild Rice, and Sheyenne Rivers 2009 flood imagery. This action is contingent upon the availability of funds.

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

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

The following Northwest Area Water Supply (NAWS) project status report was provided:

Manitoba and Missouri Lawsuit: The administrative record showing the information that the Bureau of Reclamation used to develop their Record of Decision for the environmental impact statement (EIS) was filed with the federal court on May 26, 2009. The U.S. Department of Justice filed their answers to the Manitoba and Missouri complaints on May 26, 2009. The federal and state filed motions for summary judgment and to lift the permanent injunction on August 13, 2009. The final federal and state filings were submitted on November 13, 2009; awaiting the court to provide a summary judgment or call for oral arguments.

Design and Construction Contracts:

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant, as well as demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under the NAWS 2-2A contract and the existing Minot water distribution system. On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58, to John T. Jones Construction, Fargo, ND, and the notice to proceed was executed on May 20. The contract substantial completion date is December 14, 2009 and the final completion date is February 1, 2010.

Contract work includes the installation of handrails and ladders, fencing around the facility, and operational testing of the high service pumps.

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 9 bores, approximately 4 miles of 24-36 inch pipe, and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to north hill. A walk through was completed on October 29, 2008 and the final punch list was generated. Retainage in the amount of \$5,000 is being held to address landowner concerns with cleanup. This issue was resolved in November, 2009, and final payment is being reviewed.

Contract 2-2C: The contract work covers 52 miles of 10-12 inch pipeline for the Kenmare-Upper Souris pipeline. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. Water service to Kenmare and the Upper Souris Water District near Donnybrook began on December 7, 2009.

Contract 2-2D: The contract work includes 62 miles of pipeline for the Mohall/All Seasons pipeline. Bids were opened for contract 2-2D on July 14, 2009, the contract was awarded to American Infrastructure from Colorado. At the end of October, 2009, 9 miles of 12-inch line and 10 miles of 6-inch line had been installed. The substantial completion date is October 15, 2010, with final completion on November 15, 2010.

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir near Kenmare. The concrete pedestal was completed, and the tank was lifted into place on November 18, 2009. The substantial completion is July 1, 2010, with final completion on or before August 1, 2010.

Contract 2008-1: The NAWS portion includes 13 miles of 6 and 10 inch pipeline between the All Seasons water treatment plant and Gardena, ND. The contract was awarded to Swanberg Construction, Grand Forks, ND; the engineering related work for this project is estimated at \$112,500. All 6 and 10 inch pipeline has been installed. The tie-in to the water treatment plant on the north end has been completed, and the water line is being flushed.

Contract 2-2E: This contract involves the connection of the community of Burlington and the West River Water and Sewer District to the Berthold line. The contract was awarded to Steen Construction & Associates, Inc., Stanley, ND, on November 12, 2009, in the amount of \$471,782.

Contract 2-3A: This project includes 32 miles of pipeline north of Minot connecting the Minot north hill, Minot Air Force Base, and the Upper Souris Water District which, in turn, serves the cities of Glenburn and Lansford. The 30 percent design review was completed in July, 2009. The Bureau of Reclamation may have additional stimulus funding that will be requested for this project. The bid opening is anticipated in the spring of 2010.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
NAWS WATER SERVICE CONTRACTS
237-4-6, CITY OF MOHALL; 237-4-7,
CITY OF SHERWOOD; AND 237-4-9,
ALL SEASONS WATER USERS DISTRICT,
AND AMENDMENT I TO CONTRACTS
(SWC Project No. 237-04)**

construction of the NAWS project. The State Water Commission deferred executing the water service contract until the system was ready to serve the users. The NAWS project is now ready to serve the cities of Mohall and Sherwood and the Upper Souris Water District through an interim water supply from the city of Minot.

The cities of Mohall and Sherwood, the All Seasons Water Users District, and other Northwest Area Water Supply Project communities executed water service contracts with the State Water Commission in 1995. The contract demonstrated a commitment from the community to purchase water and repay capital costs associated with the

Northwest Area Water Supply Project Water Service Contract 237-4-6, City of Mohall, Contract 237-4-7, City of Sherwood, and Contract 237-4-9, All Seasons Water Users District, which provides the terms for project water service when water is available from Lake Sakakawea, were presented for the State Water Commission's consideration. The proposed Amendment I to the contracts was also presented, which allows for an interim period during which the State Water Commission will provide water service from water supplied by the city of Minot, and the terms for the interim supply.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to execute Northwest Area Water Supply Project Water Service Contracts 237-4-6, City of Mohall, Contract 237-4-7, City of Sherwood, and Contract 237-4-9, All Seasons Water Users District, and the proposed Amendment I to the contracts which allows for an interim period during which the State Water Commission will provide water service from water supplied by the city of Minot, and the terms for the interim supply.

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 execute Northwest Area Water Supply Project Water Service Contract 237-4-6, City of Mohall, Contract 237-4-7, City of Sherwood, and Contract 237-4-9, All Seasons Water Users District, and the proposed Amendment I to the contracts, which provides the terms for the interim supply, as recommended. SEE APPENDIX "C" (Executed NAWS Water Service Contract 237-4-6, City of Mohall, Contract 237-4-7, City of Sherwood, and Contract 237-4-9, All Seasons Water Users District, and Amendment I To Contracts)

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

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
CONTRACT 4-2A, MINOT HIGH
SERVICE PUMP STATION
(SWC Project No. 237-04)**

Northwest Area Water Supply (NAWS) project contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant, as well as

the demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under contract 2-2A and the existing Minot water distribution system.

On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58 to John T. Jones Construction, Fargo, ND, and the notice to proceed was executed on May 20, 2008. The contract substantial completion date is December 14, 2009, and the final completion date is February 1, 2010.

The contractor submitted a \$500,000 claim, which was denied by Houston Engineering. A mediation session was held on May 4, 2009 which resulted in a timeframe for requesting and answering additional questions. A second mediation session was held on August 24, 2009, and no agreement was reached although the parties have continued discussion and a draft settlement agreement is being negotiated.

The provisions currently being negotiated for a settlement agreement with John T. Jones Construction to resolve the claims on NAWS contract 4-2A were provided to the State Water Commission. It was the recommendation of Secretary Frink that upon all parties reaching agreement to the settlement provisions by December 11, 2009 to resolve the claims on NAWS contract 4-2A, the State Water Commission authorize the secretary to the State Water Commission to execute the settlement agreement with John T. Jones Construction. If the provisions of the settlement are not satisfactorily agreed to by all parties by December 11, 2009, the State Water Commission will terminate its negotiations relating to the settlement provisions and the execution of an agreement. The State Water Commission members were in concurrence with Secretary Frink's recommendation.

(Note: As of December 11, 2009, the provisions for the resolution of claims on NAWS contract 4-2A were not satisfactorily agreed to by all of the parties involved, therefore, a settlement agreement was not executed with John T. Jones Construction.)

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

The following Southwest Pipeline Project status report was provided:

Contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area: Contract 7-8E, Fairfield Service Area, is substantially complete with all pipe and services installed and all users turned over to the Southwest Water Authority as ready for service.

Precision Landscaping completed the seeding work on contract 7-8F, Trotters Pocket, and on contract 7-8E, Fairfield service area.

Contract 7-8G, Medora-Beach Regional Service Area, Phase III, Grassy Butte Service Area: Contract 7-8G, Grassy Butte Service Area, is substantially complete with all pipe and services installed and all users turned over to the Southwest Water Authority as ready for service.

Contract 7-9B, Medora-Beach Regional Service Area, Phase III, Killdeer Mountains Service Area: Contract 7-9B, Killdeer Mountains Service Area, is substantially complete with all pipe and services installed and all users turned over to the Southwest Water Authority as ready for service.

The easements for contracts 7-8G and 7-9B will be seeded in the spring of 2010. These four rural distribution pipeline contracts added 503 users to the project after being bid with 340 total users.

Contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield Reservoir: Contract 8-2, Fairfield reservoir, is substantially complete and has been turned over to the Southwest Water Authority as ready for service.

Oliver-Mercer-North Dunn Regional Service Area:

Contract 2-8A, main transmission pipeline from Oliver-Mercer-North Dunn water treatment plant to Hazen, consists of 23 miles of pipeline and related appurtenances. The pipeline will provide water service from the Oliver-Mercer-North Dunn water treatment plant to the city of Hazen, city of Zap, Beulah interim service area, and provide transmission flow for most of Oliver and Mercer counties.

Bids were opened on contract 2-8A on June 25, 2009. The bids were reviewed and the contract was awarded to Dave Titus Excavating, Inc., Bismarck, ND, in the amount of \$4,204,643. Approximately 9 miles of pipeline had been installed in November, 2009. The substantial completion date is June 1, 2010.

The water service contract for the city of Hazen has been approved by the Commission staff in consultation with the staffs of the North Dakota Office of Attorney General, Southwest Water Authority, and the legal counsel.

Contract 3-1C, Oliver-Mercer-North Dunn water treatment plant membrane equipment procurement. Bids were opened for contract 3-1C on November 20, 2009. The award of this contract will be presented for the State Water Commission's consideration under a separate item at this meeting.

Oil Industry Water Use:

The oil activity in western North Dakota has significantly increased the demand for water from all sources. Two private oil field service companies have requested service contracts to purchase water from the Southwest Pipeline Project for oil patch use, and additional interest has come from oil companies and various government entities. Meetings are scheduled to discuss what options are available to ease the stress being placed on local infrastructure as well as local aquifers.

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
WATER TREATMENT PLANT MEMBRANE
SYSTEMS PROCUREMENT - AUTHORIZE
AWARD OF CONTRACT 3-1C
(SWC Project No. 1736)***

On November 20, 2009, bids were opened for Southwest Pipeline Project contract 3-1C, Oliver-Mercer-North Dunn Water Treatment Plant Membrane Systems Procurement. The contract documents included three bid schedules: filtration membranes only, soft-

ening membranes only, and both filtration and softening membranes. The base bid was for Phase I of the water treatment plant (roughly 3.5 million gallons per day capacity), alternate 1 was for the ultimate capacity (roughly 5.25 million gallons per day capacity), alternate 2 was for non-carbon steel support racks for the membrane modules, and alternate 3 was for an additional year of warranty on the racks excluding the membranes which have a separate warranty. Three (3) bids were received and opened for each bid schedule from a total of 5 bidders. The apparent low bid received for the base bid plus bid alternate 3 was \$2,251,250 submitted by Wigen Water Technologies, Inc., Chaska, MN. The membrane procurement estimate in the preliminary engineering report was \$2,900,000.

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 Wigen Water Technologies, Inc. appears to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsible and responsive bid. It was the recommendation of the

project engineer to award contract 3-1C to Wigen Water Technologies, Inc., Chaska, MN, based on the base bid plus bid alternate 3. 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 3-1C, Oliver-Mercer-North Dunn Water Treatment Plant Membrane Systems Procurement, to Wigen Water Technologies, Inc., Chaska, MN, based on the base bid plus bid alternate 3 in the amount of \$2,251,250.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 3-1C, Oliver-Mercer-North Dunn Water Treatment Plant Membrane Systems Procurement, to Wigen Water Technologies, Inc., Chaska, MN, based on the base bid plus bid alternate 3 in the amount of \$2,251,250. This action is contingent upon completion of the contract documents, approval by USDA Rural Development, and a legal review.

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF CAPITAL REPAYMENT
RATES, AND REPLACEMENT AND
EXTRAORDINARY MAINTENANCE
RATE FOR 2010
(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 State Water Commission's secretary by December 15 of each year. The

budget is deemed approved unless the Commission's secretary notifies the Authority of his disapproval by February 15. The Southwest Water Authority submitted its proposed budget in November, 2009.

On October 19, 1998, the State Water Commission approved an amendment to the Transfer of Operations Agreement, which changed the Consumer Price Index (CPI) 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 stream-

line the budget process. The agreement specifies that the water rates for capital repayment be adjusted annually based on the Consumer Price Index; the September 1, 2009 CPI was 215.8 versus 219.1 on September 1, 2008. The State Water Commission has the responsibility of adjusting the capital repayment rates annually.

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

At the June 22, 2005 meeting, the State Water Commission approved the 2005 capital repayment rate for rural users in Morton county receiving water through the Missouri West water system transmission pipelines at \$22.00 per month. Applying the Consumer Price Index adjustment to this figure results in a 2010 rate for these users of \$25.06 per month.

The following projected capital repayment rates, and the replacement and extraordinary maintenance rate for 2010 for the Southwest Pipeline Project were presented for the State Water Commission's consideration:

Contract users	\$ 1.04 per thousand gallons
Rural users	\$31.65 per month
Morton county users receiving water through Missouri West water system	\$25.06 per month
Replacement and extraordinary maintenance	\$ 0.35 per thousand gallons

It was the recommendation of Secretary Frink that the State Water Commission approve the projected capital repayment rates for 2010 for the Southwest Pipeline Project of \$1.04 per thousand gallons for contract users; \$31.65 per month for rural users; \$25.06 per month for Morton County users receiving water through the Missouri West water system; and a rate for replacement and extraordinary maintenance of \$0.35 per thousand gallons.

It was moved by Commissioner Berg and seconded by Commissioner Olin that the State Water Commission approve the following capital repayment rates, and the replacement and extraordinary maintenance rate for 2010 for the Southwest Pipeline Project:

- | | | |
|----|---|-------------------------------------|
| 1) | Contract users | \$ 1.04 per thousand gallons |
| 2) | Rural users | \$31.65 per month |
| 3) | Morton county users
receiving water through
Missouri West water system | \$25.06 per month |
| 4) | Replacement and
extraordinary maintenance | \$ 0.35 per thousand gallons |

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Vosper, 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 - APPROVAL OF SUPPLEMENTAL
RESOLUTION AMENDING NORTH
DAKOTA STATE WATER COMMISSION,
SOUTHWEST PIPELINE PROJECT
2009 SERIES A BOND RESOLUTION
(SWC Project No. 1736)**

On April 28, 2009, the State Water Commission adopted the Series A bond resolution for the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area. This resolution authorized the sale of \$3,005,000 through the USDA Rural Development to fund the Fairfield ser-

vice area (contract 7-8E) in conjunction with a \$1,995,000 grant. The bond was closed on May 14, 2009 at an interest rate of 3.75 percent after originally being approved at 4.375 percent. The USDA Rural Development policy has been to issue bonds at either the interest rate at the time of approval or the time of closing, depending on which interest rate is lower. Title VI of the Consolidated Farm and Rural Development Act does not permit a reduction in the interest rate for bonds approved but not closed before May 22, 2008. This stipulation was inadvertently overlooked by the USDA Rural Development in developing the closing instructions for the 2009 Series A bond.

Based on review by the State Water Commission's bond counsel and assistant attorney general, it was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to execute the supplemental resolution amending North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, 2009 Series A Bond Resolution. The resolution amends the 2009 Series A

bond resolution to increase the interest rate from 3.75 percent to 4.375 percent and increases the debt service reserve requirement for emergencies and extensions. The annual debt service for the 2009 Series A bond will increase from \$149,640 to \$163,680.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission authorize the secretary to the State Water Commission to execute the supplemental resolution amending North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, 2009 Series A Bond Resolution. (SEE APPENDIX "D" for executed supplemental resolution amending the 2009 Series A Bond Resolution.)

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

***SOUTHWEST PIPELINE PROJECT -
REPLACEMENT OF VARIABLE
FREQUENCY DRIVE PUMPS IN
NEW HRADEC AND WEST MEDORA
BOOSTER PUMP STATIONS -
APPROVAL OF REM FUNDS (\$43,278.84)
(SWC Project No. 1736)***

The Southwest Water Authority collects and maintains a reserve fund for replacement and extraordinary maintenance. This fund exists because over the life of the project there will occur replacement and maintenance items that will exceed annually budgeted amounts. These items need to be prefunded.

Expenditures from this fund are required to be authorized by the State Water Commission.

It is known that there will be maintenance costs each year, and an amount sufficient to cover the expected maintenance with some allowance for the unexpected is included in each year's operating budget. If an extremely unlikely event occurs, but the cost is low, it should be considered an ordinary maintenance since a certain number of unlikely events are bound to happen each year. The reserve fund is intended for use on extremely costly events which are too costly to be included in any year's operating budget.

A request from the Southwest Water Authority was presented for the State Water Commission's consideration for reimbursement of funds from the reserve fund for replacement and extraordinary maintenance (REM) for the variable frequency drive (VFD) pumps in the New Hradec and West Medora booster pump stations. The VFD pumps in the New Hradec booster pump station are to provide adequate pressure for some of the customers and consist-

ent pressure to other customers once served by the New Hradec tank. The pump in the West Medora booster pump station will serve as a backup. The total cost for the three VFD pumps was \$43,278.84.

It was the recommendation of Secretary Frink that the State Water Commission authorize the purchase and reimbursement of \$43,278.84 from the reserve fund for replacement and extraordinary maintenance for the variable frequency drive pumps in the New Hradec and the West Medora booster pump stations.

It was moved by Commissioner Olin and seconded by Commissioner Vosper that the State Water Commission authorize the purchase and reimbursement of \$43,278.84 from the reserve fund for replacement and extraordinary maintenance for the variable frequency drive pumps in the New Hradec and the West Medora booster pump stations.

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

***MR&I WATER SUPPLY PROGRAM -
MR&I COMMITTEE REPORT; AND
2010 FISCAL YEAR FEDERAL MR&I
EARMARKED PROJECT FUNDS
(SWC Project No. 237-04)***

The State Water Commission and the Garrison Diversion Conservancy District Municipal, Rural and Industrial (MR&I) Water Supply program committee met on November 23, 2009 to discuss the status and funding of MR&I projects.

The Fiscal Year 2010 Consolidated Appropriations Act was passed by Congress and signed into law providing funding for the Garrison Diversion Unit for 2010, of which \$25,570,000 was designated and earmarked for funding projects under North Dakota's Municipal, Rural and Industrial (MR&I) Water Supply program. The following recommendations were presented for the State Water Commission's consideration, and will be considered by the Garrison Diversion Conservancy District's board of directors on January 14, 2010:

**Fiscal Year 2010
MR&I Water Supply Program**

<u>Project</u>	<u>Fiscal Year 2010 Earmarked Funds</u>
South Central Regional Water District	\$ 8,800,000
Northwest Area Water Supply Project	\$ 7,670,000
Southwest Pipeline Project, Oliver-Mercer-North Dunn	\$ 8,800,000
Administration	<u>\$ 300,000</u>
Total	\$25,570,000

South Central Regional Water District (Emmons, Logan and McIntosh Counties, Phase II): A regional water system is proposed to serve rural users and municipalities in the counties of Emmons, Logan and McIntosh. South Central Regional Water System (Emmons, Logan and McIntosh Counties, Phase I), construction began in 2009 involving a water supply 15 miles west of the city of Linton from Lake Oahe. The project uses a series of sloped tubes with submersible pumps, a water treatment plant, water storage reservoir, and main transmission pipeline with new bulk service to the cities of Linton and Strasburg. The estimated cost of 2009 Phase I is \$23,300,000.

Federal Fiscal Year 2010 MR&I grant funds are earmarked in the amount of \$8,800,000 for the South Central Regional Water System (Emmons County, Phase II). This project involves approximately 349 miles of 1.5" to 8" pipeline for 380 rural users and to provide water service to the cities of Braddock and Hauge and a supplement to the State Line Water Cooperative. The estimated cost of 2010 Phase II is \$12,100,000.

It was the recommendation of Secretary Frink that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant of 75 percent, not to exceed an allocation of \$8,800,000, to the South Central Regional Water District.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant of 75 percent, not to exceed an allocation of \$8,800,000, to the South Central Regional Water District. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

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

Northwest Area Water Supply (NAWS) Project: Construction on the NAWS project has focused on providing water to areas around the city of Minot including Berthold, Kenmare, Mohall and other cities. As part of this effort, the State Water Commission awarded NAWS contract 2-2D, Mohall, Sherwood, All Seasons Water District segment, on June 23, 2009, at an estimated total cost of \$7,200,000. Design is progressing for the Minot Air Force Base - Upper Souris pipeline with an estimated total cost of \$17,500,000.

Federal Fiscal Year 2010 MR&I grant funds are earmarked in the amount of \$7,670,000 for the Northwest Area Water Supply project. It was the recommendation of Secretary Frink that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant of 65 percent, not to exceed an allocation of \$7,670,000, for the Northwest Area Water Supply project.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant of 65 percent, not to exceed an allocation of \$7,670,000, for the Northwest Area Water Supply project. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

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

Southwest Pipeline Project (Oliver-Mercer-North Dunn Regional Service Area): The Oliver-Mercer-North Dunn (OMND) regional service area was started with construction of the Beulah interim service area providing service to 60 rural users. The city of Zap was added to the system and supplied with water purchased from the city of Beulah until a new water treatment plant can be constructed at the Zap reservoir site. The overall project will serve the communities of Center, Hazen, Pick City, Stanton, and Zap, 7 energy sector users, 5 bulk users, approximately 1,200 rural customers, and the switching of water service from the Southwest Pipeline for the cities of Dodge, Dunn Center, Golden Valley and Halliday, and 434 rural users. The water supply is from the Missouri River and will use a new water treatment plant to supply the system. The total estimated project cost is \$88.8 million.

The 2009 projects included the design and construction of the project's water treatment plant (\$15.1 million), 1.1 million gallon water storage tank (\$2.4 million), and 23 miles of main transmission pipeline to Hazen and Zap (\$6.6 million).

The 2010 projects include the design and construction of 27 miles of main transmission pipeline to Hazen and Stanton (\$3.8 million), and Phase I of the Zap service area (\$5.1 million).

Federal Fiscal Year 2010 MR&I grant funds are earmarked in the amount of \$8,800,000 for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area). It was the recommendation of Secretary Frink that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant, not to exceed an allocation of \$8,800,000, for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area).

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve a federal Fiscal Year 2010 MR&I grant, not to exceed an allocation of \$8,800,000, for the Southwest Pipeline Project (Oliver-Mercer-North Dunn regional service area). This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

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

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

of Devils Lake and Stump Lake for December 11, 2009 is 3.36 million acre-feet of water with a total surface area of 161,700 acres.

As of December 11, 2009, the current water surface elevation for Devils Lake is 1449.9 feet msl and Stump Lake is 1450.03 feet msl. The combined storage

The National Weather Service is expecting an El Nino for the winter of 2010. There is a 60 percent or greater chance that the winter temperature will feature normal or above temperatures with snowfall totals of 25 to 35 inches.

**NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT REPORT
(SWC Project No. 416-10)**

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

and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit and the authorized modifications issued by the North Dakota Department of Health. The NDPDES water quality discharge permit had an expiration date of June 30, 2008, which was extended through June 30, 2013.

The outlet pumps were started on May 21, 2009, with releases into the Sheyenne River beginning on May 22, 2009. Unlike in 2008 when the operations began on April 21, flood conditions on the Sheyenne River prevented any releases until the river flows were lower. Between May 29 and June 5, 2009, the flow and water quality conditions allowed the outlet to operate at a maximum capacity of 100 cubic feet per second. The discharge from the outlet was then decreased because of the higher level of sulfate on the Sheyenne River.

On June 24, 2009, the North Dakota Department of Health rescinded the water quality discharge permit and changed the water quality constraint to 450 mg/L at Bremen instead of 15 percent above the baseline. This allowed for 100 cubic feet per second of discharge until July 6, 2009 and then the discharge varied from 35 to 50 cubic feet per second. On July 15, 2009, the Department implemented an emergency rule for a segment of the Sheyenne River changing the sulfate standard from 450 mg/L to 750 mg/L. The outlet discharge was increased to 100 cubic feet per second since that time with some minor interruptions for maintenance. Operation of the outlet ended on October 31, 2009 to allow the intake to be removed and begin the expansion project. It is estimated that approximately 27,653 acre-feet of water was released in 2009 from Devils Lake.

On August 18, 2009, the State Water Commission approved an allocation not to exceed \$16,500,000 for the expansion of the Devils Lake outlet to 250 cubic feet per second using the Round Lake alternative.

The estimated cost of the Devils Lake outlet expansion is approximately \$15,300,000 and consists of the following contracts:

	<u>Contract</u>	<u>Cost</u>	<u>Status</u>
1)	Power supply	\$ 3,220,000	Underway
2)	Contract 7 pump procurement	\$ 1,455,000	Bid awarded
3)	Contract 8 shop	\$ 119,000	Bid awarded
4)	Contract 9 pump stations expansion	\$ 6,120,000	Bid awarded
5)	Contract 10 rock filter/terminal structure	\$ 1,500,000	Under design
6)	Telemetry	<u>\$ 250,000</u>	Under design
	Subtotal	\$12,664,000	
	Contingencies of 20 percent	\$ 2,636,000	
	Total	\$15,300,000	

On November 12, 2009, the State Water Commission authorized the secretary to the State Water Commission to execute the Devils Lake outlet expansion contracts as listed, bid contingencies of 20 percent, and a legal review of the contract documents.

The bids for contract 9, pump stations expansion, were opened on November 24, 2009. The apparent low bidder was Industrial Builders, Inc., with a bid price of \$4,846,900. The estimate for this work was \$4,720,000. It is anticipated that construction will begin on contract 9 in January, 2010.

Mary Lee Nielson, Mayor, City of Valley City, reiterated concerns that if Devils Lake continues to rise, a control structure on the east end of Devils Lake to control the natural discharge needs to be considered. Resolution No. 1710, adopted by the Valley City Commission on December 7, 2009, regarding discharge of water from Devils Lake into the Sheyenne River; and a resolution, adopted by the Barnes County Commission on December 1, 2009, regarding the discharge of water from Devils Lake into the Sheyenne River poses a potential harm to downstream interests within the Sheyenne River Basin, were presented to the State Water Commission. The resolutions are attached hereto as **APPENDIX "E"**.

**NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT -
SHEYENNE RIVER MONITORING AND
MODELING - APPROVAL OF STATE
COST PARTICIPATION (\$61,000)
(SWC Project No. 416-10)**

A request was presented for the State Water Commission's consideration for state cost participation with the U.S. Geological Survey to conduct a study that will entail the development and calibration of a reservoir model and stochastic simulation model to examine the

effects of the Devils Lake outlet on Lake Ashtabula and the Sheyenne River below Baldhill Dam. The specific information expected to be gained from the modeling is as follows: 1) develop and calibrate a two-dimensional hydrodynamic and water quality (CE-QUAL-W2) model of Lake Ashtabula; 2) link the reservoir model to continuous, real-time water quality and stream flow data to provide a near real-time simulation of the reservoir for use as a decision-support tool for the operation of the Devils Lake outlet; 3) extend the existing stochastic simulation model for the Devils Lake outlet and upper Sheyenne River to include flows and sulfate concentrations for key locations in the Sheyenne River downstream of Baldhill Dam; and 4) use the model for Lake Ashtabula along with the stochastic model to determine the effects of the increased capacity of the Devils Lake outlet on stream water quality along the Sheyenne River.

The total estimated cost for the proposed effort is \$122,000 with the State Water Commission and the U.S. Geological Survey each providing \$61,000. The work will be performed by the Survey and is anticipated for completion by January 31, 2011.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation not to exceed an allocation of \$61,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the U.S. Geological Survey to monitor and model the Sheyenne River from Bremen through Lake Ashtabula to below Baldhill Dam.

It was moved by Commissioner Berg and seconded by Commissioner Vosper that the State Water Commission approve state cost participation not to exceed an allocation of \$61,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the U.S. Geological Survey to monitor and model the Sheyenne River from Bremen through Lake Ashtabula to below Baldhill Dam. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Vosper, 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: the *Report on Red River Valley Water Needs and Options*, and the *Red River Valley Water Supply Project Environmental Impact Statement (EIS)*. The Bureau of Reclamation completed the *Report on Red River Valley Water Needs and Options*. The State of North Dakota and the Bureau jointly prepared the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The draft EIS was released in December, 2005, public hearings were held in February and March, 2006, and all studies have been completed. The final EIS was available to the public on December 28, 2007. The Record of Decision was scheduled to be issued 30 to 90 days from the date that the final EIS was available to the public, however, the U.S. State Department requested that the Bureau of Reclamation delay signing the Record of Decision until discussions with Canada have been concluded.

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

Status reports for October, November and December, 2009, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, relating to the specific efforts of the Red River Valley Water Supply project, which are attached hereto as **APPENDIX "F"**.

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

On November 20, 2009, the system storage in the six mainstem reservoirs was 54.9 million acre-feet (MAF), 1.9

MAF above the average system storage for the end of November and 10.3 MAF more than in 2008. The record minimum system storage for the end of November was 34.6 MAF in 2006, and the maximum system storage for the end of November was 61.3 MAF in 1975. The November 1 basic simulation estimates runoff above Sioux City for 2009 is 33.7 MAF, 136 percent of normal. This results in a forecast that the system will have 54.7 MAF at the end of 2009, which is 2.2 MAF above the average system storage for the end of 2009.

Lake Sakakawea was at an elevation of 1841.5 feet msl on November 20, 2009, 15.3 feet higher than in 2008 and 6.3 feet above its daily average November elevation. The record minimum end of November elevation was 1809.2 feet msl in 2006, and the record maximum average November elevation was 1846.9 feet msl in 1972. Lake Sakakawea is forecast to end 2009 at the elevation of 1840.2 feet msl.

The elevation of Lake Oahe was 1607.8 feet msl on November 20, 2009, which is 14.7 feet higher than in 2008 and 9.3 feet higher than its average November elevation. The record minimum daily average November elevation for Lake Oahe was 1573.1 feet msl in 2006, and the maximum daily average November elevation was 1614.2 feet msl in 1997. Lake Oahe is forecast for an elevation of 1607.8 feet msl at the end of 2009.

Fort Peck Lake was at an elevation of 2220.7 feet msl on November 20, 2009, which is 9.3 feet below its average daily November elevation. The basic forecast shows Fort Peck ending 2009 with an elevation of 2221.2 feet msl.

Mountain snowpack above Fort Peck and Fort Peck to Garrison on November 9, 2009 was above normal levels. Fifteen (15) percent of the peak snow accumulation normally has occurred by mid-November. The snowpack for the winter of 2008-2009 above Fort Peck peaked in May at 109 percent of the normal peak accumulation. Between Fort Peck and Garrison, the snowpack peaked at 110 percent in April, 2009.

Flow support for the commercial navigation season ended November 30, 2009 at the mouth just north of St. Louis, Missouri. This is the first year since 2001 that a full 8-month navigation season has been supported. If commercial traffic is not scheduled above Kansas City for the remainder of the season, service target flows will not be supported above Kansas City.

The Corps of Engineers released the draft 2009-2010 Annual Operating Plan (AOP) at the end of September, 2009. A public meeting was held in Bismarck, North Dakota on October 7, 2009; public comments were taken at the AOP meeting and written comments were accepted until November 20, 2009.

Title I, Section 108 of the Omnibus Appropriations Bill, signed into law on March 11, 2009, authorizes the Corps of Engineers to conduct a study of the Missouri River projects located within the Missouri River basin, at a total cost of \$25,000,000, for the purpose to review the original project purposes based on the Flood Control Act of 1944 to determine if changes to the authorized project purposes and existing federal water resource infrastructure may be

warranted. The Missouri River Authorized Purposes Study (MRAPS) will be undertaken at the full federal expense. Kick-off meetings were held in Pierre, SD, and Kansas City, MO on October 1 and 8, 2009, respectively, for the purpose of an introduction to the study and solicitation for public input. A series of focus group meetings will be held with the goal of identifying initial priorities and a communications strategy; a meeting was held on December 8, 2009 in Bismarck, ND.

The Corps of Engineers completed an assessment of the impacts of siltation of the Missouri River in the State of North Dakota in June, 2009, under the authority of Title VII, Missouri River Protection and Improvement Act of 2000. The assessment used existing data to identify sources and deposit locations of sediment within the Missouri River basin in the State of North Dakota, and analyzed potential impacts of sedimentation to the economy, recreation, hydropower generation, fish and wildlife, flood control, and cultural resources. Using the assessment, the task force recently presented the Corps of Engineers with a plan that will enable the Corps and the task force to address and take action on problems that are associated with sedimentation.

Through the Emergent Sandbar Habitat program, the Corps of Engineers is planning to treat and create sandbar habitat along the Garrison reach. Six sites have been identified for treatment in 2010, three sites will be treated with vegetation removal and three sites will be treated with vegetation removal and sandbar capping. The treatment of sandbar capping places sand on top of existing vegetated sandbars to heighten the sandbar and cover the vegetation.

**RED RIVER BASIN COMMISSION -
LONG-TERM RED RIVER FLOOD
CONTROL SOLUTIONS STUDY
(SWC File No. AOC/RRBC)**

On June 23, 2009, the State Water Commission approved an allocation not to exceed \$500,000 to the Red River Basin Commission to support the development of the Long-Term Red River Flood Control Solutions study. The

study will evaluate, in conjunction with state, local and federal officials and entities, long-term flood control solutions in the Red River valley. The three-phase work plan is being coordinated by the Red River Basin Commission.

The Long-Term Red River Flood Control Solutions study update was provided to the State Water Commission, which is attached hereto as **APPENDIX "G"**.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 11:25 A.M.



John Hoeven, Governor
Chairman, State Water Commission

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

STATE WATER COMMISSION
ALLOCATED PROGRAM EXPENDITURES
FOR THE PERIOD ENDED OCTOBER 31, 2009
BIENNIUM COMPLETE: 17%

PROGRAM	SALARIES/ BENEFITS	OPERATING EXPENSES	GRANTS & CONTRACTS	24-Nov-09 PROGRAM TOTALS
ADMINISTRATION				
Allocated	1,812,056	1,212,732		3,024,788
Expended	288,326 16%	169,742 14%		458,069 15%
			Funding Source:	
			General Fund:	436,390
			Federal Fund:	21,678
			Special Fund:	0
PLANNING AND EDUCATION				
Allocated	1,192,175	208,511	99,000	1,499,686
Expended	191,383 16%	42,488 20%	15,687 16%	249,559 17%
Percent				
			Funding Source:	
			General Fund:	187,975
			Federal Fund:	43,610
			Special Fund:	17,974
WATER APPROPRIATION				
Allocated	3,633,879	483,162	1,078,935	5,195,976
Expended	592,438 16%	72,461 15%	33,536 3%	698,435 13%
Percent				
			Funding Source:	
			General Fund:	664,899
			Federal Fund:	0
			Special Fund:	33,536
WATER DEVELOPMENT				
Allocated	5,041,486	4,837,457	225,000	10,103,943
Expended	800,843 16%	853,410 18%	80,323 36%	1,734,575 17%
Percent				
			Funding Source:	
			General Fund:	756,163
			Federal Fund:	491,156
			Special Fund:	487,256
STATEWIDE WATER PROJECTS				
Allocated			203,185,070	203,185,070
Expended			15,029,451 7%	15,029,451 7%
Percent				
			Funding Source:	
			General Fund:	0
			Federal Fund:	0
			Special Fund:	15,029,451
ATMOSPHERIC RESOURCE				
Allocated	854,950	712,830	4,694,692	6,262,472
Expended	167,141 20%	43,291 6%	301,213 6%	511,645 8%
Percent				
			Funding Source:	
			General Fund:	132,225
			Federal Fund:	0
			Special Fund:	379,420
SOUTHWEST PIPELINE				
Allocated	400,498	1,865,314	37,556,958	39,622,770
Expended	63,895 16%	343,035 21%	1,661,124 4%	2,058,054 5%
Percent				
			Funding Source:	
			General Fund:	0
			Federal Fund:	-30,786
			Special Fund:	2,098,839
NORTHWEST AREA WATER SUPPLY				
Allocated	530,958	6,229,700	50,289,114	57,049,772
Expended	71,755 14%	592,459 10%	7,598,436 15%	8,262,650 14%
Percent				
			Funding Source:	
			General Fund:	0
			Federal Fund:	7,170,862
			Special Fund:	1,091,788
PROGRAM TOTALS				
Allocated	13,466,002	15,349,706	297,128,769	325,944,477
Expended	2,175,781 16%	2,116,886 14%	24,719,771 8%	29,012,437 9%
Percent				
FUNDING SOURCE:	ALLOCATION	EXPENDITURES	GENERAL FUND:	REVENUE
GENERAL FUND	14,124,223	2,177,652		26,463
FEDERAL FUND	67,070,358	7,696,521		3,697,432
SPECIAL FUND	244,749,896	19,138,265		18,702,726
TOTAL	325,944,477	29,012,437	TOTAL:	22,426,622

APPENDIX "B"
December 11, 2009

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 BIENNIUM

				<i>Oct-09</i>	
	BUDGET	SWC/SE APPROVED	OBLIGATIONS EXPENDITURES	REMAINING UNOBLIGATED	REMAINING UNPAID
CITY FLOOD CONTROL					
FARGO/RIDGEWOOD	2,084,750	2,084,750	2,033,809	0	50,941
FARGO	45,000,000	45,000,000	0	0	45,000,000
MRI	37,505,101	33,920,657	2,483,830	3,584,444	31,436,827
IRRIGATION DEVELOPMENT	1,294,439	294,439	20,531	1,000,000	273,908
GENERAL WATER MANAGEMENT					
OBLIGATED	13,986,055	13,986,055	1,372,083	0	12,613,972
UNOBLIGATED	20,418,001			20,418,001	0
MISSOURI RIVER MANAGEMENT	372,000	372,000	0	0	372,000
FLOOD CONTROL					
BALDHILL DAM	92,832	92,832	0	0	92,832
RENWICK DAM	1,478,190	1,478,190	0	0	1,478,190
UPPER MAPLE RIVER DAM	112,500	112,500	0	0	112,500
RED RIVER WATER SUPPLY	3,000,000	3,000,000	27,652	0	2,972,348
DEVILS LAKE					
BASIN DEVELOPMENT	102,000	102,000	5,228	0	96,772
DIKE	25,350,000	25,350,000	2,630,000	0	22,720,000
OUTLET	16,661,325	161,325	101,041	16,500,000	60,285
OUTLET OPERATIONS	3,000,000	3,000,000	470,637	0	2,529,363
NELSON COUNTY	636,064	636,064	0	0	636,064
US GS MODEL STUDY	223,750	23,750	0	200,000	23,750
WEATHER MODIFICATIONS	895,000	895,000	0	0	895,000
SOUTHWEST PIPELINE PROJECT	14,782,474	14,782,474	2,028,867	0	12,753,607
NORTHWEST AREA WATER SUPPLY	10,832,918	10,832,918		0	10,832,918
TOTALS	197,827,399	156,124,954	11,173,677	41,702,445	144,951,277

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Oct-09 Balance
<i>City Flood Control:</i>							
SWC	1927	5000	Fargo/Ridgewood Flood Control Project	6/22/2005	2,084,750	2,033,809	50,941
SWC	1928	5000	Fargo Flood Control Project	6/23/2009	45,000,000	0	45,000,000
<i>Subtotal City Flood Control</i>					47,084,750	2,033,809	45,050,941
<i>MRI Advances:</i>							
SWC	2373-04	5000	Lakota WS (Tri-Co WD)	7/17/2007	118,135	0	118,135
	2373-09	5000	South Central RWD (Phase II)	6/23/2008	2,350,000	0	2,350,000
	2373-13	5000	All Seasons Rural Water - (Upham)	7/17/2007	128,000	0	128,000
	2373-15	5000	North Central Rural Water Consortium (S. Benson Cou)	12/7/2007	916,000	0	916,000
	2373-15	5000	North Central Rural Water Consortium (Anamoose/Ber)	6/23/2008	3,295,000	0	3,295,000
	2373-27	5000	Trail Regional Rural Water (Phase I)	1/25/2008	3,167,000	1,204,040	1,962,960
	2373-16	5000	Trail Regional Rural Water (Phase II)	6/23/2008	2,137,748	817,291	1,320,457
	2373-24	5000	Trail Regional Rural Water (Phase III)	8/18/2009	1,300,000	0	1,300,000
<i>MRI Grants:</i>							
	2373-19	5000	City of Washburn Water Supply	4/28/2009	1,500,000	0	1,500,000
	2373-17	5000	City of Parshall	6/23/2008	1,666,774	20,813	1,645,961
	2373-18	5000	Ray-Tioga Water Supply	12/17/2008	4,200,000	363,742	3,836,258
	2373-25	5000	McKenzie Phase II	6/23/2009	1,500,000	0	1,500,000
	2373-26	5000	Valley City Water Treatment Plant	8/18/2009	9,200,000	0	9,200,000
<i>HB No. 1305 Permanent Oil Tax Trust Fund</i>							
	2373-21	5000	Burke, Divide, Williams Water District	6/23/2009	985,000	0	985,000
	2373-22	5000	Ray & Tioga Water Supply Association	6/23/2009	864,000	77,945	786,055
	2373-23	5000	City of Wildrose	6/23/2009	593,000	0	593,000
<i>Subtotal MRI</i>					33,920,657	2,483,830	31,436,827
<i>Irrigation Development:</i>							
SWC	1389	5000	BND AgPace Program	10/23/2001	194,439	20,531	173,908
SWC	AOC/IRA	5000	ND Irrigation Association	7/20/2009	100,000	0	100,000
<i>Subtotal Irrigation Development</i>					294,439	20,531	273,908
<i>General Water Management</i>							
<i>Hydrologic Investigations:</i>							
					880,000		
SWC	331	3000	Donna Bliss	1/1/2000	0	0	0
	331	3000	Monte Dralle	1/1/2000	0	0	0
	862	3000	Arietta Herman	4/7/2008	660	880	(220)
	1400/7	3000	Houston Engineering Water Permit Application Review	4/2/2009	1,584	800	784
	1400/8	3000	Houston Engineering Water Permit Application Review	6/2/2009	7,500	7,473	27
	1690	3000	Mary Lou McDaniel	5/6/2009	866	1,155	(289)
	1703	3000	Neil Flaten	4/7/2008	895	1,193	(298)
	1707	3000	Neil Flaten	4/7/2008	692	923	(231)
	1714	3000	David Robbins	5/7/2009	396	396	(0)
	1761	3000	Gloria Roth	5/6/2009	300	413	(113)
	1761	3000	Fran Dobits	4/7/2008	489	669	(180)
	1393	3000	US Geological Survey, US Dept. Of Interior StreamSta	7/16/2009	39,008	4,335	34,673
	1395A	3000	US Geological Survey, US Dept. Of Interior Stream Ga	11/12/2009	381,980	0	381,980
	1395	3000	US Geological Survey, US Dept. Of Interior Water Qua	10/21/2009	13,205	0	13,205
	1395D	3000	US Geological Survey, US Dept. Of Interior Eaton Irri:	10/1/2009	15,300	15,300	0
<i>Hydrologic Investigations Obligations Subtotal</i>					52,390	18,236	34,154
<i>Remaining Hydrologic Investigations Authority</i>					827,610		
<i>Hydrologic Investigations Authority Less Payments</i>							
<i>General Projects Obligated</i>					12,926,831	1,159,322	11,767,509
<i>General Projects Completed</i>					179,224	179,224	0
<i>Subtotal General Water Management</i>					13,986,055	1,372,083	12,613,972

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Oct-09 Balance
Missouri River Management:							
SWC	1943	5000	Missouri River Siltation Assessment Study	10/12/2006	30,000	0	30,000
SWC	1963	5000	Beaver Bay Embankment Feasibility Study	8/10/2009	342,000	0	342,000
<i>Subtotal</i>					372,000	0	372,000
Flood Control:							
SWC	300	5000	Baldhill Dam Flood Pool Raise	4/30/1998	92,832	0	92,832
SWC	849	5000	Renwick Dam Rehabilitation	6/23/2008	1,478,190	0	1,478,190
SWC	1878-02	5000	Upper Maple River Dam Project Dev & Preliminary Eng	9/29/2008	112,500	0	112,500
<i>Subtotal Flood Control</i>					1,683,522	0	1,683,522
SWC	1912	5000	Red River Valley Water Supply Project - GDCD	3/17/2008	3,000,000	27,652	2,972,348
<i>Subtotal</i>					3,000,000	27,652	2,972,348
Devils Lake Basin Development:							
SWC	416-01	5000	2009-11 Devils Lake Basin Joint Water Resource Man:	6/23/2009	60,000	0	60,000
SWC	416-02	5000	City of Devils Lake Levee System Extension & Raise	12/6/2002	25,350,000	2,630,000	22,720,000
SWC	416-05	2000	2009-11 Devils Lake Outlet Awareness Manager	6/23/2009	42,000	5,228	36,772
SWC	416-07	5000	Devils Lake Outlet	2/20/2002	161,325	101,041	60,285
SWC	416-10	4700	Devils Lake Outlet Operations	8/18/2009	3,000,000	470,637	2,529,363
SWC	416-11	4700	US Dept of Interior - DL Outlet alternative pumping opti	8/13/2009	10,000	0	10,000
SWC	416-11	4700	US Dept of Interior - Lake Ashtabula Monitoring	8/13/2009	13,750	0	13,750
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment Drain	8/30/2005	620,711	0	620,711
SWC	1131*	5000	Nelson County Central Hamlin Rural Flood Control	9/17/2009	8,940	0	8,940
SWC	1131	5000	Nelson County Channel Maintenance & Misc	9/17/2009	6,413	0	6,413
<i>Devils Lake Subtotal</i>					29,273,139	3,206,906	26,066,233
SWC		7600	<i>Weather Modification</i>	7/1/2009	895,000	0	895,000
SWC	1736	8000	<i>Southwest Pipeline Project</i>	7/1/2009	14,782,474	2,028,867	12,753,607
SWC	2374	9000	<i>Northwest Area Water Supply</i>	7/1/2009	10,832,918		10,832,918
TOTAL					156,124,954	11,173,677	144,951,277

STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2009-2011 Biennium
Resources Trust Fund

GENERAL PROJECT OBLIGATIONS

Approved SWC By	No	Depl		Initial Approved Date	Total Approved	Total Payments	Oct-09 Balance
SWC	249	5000	2009 Mott Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SWC	281	5000	2007-09 Three Affiliated Tribes/Fort Berthold Irrigation Study	3/23/2009	80,000	0	80,000
SWC	322	5000	2009-11 Red River Basin Mapping Initiative/Tri-College LIDAR	6/23/2009	700,000	0	700,000
SWC	322	5000	2009-11 Long-Term Red River Flood Control Solutions Study	6/23/2009	500,000	0	500,000
SWC	322	5000	ND Water: A Century of Challenge	12/10/2004	34,300	0	34,300
SWC	327	5000	2009-11 White Earth Dam EAP	8/18/2009	25,000	0	25,000
SE	353	5000	2009-11 Cedar Lake Dam, Emergency Action Plan	7/15/2009	9,600	0	9,600
SE	394	5000	2007-09 Odland Dam Spillway Rehabilitation	8/25/2008	16,700	0	16,700
SE	420	5000	Mirror Lake One-Foot Pool Raise	9/17/2009	11,666	0	11,666
SE	420	5000	2009 Mirror Lake Dam Safety Repair	10/14/2009	12,220	0	12,220
SWC	528	5000	2009 McGregor Dam Emergency Action Plan	6/23/2009	25,000	0	25,000
SE	560	5000	2009 Blacktail Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SE	568	5000	2008 Sheyenne River Snagging & Clearing Project	4/11/2008	5,000	0	5,000
SWC	571	5000	2009-11 Oak Creek Bank Stabilization Project	8/18/2009	33,250	0	33,250
SE	586	5000	2009 Short Creek Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SWC	620	5000	2008 Mandan Flood Control Protective Works (Levee)	9/29/2008	125,396	0	125,396
SWC	642-05	5000	2007-09 Sweetbriar Creek Dam Project	3/6/2009	683,400	0	683,400
SE	662	5000	2009 WCWRD'S Park River Snagging & Clearing Project	6/30/2009	1,948	0	1,948
SWC	847	5000	Maple River - Retention Study Rush River Joint WRD	8/15/2002	25,000	0	25,000
SWC	847	5000	2007-09 Swan Creek FC Diversion Ditch	6/23/2008	1,584,464	668,062	896,402
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 5 Emergency Action Plan	7/20/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 8 Emergency Action Plan	8/7/2009	20,000	0	20,000
SE	847	5000	2009-11 Swan-Buffero Detention Dam No. 12 Emergency Action Plan	10/18/2009	20,000	0	20,000
SE	847	5000	2009-11 Absaraka Dam Safety Analysis	8/31/2009	5,719	0	5,719
SE	870	5000	2009-11 Crown Butte Dam Emergency Action Plan	7/10/2009	9,600	0	9,600
SWC	928/988/1	5000	2008 Southeast Cass WRD Bois, Wild Rice, & Antelope	6/23/2008	60,000	0	60,000
SE	985	5000	2009 Kolding Dam Emergency Action Plan	5/29/2009	9,600	0	9,600
SWC	988	5000	Southeast Cass WRD Antelope Creek Eng Feas	10/12/2006	40,000	0	40,000
SWC	1068	5000	2009-11 Cass County Drain No. 12 Improvement Reconstruction	8/18/2009	500,000	0	500,000
SWC	1069	5000	2009-11 Cass County Drain No. 13 Improvement Reconstruction	8/18/2009	145,472	0	145,472
SWC	1070	5000	2009-11 Cass County Drain No. 14 Improvement Recon	8/18/2009	500,000	0	500,000
SWC	1080	5000	2007-09 Cass County Drain No. 27 Improvement Recon	10/24/2007	94,197	0	94,197
SWC	1088	5000	2009-11 Cass County Drain No. 37 Improvement Recon	8/18/2009	158,535	0	158,535
SWC	1093	5000	2008 Cass Co. Drain No. 45 Extension Project	3/17/2008	150,800	0	150,800
SWC	1140	5000	Pembina County Drain No 11 Outlet Improvement	9/21/2009	53,599	0	53,599
SWC	1155	5000	2008 Pembina Co. Drain No. 42 Partial Impr.Recon.	3/17/2008	4,679	0	4,679
SWC	1176	5000	2008 Richland Co. Drain No. 2 Partial Improvement Recon.	3/17/2008	5,791	0	5,791
SWC	1232	5000	2009-11 Traill County Drain No. 13 Channel Extension Project	8/18/2009	23,575	0	23,575
SWC	1249	5000	2008 Traill Co. Drain No. 34 Partial Improvement Recon	3/17/2008	255,629	102,238	153,391
SWC	1289	5000	2007-09 Noxious Weed McKenzie County -Sovereign	10/24/2007	7,247	0	7,247
SWC	1328	5000	2007 Cass County Drain No. 23 Area Improvement	7/17/2007	35,980	0	35,980
SE	1378	5000	2009-11 Clausen Springs Dam Emergency Watershed & Dam Hydraulics Report	8/31/2009	9,418	0	9,418
SE	1382	5000	2009-11 Camel Butte Dam Emergency Action Plan	7/24/2009	9,600	0	9,600
SWC	1401	5000	International Boundary Roadway Dike Pembina	9/21/2009	260,238	0	260,238
SWC	1413	5000	2009 TCWRD Buffalo Coulee Snagging & Clearing Project	6/23/2009	49,000	4,281	44,719
SWC	1431	5000	2009-11 US Geological Survey, DOI Report Describing Peak Discharge Period:	8/5/2009	20,000	0	20,000
SWC	1438	5000	2008 Mulberry Creek Drain Partial Improv Phase II	3/17/2008	46,816	0	46,816
SWC	1461	5000	2008 Pembina River Area Bank Stabilization Project	12/5/2008	24,307	0	24,307
SE	1471	5000	2009-11 Erie Dam Emergency Action Plan	7/24/2009	20,000	0	20,000
SWC	1509	5000	2009-11 Sheyenne River Watershed Flood Water Detention Study	7/20/2009	75,000	0	75,000
SE	1515	5000	2009-11 US Geological Survey - monitoring gages Cottonwood Creek Dam	10/18/2009	8,260	0	8,260
SWC	1523	5000	2008 Souris River Golf Course Area Bank Stabilization	9/29/2008	31,612	0	31,612
SE	1556	5000	2009 Indian Creek Dam Emergency Action Plan	5/28/2009	9,600	0	9,600
SWC	1572	5000	Burnt Creek Floodway Diversion Channel	4/30/2008	121,091	0	121,091
SWC	1591	5000	Revision of Handbook ND Water Managers Proj	4/12/2007	14,750	0	14,750
SE	1625	5000	High Water Mark Delineation Methods & Guidelines	10/24/2007	54,048	0	54,048
SWC	1625	5000	OHWM Delineations MT/ND Border Yellowstones & Missouri	10/29/2008	75,000	0	75,000
SE	1625	5000	2009-11 Missouri River Contract - Environmental Service Bartlett & West	9/21/2009	5,900	0	5,900
SWC	1638	5000	2009-11 Red River Basin Non-NRCS Rural/Farmstead Ring Dike Program	6/23/2009	800,000	40,000	760,000
SWC	1705	5000	2009-11 Red River Basin Flood Control Coordinator Position	7/24/2009	36,000	0	36,000
SWC	1785	5000	2009-11 Maple River Dam EAP	8/18/2009	25,000	0	25,000
SE	1808	5000	2009-11 Beaver Creek Dam Emergency Action Plan	7/14/2009	20,000	0	20,000
SE	1842	5000	2009-11 SCWRD Wild Rice River Snagging & Clearing	5/28/2009	20,000	0	20,000
SE	1849	5000	2008 Tongue River Diversion Channel Rock Project	11/25/2008	19,087	0	19,087
SWC	1859	5000	2009-11 Section NPS 319 ND Health Dept	8/18/2009	200,000	0	200,000
SWC	1869	5000	2008 McDowell Dam Emergency Action Plan	9/29/2008	25,000	0	25,000
SWC	18502	5000	(2008) Drought Disaster Livestock Water Supply	5/14/2008	571,747	121,965	449,782
SWC	1921	5000	Square Butte Dam No. 6/Recreational Facility	3/23/2009	882,030	0	882,030
SWC	1934	5000	2007-08 Traill County WRD Elm River Snagging	12/7/2007	24,500	0	24,500
SWC	1934	5000	2009 Elm River Snagging & Clearing Project Trial	12/5/2008	3,266	0	3,266
SWC	1941	5000	Walsh County Assessment Drain 4A Construction	9/21/2009	81,594	0	81,594
SWC	1942	5000	Walsh County Assessment Drain 10, 10-1, 10-2	9/21/2009	273,056	0	273,056
SE	1943	5000	2009-11 Missouri River/Oahe Delta Flood Hazard Mitigation Evaluation Project	8/10/2009	12,000	0	12,000
SWC	1948	5000	2008 Cass Co. Drain No. 67 Construction Project	3/25/2008	334,250	180,100	154,150
SWC	1950	5000	2008 Cypress Creek Drain No. 2 Construction	6/23/2008	22,400	0	22,400
SWC	1951	5000	2007-09 Lynchburg-Buffero Drain Improvement	8/31/2009	1,000,000	11,474	988,526
SWC	1953	5000	2009-11 Walsh County Drain No. 73 Construction Project	8/18/2009	96,990	0	96,990
SWC	1960	5000	2009-11 Puppy Dog Flood Control Drain Construction	8/18/2009	796,976	0	796,976
SE	1961	5000	2009-11 Pembina County Drain No. 69 Extension Construction Project	8/10/2009	7,793	0	7,793
SWC	1964	5000	2009-11 Hydraulic Effects of Rock Wedges Study- UND	11/12/2009	50,000	0	50,000
SWC	1965	5000	2009-11 ND Silver Jackets Team Charter & Action Plan	11/12/2009	75,000	0	75,000
SWC	1131*	5000	Nelson County Central-Hamlin Rural Flood	9/17/2009	47,020	0	47,020
SWC	1027**	5000	Mahoning Spillway Rural Flood Assessment	8/30/2005	311,696	0	311,696

STATE WATER COMMISSION
 PROJECTS/GRANTS/CONTRACT FUND
 2009-2011 Biennium
 Resources Trust Fund

GENERAL PROJECT OBLIGATIONS

Approved SWC			Initial	Total	Total	Oct-09
By	No	Dept	Approved Date	Approved	Payments	Balance
SWC	AOC/RRB 5000	2009-11 Red River Basin Commission Contractor	7/11/2009	200,000	0	200,000
SWC	AOC/WEF 5000	2009-11 North Dakota Water Magazine	7/20/2009	36,000	0	36,000
SWC	CON/WILI 5000	2009-11 Will & Carlson Consulting Contract	8/24/2009	70,000	5,493	64,507
SE	PS/WRD/1 5000	Missouri River Joint Water Board, Start up	12/5/2008	14,829	0	14,829
SE	PS/WRD/1 5000	Missouri River Joint Water Board (MRRIC) T. FLECK	12/5/2008	6,390	3,650	2,740
SE	PS/WRD/1 5000	2009-11 Upper Shyenne River WRB Administration	7/10/2009	12,000	500	11,500
TOTAL				12,926,831	1,159,322	11,767,509

STATE WATER COMMISSION
 PROJECTS/GRANTS/CONTRACT FUND
 2009-2011 Biennium
 Resources Trust Fund

COMPLETED GENERAL PROJECTS

Approved By	SWC No	Dept		Initial Approved Date	Total Approved	Total Payments	Oct-09 Balance
SE	450	5000	2007-09 Sykeston Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,839	1
SWC	568	5000	2009 Sheyenne River Snagging & Clearing Project	12/5/2008	135,000	75,085	59,915
SE	671	5000	2007-09 Harvey Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,837	3
SWC	1084	5000	2008 Cass Co. Drain No. 32 Partial Improvement Recon	3/17/2008	68,538	13,150	55,388
SWC	1238	5000	2009-11 Traill County Drain No. 19 Legal/Ext Outlet	8/18/2009	46,187	46,187	0
SWC	1334	5000	Traill County Drain No. 38 Reconstruction	6/30/2009	57,631	0	57,631
SE	1921	5000	2009 Square Butte Dam No. 6/Emergency Action Plan	3/9/2009	16,000	11,040	4,960
SWC	1936	5000	Nash Drain Extension Construction Proj	10/12/2006	19,913	14,399	5,514
SWC	1947	5000	Cass County Drain No. 62, Maple River WRD	4/30/2008	39,787	3,687	36,100

TOTAL

398,736

179,224

219,512

NORTHWEST AREA WATER SUPPLY PROJECT
WATER SERVICE CONTRACT

Contract No: 237-4-6
Water User Entity: City of Mohall

TABLE OF CONTENTS

1. PARTIES
2. INTRODUCTION
3. DEFINITIONS
4. TERM OF CONTRACT
 - 4.1 Effective Date
 - 4.2 Renewal
5. TERMINATION
 - 5.1 Termination by Not Constructing
 - 5.2 Termination by Change of Circumstances
 - 5.3 Termination by Mutual Consent
 - 5.4 Termination for Default
6. WATER SERVICE: DELIVERY OF WATER
 - 6.1 Quality of Water
 - 6.2 Quantity of Water and Flow Rate
 - 6.3 Point of Delivery
 - 6.4 Additional Water
 - 6.5 Water Shortages
 - 6.6 Curtailment of Delivery for Maintenance Purposes
 - 6.7 Measurement of Water
 - 6.8 Responsibility for Distribution and Use of Water
7. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER
 - 7.1 Notice of First Delivery of Water and Beginning of Water Service Payments
 - 7.2 Payment for Water Service
 - 7.3 Minimum Annual Water Purchase: Minimum Payments for Water
 - 7.4 Payment for Operation, Maintenance, and Replacement
 - 7.5 Payment for Capital Costs
 - 7.6 Billing Procedure
 - 7.7 When Payments are Due

- 7.8 Delinquent Payments and Default: Suspension of Water Service
- 7.9 Penalty for Late Payment
- 7.10 Refusal of Water
- 7.11 Payments Dedicated to the Project

8. GENERAL PROVISIONS

- 8.1 Rules and Regulations
- 8.2 Access to and Inspection of Books and Records
- 8.3 Remedies not Exclusive
- 8.4 Amendments
- 8.5 Waiver of Rights
- 8.6 Notices
- 8.7 Assignment

9. ADJUSTMENT OF DESIGN

10. EXPANSION OF PROJECT

11. MERGER CLAUSE

1. PARTIES

This contract is by and between the North Dakota State Water Commission (the "Commission"), and the City of Mohall (the "User").

2. INTRODUCTION

2.1 The North Dakota Legislative Assembly of 1991 (1991 N.D. Sess. Laws ch 704, §1 through §5; codified at N.D.C.C. § 61-24.6), provided that the Commission was to develop a pipeline transmission and delivery system to deliver water supplies from the Missouri River and other sources to areas and localities in northwestern North Dakota for multiple purposes, including domestic, rural water districts, and municipal users. This water pipeline and delivery system is known as the Northwest Area Water Supply Project.

2.2 As of July 1994, the Commission has developed the prefinal design for the Northwest Area Water Supply Project. Forty-one communities and nine rural water associations in northwestern North Dakota have signed agreements of intent with the Commission for the purpose of inclusion in the design of the project.

2.3 The Commission, pursuant to N.D.C.C. ch. 61-02 and N.D.C.C. § 61-24.6, may enter into water service contracts for the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.

2.4 The User enters into this water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Northwest Area Water Supply Project for use by the User. The User will make payment to the Commission at the rates and pursuant to the terms and conditions set forth in this contract for this water service. The user has authority to enter into this agreement pursuant to its home rule charter and implementing ordinance.

NOW THEREFORE, in consideration of the mutual covenants contained in this contract, it is mutually agreed by and between the parties to this contract as follows:

3. DEFINITIONS

3.1 "Additional water" means water purchased by the User in addition to its minimum annual water purchase.

3.2 "Capital costs" means all costs incurred by the Commission which are properly chargeable, in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, costs of issuance and financing in connection with any bonds issued to finance the project, and essential legal,

administrative and financial work in connection therewith. Not included in capital costs are engineering costs incurred to date in connection with the Project.

3.3 "Estimated water rate for OM&R" means the estimated rate per each one thousand (1,000) gallons of water for the operation and maintenance of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Commission estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand gallon units of water which the Commission estimates it will sell to water user entities during the same year, plus an amount as determined in section 7.4.2.

3.4 "Maximum flow rate" means the maximum number of gallons of water which may be delivered through the Project by the Commission to a water user entity during anyone minute time period.

3.5 "Minimum annual water purchase" means the minimum percentage of total annual water usage, which a water user entity agrees to purchase and pay for during a year. The minimum percentage for which an agreement will be offered to a User is fifty-one percent (51%).

3.6 "Operation, maintenance, and replacement costs, hereafter sometimes referred to as OM&R costs means all operation costs incurred by the Commission, including all energy costs incurred by the Commission for pumping water through the Project, for the treatment of water, for the maintenance and administration of the Project, and for any amounts that the Commission determines are necessary to establish reserve funds to meet anticipated replacement costs and extraordinary maintenance of Project works as determined in section 7.4.2.

3.7 "Project" means the water supply and distribution system shown on the map marked "Exhibit 1" which is attached hereto and incorporated by reference into this contract.

3.8 "Qualifying water supply facilities" means water supply facilities determined by the Commission to qualify for a credit against the User's payments for water and capital costs. Qualifying water supply facilities shall include such things as surface water reservoirs, wells, raw water pumps, water transmission pipelines from the source to the distribution system, water treatment plants, and pipelines and controls necessary to connect the User's system to the delivery point for Project water.

3.9 "Unallocated capacity" means the capacity of the pipeline which is not allocated nor contractually committed to individual water user entities by virtue of water service contracts.

3.10 "Water rate for capital costs" means the rate per each 1,000 gallons of water to be paid by water user entities for capital costs of the Project.

3.11 "Water usage" means all water used by a User except for (a) non-potable water and (b) surface water, well water, or aquifer water, which surface water, well water, or aquifer water is not distributed through the same system as is water purchased under this contract.

3.12 "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Commission for the purchase of water from the Project.

3.13 "Water system" means a discrete assemblage of intakes, treatment facilities, transmission pipelines, storage facilities, and related items. The Northwest Area Water Supply Project is proposed to have three "water systems," the East system, West system, and Parshall system, each separate from the others.

3.14 "Year" means the period from January 1 through December 31, both dates inclusive.

4. TERM OF CONTRACT

4.1 Effective Date.

This contract shall remain in effect for forty (40) years after the date of the first water delivery to the User, unless terminated sooner by mutual agreement of the parties.

4.2 Renewal.

Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years each.

5. TERMINATION

5.1 Termination by not Constructing.

If any segment of the Project is not constructed for whatever reason, even though authorized, thereby preventing delivery of water to the User, the Commission and the User shall be relieved of all obligations under this contract.

5.2 Termination by Change of Circumstances.

The Commission may terminate this contract effective upon delivery of written notice to the User, or at such later date as may be established by the Commission, under any of the following conditions:

5.2.1 If Commission funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for water delivery to the User pursuant to this contract. The contract may be modified to accommodate a reduction in funds by mutual consent of the User and the Commission.

5.2.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the water delivery is no longer allowable nor appropriate for purchase under this contract or is no longer eligible for funding proposed by this contract.

5.2.3 If any license or certificate required by law or regulation to be held by the User to participate in this contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

5.3 Termination by Mutual Consent.

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

5.4 Termination for Default.

The Commission, by written notice of default (including breach of contract) to the User, may terminate the whole or any part of this agreement:

5.4.1 If the User fails to make payment as called for by this contract within the time specified herein or any extension thereof; or

5.4.2 If the User fails to perform any of the other provisions of this contract, or so fails to pursue a provision of this contract as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Commission fails to correct such failures within ten days or such longer period as the Commission may authorize.

The rights and remedies of the Commission provided in the above clause related to defaults (including breach of contract) by the User shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6. WATER SERVICE: DELIVERY OF WATER

The Commission and the User agree that water will be delivered to the User in accordance with the following terms and provisions:

6.1 Quality of Water.

All water delivered to the User pursuant to this contract, or any renewal, extension, or modification thereof, shall be potable treated water which meets applicable water quality standards of the North Dakota Department of Health.

6.2 Quantity of Water and Flow Rate

6.2.1 Minimum annual water purchase. **The User hereby agrees to a minimum annual water purchase and payment for not less than 66,000 gallons per day** during the entire term of this contract.

6.2.2 Maximum flow rate. The maximum flow rate to be provided by the Commission to the User shall not exceed 223 gallons per minute.

6.3 Point of Deliver .

The Commission will furnish water to the User at **the metering point of the Mohall master meter, NW1/4 of S19, T161N, R83W near the Mohall water treatment plant** hereafter referred to as the point of delivery.

6.4 Additional Water

To the extent allowed by its other contractual obligations, and subject to the limitations stated hereafter, the Commission may, at its sole discretion, deliver to the User any additional water which the User desires to purchase.

6.5 Water Shortages.

6.5.1 No liability for shortages. No liability shall accrue, and the User agrees to indemnify and hold harmless, the Commission, or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from any water shortages or other interruptions in water deliveries, whether or not attributable to the Commission's negligence or any other cause. The User's duties under this contract shall not be reduced or altered by reason of such shortages or interruptions.

6.5.2 Proportional sharing of water shortage.

The Commission shall have the right during times of water shortage from any cause to allocate and distribute the available water supply to water

user entities on the affected water system on a proportionate basis with respect to the proportion that the annual water purchase of each water user entity for the prior calendar year bears to the total annual water purchase of all water service entities on the affected water system for the prior calendar year.

6.6 Curtailment of Delivery for Maintenance Purposes.

The Commission may temporarily discontinue or reduce the amount of water to be furnished to the User for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the facilities and works necessary for the furnishing of water to the User. To the extent possible, the Commission will give to the User reasonable notice in advance of any such temporary discontinuance or reduction. No advance notice will be required to be given in the case of an emergency. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

6.7 Measurement of Water.

The Commission shall furnish, install, operate, and maintain, at its own expense, at the point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the User. The Commission shall calibrate the metering equipment at least every other year unless the User is otherwise notified in writing.

6.7.1 Access.

The Commission and the User shall have access to the metering equipment belonging to the Commission or the User at all reasonable times for the purpose of verifying readings of both project water deliveries and total water usage. Access includes all reasonable means of access including any necessary easement. In addition, the Commission will have the same access to the point of delivery to the User's distribution system.

6.7.2 Dispute over measurement of water.

If the User believes the measurement of water delivered to the User to be in error the Commission will cause the meter to be calibrated. The User shall pay for the cost of the calibration. However, if the meter is found to over register by more than two percent (2%) of the correct volume, the User's payment for the cost of calibration will be refunded to the User.

6.7.3 Claim of error after a payment is delinquent.

A claim of error presented after a payment has become delinquent shall not prevent discontinuance of service or civil action as provided in this contract. The User agrees to continue to make payments for water service after a claim of error has been presented, however, it may do so under protest, and such payments will not prejudice the User's claim of error.

6.7.4 Correction of meter readings.

If the calibration of any meter establishes that the previous readings of such meter over-registered by more than two percent (2%) the correct volume of water delivered to the User, the meter readings for that meter shall be corrected to the beginning of the year current to the calibration by the percentage of inaccuracy found in such tests. The amount of any overpayment by the User because the meter over-registered the amount of water delivered to the User, for the period of time for which the correction is applied, shall be applied first to any delinquent payments for water service, and any remaining amounts shall, at the option of the User, be refunded to the User or credited upon future payments for water service by the User in the ensuing years.

6.7.5 Failure of meter.

If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Commission and the User shall agree upon a different amount.

6.8 Responsibility for Distribution and Use of Water.

The User shall be responsible for the control, distribution, and use of all water delivered to the User by the Commission under this contract, beyond the point of delivery, and all services, maintenance, and repair of the User's distribution system.

The User shall hold the Commission, its officers, agents, employees and successors, and assigns harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, distribution, and use of water delivered under this contract, and the operation, maintenance, and replacement of the User's distribution system. The User's distribution system includes all works extending from the point of delivery of water to the User.

7. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER SERVICE

The User agrees to make payments for water service in accordance with the following terms and conditions:

7.1 Notice of First Delivery of Water and Beginning of Water Service Payments.

Ninety (90) days prior to completion of the Project to the point of delivery to the User, the Commission shall notify the User, in writing, by certified mail, the date when water will be first available to the User. The User will make payment for water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the User, whichever is later in time.

7.2 Payment for Water Service.

The User's water service payment for each month shall equal the sum of the following:

7.2.1 The User's proportionate share of the OM&R costs; plus

7.2.2 The User's payment for capital costs.

7.3 Minimum Annual Water Purchase: Minimum Payment for Water.

The User will make payment for the minimum annual water purchase specified in this contract in accordance with the rates and terms for payment of water specified in this contract, regardless of whether or not the User actually takes delivery on a lesser amount.

7.4 Payment for Operation and Maintenance.

The User will make monthly payments to the Commission for its share of the OM&R costs for the Project. The payment will be determined by the Commission and based upon actual and forecasted OM&R costs and may be adjusted annually. The amount of the monthly payment will be determined as follows:

7.4.1 OM&R budget

Prior to December 1 of each year, the Commission shall establish and adopt a budget for OM&R for the Project for the next ensuing year. The Commission will then estimate the total annual water sales for the next ensuing year, and calculate the "estimated water rate for OM&R" for the Project. At the end of each year, the Commission shall prepare a statement of the actual cost for OM&R for that same year. If the actual cost exceeds the budget, an appropriate increase in User payments shall be made during

the ensuing year. If the actual cost is less than the budget, an appropriate reduction will be made in the ensuing year's User payments.

7.4.2 Reserve fund.

The Commission shall have the authority to include in the OM&R budget for each year an amount per thousand gallons to be accumulated and maintained in a reserve fund for the purpose of replacement and for extraordinary maintenance of project works. The amount shall be calculated to generate 10% of the Project costs within 15 years, but accumulation and maintenance of the fund shall extend beyond 15 years.

7.4.3 Monthly payment.

The User's monthly payment for OM&R shall be determined by multiplying the amount of water actually delivered to the User for each month by the "estimated water rate for OM&R."

7.4.4 Adjustment for underuse

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for OM&R" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5 Payment for Capital Costs.

The User will pay to the Commission a water rate for costs of the Project.

7.5.1 Base water rate for capital costs.

The base water rate for capital costs shall be **\$0.00** per each one thousand (1,000) gallon of water. This rate is based upon the December 1994, cost estimate of the project and is also based upon the assumption that the User and other purchasers will be financing collectively **35%** of the total cost of the Project **and the assumption that the City of Minot continues to share in the cost of the Project.**

7.5.2 Adjustment of the water rate for capital costs.

The Commission shall have the authority to adjust the water rate for capital costs annually in accordance with the increase or decrease in total capital costs of the project. The total capital costs of the project shall be those attributable to the present scope of the project as of the execution of this contract, unless the scope is altered by mutual consent pursuant to the

next paragraph. Costs for items which essentially are replacements for existing improvements shall not be considered capital costs.

When such total capital cost obligations of the project are met, payments for capital costs will cease. All interest earned by sinking fund deposits shall be credited to this computation and all amounts collected for reserves for debt shall also be taken into consideration in determining when capital cost obligations have been met.

The Commission shall also have the authority to adjust the water rate if the project is redesigned as specified in section 9 of this contract. The User and the Commission must mutually agree to any change of water rate for capital costs resulting from a redesign or to any change of the water rate for capital costs resulting from a change in the percentage of the total cost

7.5.3 Adjustment for underuse.

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for capital costs" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5.4 Credit for qualifying water supply facility debt service cost.

A credit for debt service costs of the User's qualifying water supply facilities shall be applied to the monthly water payment for capital costs, upon approval by the Commission. The amount of such monthly credit shall be determined by dividing seventy-five percent (75%) of the total annual debt service cost for "qualifying water supply facilities in the immediate ensuing year by twelve (12). However, in no event shall any credit exceed the total monthly water payment for capital costs, nor can any credit be transferred or assigned to any other water user entity. In order to receive a credit as provided herein, the User must submit a request for credit, with supporting documentation, to the Commission, no later than December 1 of the year preceding each year in which a credit is to be applied. The Commission will terminate all credits ten (10) years after first delivery of water to the User.

7.6 Billing Procedure.

The Commission will furnish to the User, at the address shown on the signature page of this contract, not later than **the fifteenth day** of each month, an itemized statement of the payment due from the User for water service for the preceding month. The metering equipment at the point of delivery to the User shall be read monthly by the Commission.

7.7 When Payments Are Due.

All payments for water service shall be made no later than 30 days following receipt of the statement from the Commission. Payments not made by such date shall be considered delinquent and in default.

7.8 Delinquent Payments and Default: Suspension of Water Service.

The User shall cause to be levied and collected all necessary taxes, assessments, and water charges, and will use all of the authority and resources available to it to pursuant to this contract on or before the date such payments become due.

In the event of any default by the User in making payments as required under this contract, the Commission, in its discretion, may suspend delivery of water to the User through the Project during the time when the User is in default, or bring a civil action against the User in a North Dakota state district court.

During any period when the User is in default, the User shall remain obligated to make all payments required under this contract. Any action of the Commission pursuant to this section shall not limit or waive any remedy provided by the contract or by law for the recovery of money due or which may become due under this contract.

7.9 Penalty for Late Payment.

Every payment required to be paid by the User to the Commission under this contract, which is unpaid after its due date shall be imposed a penalty of one percent (1%) per month of the amount of such delinquent payment from and after the date when the same becomes due and payable, provided that no penalty shall be chargeable against any adjustment made pursuant to section 6.7 of this contract.

7.10 Refusal of Water.

The User's failure or refusal to accept delivery of water to which it is entitled under this contract shall in no way relieve the User's obligation to make payments to the Commission as provided in this contract.

7.11 Payments Dedicated to the Project.

All payments collected by the Commission pursuant to the provisions above and the earnings thereon shall be held in a special fund and dedicated to the construction, operation, and maintenance of the Project in accordance with the laws of the State of North Dakota.

8. GENERAL PROVISIONS

8.1. Rules and Regulations.

The Commission will have the authority to develop and adopt such rules and regulations as the Commission may deem proper and necessary to carry out this contract and to govern the administration of this contract. The User agrees to comply with all rules and regulations promulgated by the Commission.

8.2 Access to and Inspection of Books and Records.

Each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

8.3 Remedies not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

8.4 Amendments.

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law, but such amendments will not be binding or effective unless made in writing or executed by the parties.

8.5 Waiver of Rights.

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

8.6 Notices.

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

8.7 Assignment.

The provisions of this contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract, or any part

hereof or interest herein, shall be valid until and unless approved by the non-assigning party. The Commission may delegate the operation and maintenance of the Project, but shall retain the obligation to establish water rates and annual budgets.

9. ADJUSTMENT OF DESIGN

The Commission reserves the right to redesign the Project.

10. MERGER CLAUSE

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing, signed by the parties, and attached herein. Such waiver, consent, modification, or change, if made, shall be effective only in a specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue

Bismarck, ND 58505

By: Dale L Frink

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this day of December 11, 2009

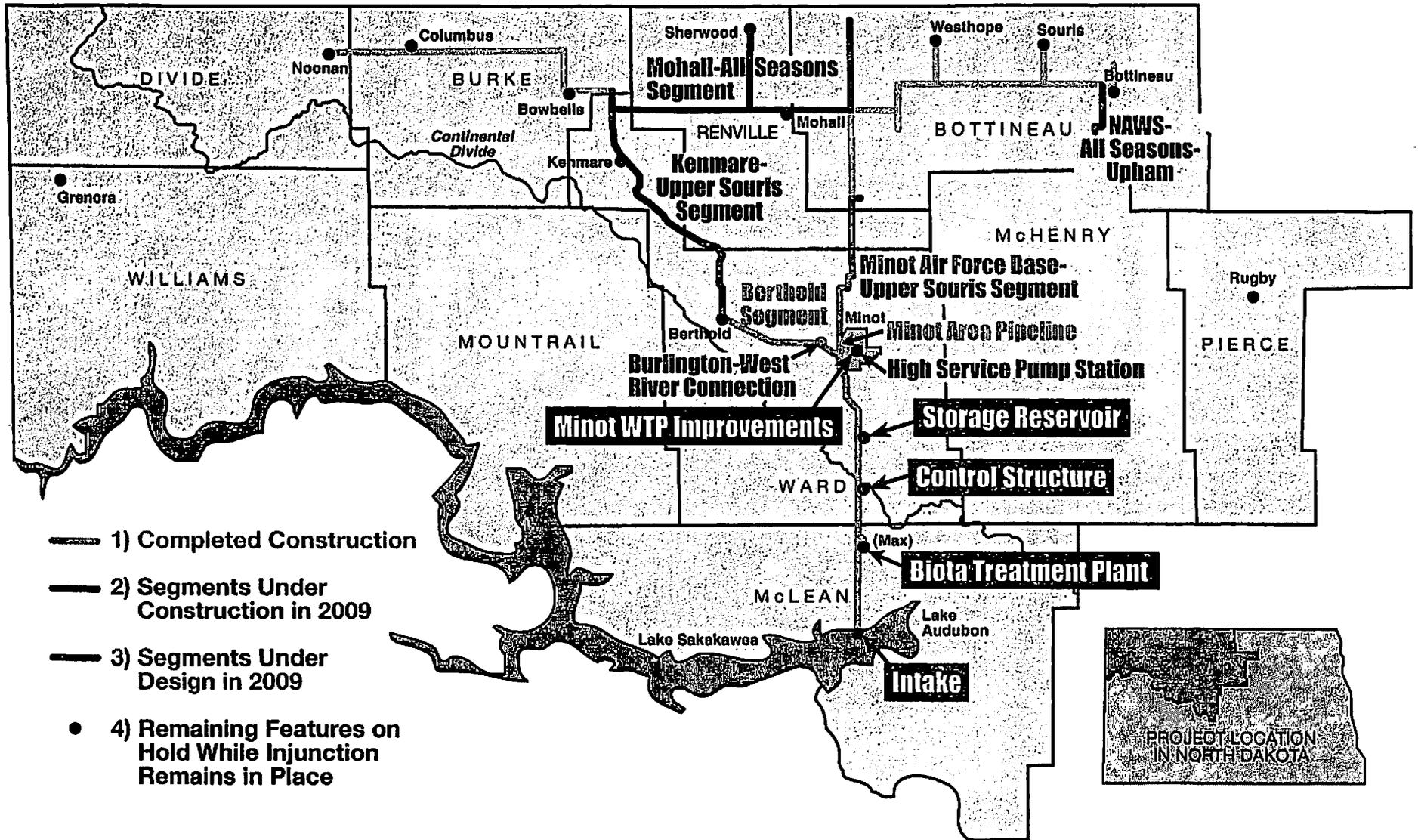
Dale L Frink
Secretary and State Engineer

USER:
By: Bonnie Locken

Title: Mayor

Date: 9-14-09

Exhibit A Northwest Area Water Supply



- 1) Completed Construction
- 2) Segments Under Construction in 2009
- 3) Segments Under Design in 2009
- 4) Remaining Features on Hold While Injunction Remains in Place



Amendment 1 to Contract 237-4-6

This amends Contract 237-4-6, Northwest Area Water Supply (NAWS) Project Water Service Contract, between the State of North Dakota, acting through the State Water Commission (Commission) and the City of Mohall (City). This amendment allows for an interim period during which Commission will provide water service to City from water supplied by Minot rather than from water supplied by Lake Sakakawea.

The term of this amendment shall begin when both parties have executed this amendment and shall end when Commission sends written notice to City that water supply from Lake Sakakawea is operational.

During the term of this amendment, Sections 6.2 (Quantity of Water and Flow Rate), 6.3 (Point of Delivery), 7.1 (Notice of First Delivery of Water and Beginning of Water Service Payments), and 7.3 (Minimum Annual Water Purchase: Minimum Payment for Water) of Contract 237-4-6 are void and shall have no legal force or binding effect and the following terms shall apply:

1. City's estimated usage is 92,000 gallons per day.
2. Water supply to City shall be delivered to the NAWS-Mohall turnout and shall be metered and billed at this turnout.
3. Water moved through the NAWS system and delivered to City turnout will be charged according to Section 7.4 of Contract 237-4-6.
4. For 2010, Commission set the rate at \$2.20/1000 gallons. The four parts of this rate include Capital Costs at \$0.00/1000 gallons, Supply and Treatment at \$1.14/1000 gallons, Reserve for Replacement and Extraordinary Maintenance (REM) at \$0.15/1000 gallons, and Operation and Maintenance at \$0.91/1000 gallons.
5. For years after 2010, each September Commission will establish a rate that will be effective on January 1st of the following year.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue

Bismarck, ND 58505

By: Dele L. Frick

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this 11th, day of December, 2009.

Dele L. Frick
Secretary and State Engineer

CITY OF MOHALL

By: Bonnie Locken

Title: Mayor

Date: 9-14-09

NORTHWEST AREA WATER SUPPLY PROJECT
WATER SERVICE CONTRACT

Contract No: 237-4-7

Water User Entity: City of Sherwood

TABLE OF CONTENTS

1. PARTIES
2. INTRODUCTION
3. DEFINITIONS
4. TERM OF CONTRACT
 - 4.1 Effective Date
 - 4.2 Renewal
5. TERMINATION
 - 5.1 Termination by Not Constructing
 - 5.2 Termination by Change of Circumstances
 - 5.3 Termination by Mutual Consent
 - 5.4 Termination for Default
6. WATER SERVICE: DELIVERY OF WATER
 - 6.1 Quality of Water
 - 6.2 Quantity of Water and Flow Rate
 - 6.3 Point of Delivery
 - 6.4 Additional Water
 - 6.5 Water Shortages
 - 6.6 Curtailment of Delivery for Maintenance Purposes
 - 6.7 Measurement of Water
 - 6.8 Responsibility for Distribution and Use of Water
7. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER
 - 7.1 Notice of First Delivery of Water and Beginning of Water Service Payments
 - 7.2 Payment for Water Service
 - 7.3 Minimum Annual Water Purchase: Minimum Payments for Water
 - 7.4 Payment for Operation, Maintenance, and Replacement
 - 7.5 Payment for Capital Costs
 - 7.6 Billing Procedure
 - 7.7 When Payments are Due

- 7.8 Delinquent Payments and Default: Suspension of Water Service
- 7.9 Penalty for Late Payment
- 7.10 Refusal of Water
- 7.11 Payments Dedicated to the Project

8. GENERAL PROVISIONS

- 8.1 Rules and Regulations
- 8.2 Access to and Inspection of Books and Records
- 8.3 Remedies not Exclusive
- 8.4 Amendments
- 8.5 Waiver of Rights
- 8.6 Notices
- 8.7 Assignment

9. ADJUSTMENT OF DESIGN

10. EXPANSION OF PROJECT

11. MERGER CLAUSE

1. PARTIES

This contract is by and between the North Dakota State Water Commission (the "Commission"), and the City of Sherwood (the "User").

2. INTRODUCTION

2.1 The North Dakota Legislative Assembly of 1991 (1991 N.D. Sess. Laws ch 704, §1 through §5; codified at N.D.C.C. § 61-24.6), provided that the Commission was to develop a pipeline transmission and delivery system to deliver water supplies from the Missouri River and other sources to areas and localities in northwestern North Dakota for multiple purposes, including domestic, rural water districts, and municipal users. This water pipeline and delivery system is known as the Northwest Area Water Supply Project.

2.2 As of July 1994, the Commission has developed the prefinal design for the Northwest Area Water Supply Project. Forty-one communities and nine rural water associations in northwestern North Dakota have signed agreements of intent with the Commission for the purpose of inclusion in the design of the project.

2.3 The Commission, pursuant to N.D.C.C. ch. 61-02 and N.D.C.C. § 61-24.6, may enter into water service contracts for the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.

2.4 The User enters into this water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Northwest Area Water Supply Project for use by the User. The User will make payment to the Commission at the rates and pursuant to the terms and conditions set forth in this contract for this water service. The user has authority to enter into this agreement pursuant to its home rule charter and implementing ordinance.

NOW THEREFORE, in consideration of the mutual covenants contained in this contract, it is mutually agreed by and between the parties to this contract as follows:

3. DEFINITIONS

3.1 "Additional water" means water purchased by the User in addition to its minimum annual water purchase.

3.2 "Capital costs" means all costs incurred by the Commission which are properly chargeable, in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, costs of issuance and financing in connection with any bonds issued to finance the project, and essential legal,

administrative and financial work in connection therewith. Not included in capital costs are engineering costs incurred to date in connection with the Project.

3.3 "Estimated water rate for OM&R" means the estimated rate per each one thousand (1,000) gallons of water for the operation and maintenance of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Commission estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand gallon units of water which the Commission estimates it will sell to water user entities during the same year, plus an amount as determined in section 7.4.2.

3.4 "Maximum flow rate" means the maximum number of gallons of water which may be delivered through the Project by the Commission to a water user entity during anyone minute time period.

3.5 "Minimum annual water purchase" means the minimum percentage of total annual water usage, which a water user entity agrees to purchase and pay for during a year. The minimum percentage for which an agreement will be offered to a User is fifty-one percent (51%).

3.6 "Operation, maintenance, and replacement costs, hereafter sometimes referred to as OM&R costs means all operation costs incurred by the Commission, including all energy costs incurred by the Commission for pumping water through the Project, for the treatment of water, for the maintenance and administration of the Project, and for any amounts that the Commission determines are necessary to establish reserve funds to meet anticipated replacement costs and extraordinary maintenance of Project works as determined in section 7.4.2.

3.7 "Project" means the water supply and distribution system shown on the map marked "Exhibit 1" which is attached hereto and incorporated by reference into this contract.

3.8 "Qualifying water supply facilities" means water supply facilities determined by the Commission to qualify for a credit against the User's payments for water and capital costs. Qualifying water supply facilities shall include such things as surface water reservoirs, wells, raw water pumps, water transmission pipelines from the source to the distribution system, water treatment plants, and pipelines and controls necessary to connect the User's system to the delivery point for Project water.

3.9 "Unallocated capacity" means the capacity of the pipeline which is not allocated nor contractually committed to individual water user entities by virtue of water service contracts.

3.10 "Water rate for capital costs" means the rate per each 1,000 gallons of water to be paid by water user entities for capital costs of the Project.

3.11 "Water usage" means all water used by a User except for (a) non-potable water and (b) surface water, well water, or aquifer water, which surface water, well water, or aquifer water is not distributed through the same system as is water purchased under this contract.

3.12 "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Commission for the purchase of water from the Project.

3.13 "Water system" means a discrete assemblage of intakes, treatment facilities, transmission pipelines, storage facilities, and related items. The Northwest Area Water Supply Project is proposed to have three "water systems," the East system, West system, and Parshall system, each separate from the others.

3.14 "Year" means the period from January 1 through December 31, both dates inclusive.

4. TERM OF CONTRACT

4.1 Effective Date.

This contract shall remain in effect for forty (40) years after the date of the first water delivery to the User, unless terminated sooner by mutual agreement of the parties.

4.2 Renewal.

Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years each.

5. TERMINATION

5.1 Termination by not Constructing.

If any segment of the Project is not constructed for whatever reason, even though authorized, thereby preventing delivery of water to the User, the Commission and the User shall be relieved of all obligations under this contract.

5.2 Termination by Change of Circumstances.

The Commission may terminate this contract effective upon delivery of written notice to the User, or at such later date as may be established by the Commission, under any of the following conditions:

5.2.1 If Commission funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for water delivery to the User pursuant to this contract. The contract may be modified to accommodate a reduction in funds by mutual consent of the User and the Commission.

5.2.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the water delivery is no longer allowable nor appropriate for purchase under this contract or is no longer eligible for funding proposed by this contract.

5.2.3 If any license or certificate required by law or regulation to be held by the User to participate in this contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

5.3 Termination by Mutual Consent.

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

5.4 Termination for Default.

The Commission, by written notice of default (including breach of contract) to the User, may terminate the whole or any part of this agreement:

5.4.1 If the User fails to make payment as called for by this contract within the time specified herein or any extension thereof; or

5.4.2 If the User fails to perform any of the other provisions of this contract, or so fails to pursue a provision of this contract as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Commission fails to correct such failures within ten days or such longer period as the Commission may authorize.

The rights and remedies of the Commission provided in the above clause related to defaults (including breach of contract) by the User shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6. WATER SERVICE: DELIVERY OF WATER

The Commission and the User agree that water will be delivered to the User in accordance with the following terms and provisions:

6.1 Quality of Water.

All water delivered to the User pursuant to this contract, or any renewal, extension, or modification thereof, shall be potable treated water which meets applicable water quality standards of the North Dakota Department of Health.

6.2 Quantity of Water and Flow Rate

6.2.1 Minimum annual water purchase. The User hereby agrees to a minimum annual water purchase and payment for not less than 13,000 gallons per day during the entire term of this contract.

6.2.2 Maximum flow rate. The maximum flow rate to be provided by the Commission to the User shall not exceed 45 gallons per minute.

6.3 Point of Delivery.

The Commission will furnish water to the User at the metering point of the Sherwood master meter, NE1/4 of S12, T163N, R85W near the Sherwood water tower hereafter referred to as the point of delivery.

6.4 Additional Water

To the extent allowed by its other contractual obligations, and subject to the limitations stated hereafter, the Commission may, at its sole discretion, deliver to the User any additional water which the User desires to purchase.

6.5 Water Shortages.

6.5.1 No liability for shortages. No liability shall accrue, and the User agrees to indemnify and hold harmless, the Commission, or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from any water shortages or other interruptions in water deliveries, whether or not attributable to the Commission's negligence or any other cause. The User's duties under this contract shall not be reduced or altered by reason of such shortages or interruptions.

6.5.2 Proportional sharing of water shortage.

The Commission shall have the right during times of water shortage from any cause to allocate and distribute the available water supply to water

user entities on the affected water system on a proportionate basis with respect to the proportion that the annual water purchase of each water user entity for the prior calendar year bears to the total annual water purchase of all water service entities on the affected water system for the prior calendar year.

6.6 Curtailment of Delivery for Maintenance Purposes.

The Commission may temporarily discontinue or reduce the amount of water to be furnished to the User for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the facilities and works necessary for the furnishing of water to the User. To the extent possible, the Commission will give to the User reasonable notice in advance of any such temporary discontinuance or reduction. No advance notice will be required to be given in the case of an emergency. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

6.7 Measurement of Water.

The Commission shall furnish, install, operate, and maintain, at its own expense, at the point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the User. The Commission shall calibrate the metering equipment at least every other year unless the User is otherwise notified in writing.

6.7.1 Access.

The Commission and the User shall have access to the metering equipment belonging to the Commission or the User at all reasonable times for the purpose of verifying readings of both project water deliveries and total water usage. Access includes all reasonable means of access including any necessary easement. In addition, the Commission will have the same access to the point of delivery to the User's distribution system.

6.7.2 Dispute over measurement of water.

If the User believes the measurement of water delivered to the User to be in error the Commission will cause the meter to be calibrated. The User shall pay for the cost of the calibration. However, if the meter is found to over register by more than two percent (2%) of the correct volume, the User's payment for the cost of calibration will be refunded to the User.

6.7.3 Claim of error after a payment is delinquent.

A claim of error presented after a payment has become delinquent shall not prevent discontinuance of service or civil action as provided in this contract. The User agrees to continue to make payments for water service after a claim of error has been presented, however, it may do so under protest, and such payments will not prejudice the User's claim of error.

6.7.4 Correction of meter readings.

If the calibration of any meter establishes that the previous readings of such meter over-registered by more than two percent (2%) the correct volume of water delivered to the User, the meter readings for that meter shall be corrected to the beginning of the year current to the calibration by the percentage of inaccuracy found in such tests. The amount of any overpayment by the User because the meter over-registered the amount of water delivered to the User, for the period of time for which the correction is applied, shall be applied first to any delinquent payments for water service, and any remaining amounts shall, at the option of the User, be refunded to the User or credited upon future payments for water service by the User in the ensuing years.

6.7.5 Failure of meter.

If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Commission and the User shall agree upon a different amount.

6.8 Responsibility for Distribution and Use of Water.

The User shall be responsible for the control, distribution, and use of all water delivered to the User by the Commission under this contract, beyond the point of delivery, and all services, maintenance, and repair of the User's distribution system.

The User shall hold the Commission, its officers, agents, employees and successors, and assigns harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, distribution, and use of water delivered under this contract, and the operation, maintenance, and replacement of the User's distribution system. The User's distribution system includes all works extending from the point of delivery of water to the User.

7. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER SERVICE

The User agrees to make payments for water service in accordance with the following terms and conditions:

7.1 Notice of First Delivery of Water and Beginning of Water Service Payments.

Ninety (90) days prior to completion of the Project to the point of delivery to the User, the Commission shall notify the User, in writing, by certified mail, the date when water will be first available to the User. The User will make payment for water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the User, whichever is later in time.

7.2 Payment for Water Service.

The User's water service payment for each month shall equal the sum of the following:

7.2.1 The User's proportionate share of the OM&R costs; plus

7.2.2 The User's payment for capital costs.

7.3 Minimum Annual Water Purchase: Minimum Payment for Water.

The User will make payment for the minimum annual water purchase specified in this contract in accordance with the rates and terms for payment of water specified in this contract, regardless of whether or not the User actually takes delivery on a lesser amount.

7.4 Payment for Operation and Maintenance.

The User will make monthly payments to the Commission for its share of the OM&R costs for the Project. The payment will be determined by the Commission and based upon actual and forecasted OM&R costs and may be adjusted annually. The amount of the monthly payment will be determined as follows:

7.4.1 OM&R budget

Prior to December 1 of each year, the Commission shall establish and adopt a budget for OM&R for the Project for the next ensuing year. The Commission will then estimate the total annual water sales for the next ensuing year, and calculate the "estimated water rate for OM&R" for the Project. At the end of each year, the Commission shall prepare a statement of the actual cost for OM&R for that same year. If the actual cost exceeds the budget, an appropriate increase in User payments shall be made during

the ensuing year. If the actual cost is less than the budget, an appropriate reduction will be made in the ensuing year's User payments.

7.4.2 Reserve fund.

The Commission shall have the authority to include in the OM&R budget for each year an amount per thousand gallons to be accumulated and maintained in a reserve fund for the purpose of replacement and for extraordinary maintenance of project works. The amount shall be calculated to generate 10% of the Project costs within 15 years, but accumulation and maintenance of the fund shall extend beyond 15 years.

7.4.3 Monthly payment.

The User's monthly payment for OM&R shall be determined by multiplying the amount of water actually delivered to the User for each month by the "estimated water rate for OM&R."

7.4.4 Adjustment for underuse

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for OM&R" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5 Payment for Capital Costs.

The User will pay to the Commission a water rate for costs of the Project.

7.5.1 Base water rate for capital costs.

The base water rate for capital costs shall be \$0.00 per each one thousand (1,000) gallon of water. This rate is based upon the December 1994, cost estimate of the project and is also based upon the assumption that the User and other purchasers will be financing collectively 35% of the total cost of the Project and the assumption that the City of Minot continues to share in the cost of the Project.

7.5.2 Adjustment of the water rate for capital costs.

The Commission shall have the authority to adjust the water rate for capital costs annually in accordance with the increase or decrease in total capital costs of the project. The total capital costs of the project shall be those attributable to the present scope of the project as of the execution of this contract, unless the scope is altered by mutual consent pursuant to the

next paragraph. Costs for items which essentially are replacements for existing improvements shall not be considered capital costs.

When such total capital cost obligations of the project are met, payments for capital costs will cease. All interest earned by sinking fund deposits shall be credited to this computation and all amounts collected for reserves for debt shall also be taken into consideration in determining when capital cost obligations have been met.

The Commission shall also have the authority to adjust the water rate if the project is redesigned as specified in section 9 of this contract. The User and the Commission must mutually agree to any change of water rate for capital costs resulting from a redesign or to any change of the water rate for capital costs resulting from a change in the percentage of the total cost

7.5.3 Adjustment for underuse.

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for capital costs" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5.4 Credit for qualifying water supply facility debt service cost.

A credit for debt service costs of the User's qualifying water supply facilities shall be applied to the monthly water payment for capital costs, upon approval by the Commission. The amount of such monthly credit shall be determined by dividing seventy-five percent (75%) of the total annual debt service cost for "qualifying water supply facilities in the immediate ensuing year by twelve (12). However, in no event shall any credit exceed the total monthly water payment for capital costs, nor can any credit be transferred or assigned to any other water user entity. In order to receive a credit as provided herein, the User must submit a request for credit, with supporting documentation, to the Commission, no later than December 1 of the year preceding each year in which a credit is to be applied. The Commission will terminate all credits ten (10) years after first delivery of water to the User.

7.6 Billing Procedure.

The Commission will furnish to the User, at the address shown on the signature page of this contract, not later than **the fifteenth day** of each month, an itemized statement of the payment due from the User for water service for the preceding month. The metering equipment at the point of delivery to the User shall be read monthly by the Commission.

7.7 When Payments Are Due.

All payments for water service shall be made no later than 30 days following receipt of the statement from the Commission. Payments not made by such date shall be considered delinquent and in default.

7.8 Delinquent Payments and Default: Suspension of Water Service.

The User shall cause to be levied and collected all necessary taxes, assessments, and water charges, and will use all of the authority and resources available to it to pursuant to this contract on or before the date such payments become due.

In the event of any default by the User in making payments as required under this contract, the Commission, in its discretion, may suspend delivery of water to the User through the Project during the time when the User is in default, or bring a civil action against the User in a North Dakota state district court.

During any period when the User is in default, the User shall remain obligated to make all payments required under this contract. Any action of the Commission pursuant to this section shall not limit or waive any remedy provided by the contract or by law for the recovery of money due or which may become due under this contract.

7.9 Penalty for Late Payment.

Every payment required to be paid by the User to the Commission under this contract, which is unpaid after its due date shall be imposed a penalty of one percent (1%) per month of the amount of such delinquent payment from and after the date when the same becomes due and payable, provided that no penalty shall be chargeable against any adjustment made pursuant to section 6.7 of this contract.

7.10 Refusal of Water.

The User's failure or refusal to accept delivery of water to which it is entitled under this contract shall in no way relieve the User's obligation to make payments to the Commission as provided in this contract.

7.11 Payments Dedicated to the Project.

All payments collected by the Commission pursuant to the provisions above and the earnings thereon shall be held in a special fund and dedicated to the construction, operation, and maintenance of the Project in accordance with the laws of the State of North Dakota.

8. GENERAL PROVISIONS

8.1. Rules and Regulations.

The Commission will have the authority to develop and adopt such rules and regulations as the Commission may deem proper and necessary to carry out this contract and to govern the administration of this contract. The User agrees to comply with all rules and regulations promulgated by the Commission.

8.2 Access to and Inspection of Books and Records.

Each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

8.3 Remedies not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

8.4 Amendments.

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law, but such amendments will not be binding or effective unless made in writing or executed by the parties.

8.5 Waiver of Rights.

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

8.6 Notices.

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

8.7 Assignment.

The provisions of this contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract, or any part

hereof or interest herein, shall be valid until and unless approved by the non-assigning party. The Commission may delegate the operation and maintenance of the Project, but shall retain the obligation to establish water rates and annual budgets.

9. ADJUSTMENT OF DESIGN

The Commission reserves the right to redesign the Project.

10. MERGER CLAUSE

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing, signed by the parties, and attached herein. Such waiver, consent, modification, or change, if made, shall be effective only in a specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue

Bismarck, ND 58505

By: Dale L. FRINK

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this day of December 11, 2009

Dale L. Frink
Secretary and State Engineer

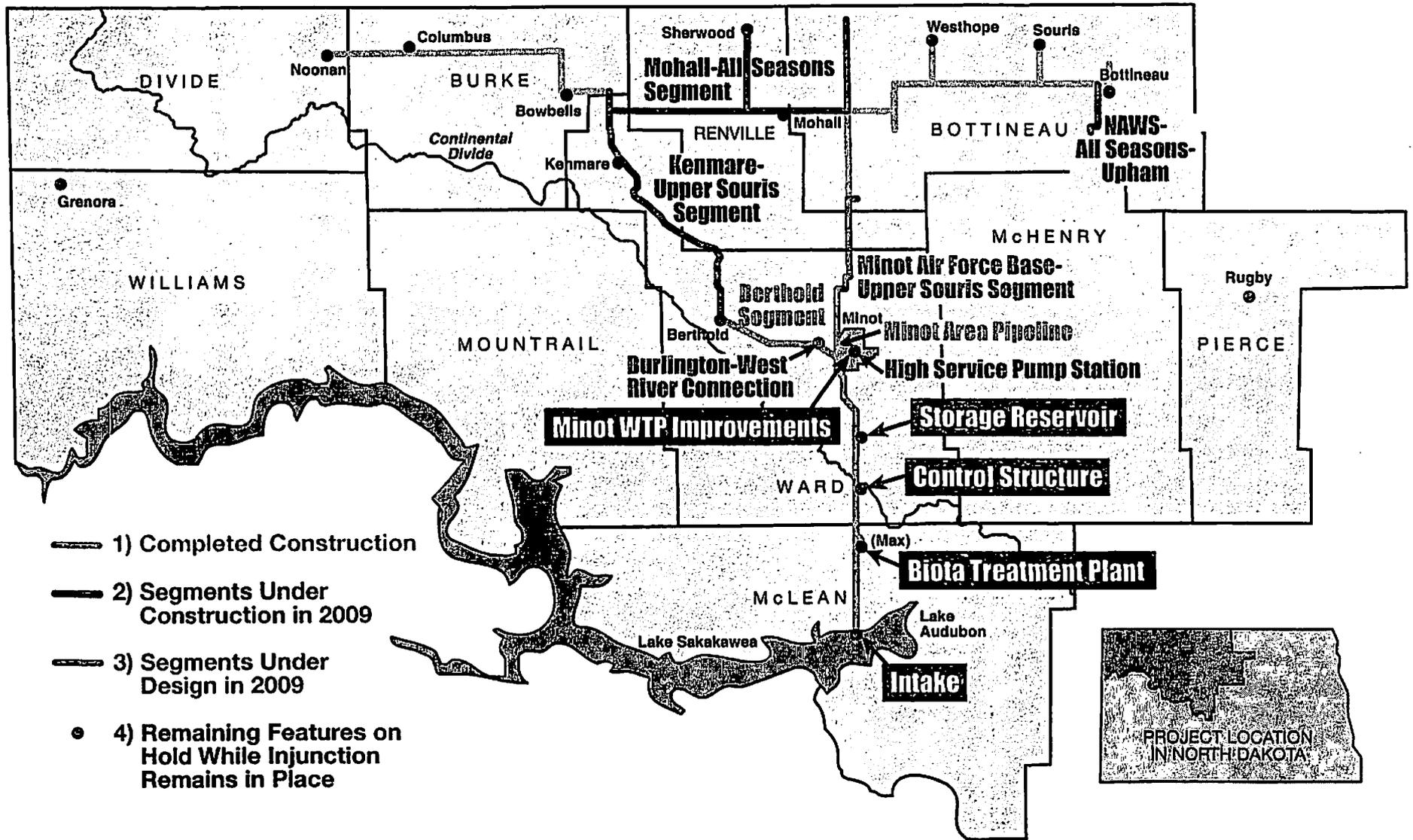
USER:
By: Allen Crish

Title: Mayor

Date: 1/17/10

Exhibit A

Northwest Area Water Supply



Amendment 1 to Contract 237-4-7

This amends Contract 237-4-7, Northwest Area Water Supply (NAWS) Project Water Service Contract, between the State of North Dakota, acting through the State Water Commission (Commission) and the City of Sherwood (City). This amendment allows for an interim period during which Commission will provide water service to City from water supplied by Minot rather than from water supplied by Lake Sakakawea.

The term of this amendment shall begin when both parties have executed this amendment and shall end when Commission sends written notice to City that water supply from Lake Sakakawea is operational.

During the term of this amendment, Sections 6.2 (Quantity of Water and Flow Rate), 6.3 (Point of Delivery), 7.1 (Notice of First Delivery of Water and Beginning of Water Service Payments), and 7.3 (Minimum Annual Water Purchase: Minimum Payment for Water) of Contract 237-4-7 are void and shall have no legal force or binding effect and the following terms shall apply:

1. City's estimated usage is 20,000 gallons per day.
2. Water supply to City shall be delivered to the NAWS-Sherwood turnout and shall be metered and billed at this turnout.
3. Water moved through the NAWS system and delivered to City turnout will be charged according to Section 7.4 of Contract 237-4-7.
4. For 2010, Commission set the rate at \$2.20/1000 gallons. The four parts of this rate include Capital Costs at \$0.00/1000 gallons, Supply and Treatment at \$1.14/1000 gallons, Reserve for Replacement and Extraordinary Maintenance (REM) at \$0.15/1000 gallons, and Operation and Maintenance at \$0.91/1000 gallons.
5. For years after 2010, each September Commission will establish a rate that will be effective on January 1st of the following year.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue
Bismarck, ND 58505

By: Dale L Frink

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this 11th, day of December, 2009.

Dale L Frink
Secretary and State Engineer

CITY OF SHERWOOD

By: Allan Ensb

Title: Mayor

Date: 1/17/2010

NORTHWEST AREA WATER SUPPLY PROJECT
WATER SERVICE CONTRACT

Contract No: 237-4-9

Water User Entity: All Seasons Water Users District

TABLE OF CONTENTS

1. PARTIES
2. INTRODUCTION
3. DEFINITIONS
4. TERM OF CONTRACT
 - 4.1 Effective Date
 - 4.2 Renewal
5. TERMINATION
 - 5.1 Termination by Not Constructing
 - 5.2 Termination by Change of Circumstances
 - 5.3 Termination by Mutual Consent
 - 5.4 Termination for Default
6. WATER SERVICE: DELIVERY OF WATER
 - 6.1 Quality of Water
 - 6.2 Quantity of Water and Flow Rate
 - 6.3 Point of Delivery
 - 6.4 Additional Water
 - 6.5 Water Shortages
 - 6.6 Curtailment of Delivery for Maintenance Purposes
 - 6.7 Measurement of Water
 - 6.8 Responsibility for Distribution and Use of Water
7. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER
 - 7.1 Notice of First Delivery of Water and Beginning of Water Service Payments
 - 7.2 Payment for Water Service
 - 7.3 Minimum Annual Water Purchase: Minimum Payments for Water
 - 7.4 Payment for Operation, Maintenance, and Replacement
 - 7.5 Payment for Capital Costs
 - 7.6 Billing Procedure
 - 7.7 When Payments are Due

- 7.8 Delinquent Payments and Default: Suspension of Water Service
- 7.9 Penalty for Late Payment
- 7.10 Refusal of Water
- 7.11 Payments Dedicated to the Project

8. GENERAL PROVISIONS

- 8.1 Rules and Regulations
- 8.2 Access to and Inspection of Books and Records
- 8.3 Remedies not Exclusive
- 8.4 Amendments
- 8.5 Waiver of Rights
- 8.6 Notices
- 8.7 Assignment

9. ADJUSTMENT OF DESIGN

10. EXPANSION OF PROJECT

11. MERGER CLAUSE

1. PARTIES

This contract is by and between the North Dakota State Water Commission (the "Commission"), and the All Seasons Water Users District (the "User").

2. INTRODUCTION

2.1 The North Dakota Legislative Assembly of 1991 (1991 N.D. Sess. Laws ch 704, §1 through §5; codified at N.D.C.C. § 61-24.6), provided that the Commission was to develop a pipeline transmission and delivery system to deliver water supplies from the Missouri River and other sources to areas and localities in northwestern North Dakota for multiple purposes, including domestic, rural water districts, and municipal users. This water pipeline and delivery system is known as the Northwest Area Water Supply Project.

2.2 As of July 1994, the Commission has developed the prefinal design for the Northwest Area Water Supply Project. Forty-one communities and nine rural water associations in northwestern North Dakota have signed agreements of intent with the Commission for the purpose of inclusion in the design of the project.

2.3 The Commission, pursuant to N.D.C.C. ch. 61-02 and N.D.C.C. § 61-24.6, may enter into water service contracts for the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.

2.4 The User enters into this water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Northwest Area Water Supply Project for use by the User. The User will make payment to the Commission at the rates and pursuant to the terms and conditions set forth in this contract for this water service. The user has authority to enter into this agreement pursuant to its home rule charter and implementing ordinance.

NOW THEREFORE, in consideration of the mutual covenants contained in this contract, it is mutually agreed by and between the parties to this contract as follows:

3. DEFINITIONS

3.1 "Additional water" means water purchased by the User in addition to its minimum annual water purchase.

3.2 "Capital costs" means all costs incurred by the Commission which are properly chargeable, in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, costs of issuance and financing in connection with any bonds issued to finance the project, and essential legal,

administrative and financial work in connection therewith. Not included in capital costs are engineering costs incurred to date in connection with the Project.

3.3 "Estimated water rate for OM&R" means the estimated rate per each one thousand (1,000) gallons of water for the operation and maintenance of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Commission estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand gallon units of water which the Commission estimates it will sell to water user entities during the same year, plus an amount as determined in section 7.4.2.

3.4 "Maximum flow rate" means the maximum number of gallons of water which may be delivered through the Project by the Commission to a water user entity during anyone minute time period.

3.5 "Minimum annual water purchase" means the minimum percentage of total annual water usage, which a water user entity agrees to purchase and pay for during a year. The minimum percentage for which an agreement will be offered to a User is fifty-one percent (51%).

3.6 "Operation, maintenance, and replacement costs, hereafter sometimes referred to as OM&R costs means all operation costs incurred by the Commission, including all energy costs incurred by the Commission for pumping water through the Project, for the treatment of water, for the maintenance and administration of the Project, and for any amounts that the Commission determines are necessary to establish reserve funds to meet anticipated replacement costs and extraordinary maintenance of Project works as determined in section 7.4.2.

3.7 "Project" means the water supply and distribution system shown on the map marked "Exhibit 1" which is attached hereto and incorporated by reference into this contract.

3.8 "Qualifying water supply facilities" means water supply facilities determined by the Commission to qualify for a credit against the User's payments for water and capital costs. Qualifying water supply facilities shall include such things as surface water reservoirs, wells, raw water pumps, water transmission pipelines from the source to the distribution system, water treatment plants, and pipelines and controls necessary to connect the User's system to the delivery point for Project water.

3.9 "Unallocated capacity" means the capacity of the pipeline which is not allocated nor contractually committed to individual water user entities by virtue of water service contracts.

3.10 "Water rate for capital costs" means the rate per each 1,000 gallons of water to be paid by water user entities for capital costs of the Project.

3.11 "Water usage" means all water used by a User except for (a) non-potable water and (b) surface water, well water, or aquifer water, which surface water, well water, or aquifer water is not distributed through the same system as is water purchased under this contract.

3.12 "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Commission for the purchase of water from the Project.

3.13 "Water system" means a discrete assemblage of intakes, treatment facilities, transmission pipelines, storage facilities, and related items. The Northwest Area Water Supply Project is proposed to have three "water systems," the East system, West system, and Parshall system, each separate from the others.

3.14 "Year" means the period from January 1 through December 31, both dates inclusive.

4. TERM OF CONTRACT

4.1 Effective Date.

This contract shall remain in effect for forty (40) years after the date of the first water delivery to the User, unless terminated sooner by mutual agreement of the parties.

4.2 Renewal.

Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years each.

5. TERMINATION

5.1 Termination by not Constructing.

If any segment of the Project is not constructed for whatever reason, even though authorized, thereby preventing delivery of water to the User, the Commission and the User shall be relieved of all obligations under this contract.

5.2 Termination by Change of Circumstances.

The Commission may terminate this contract effective upon delivery of written notice to the User, or at such later date as may be established by the Commission, under any of the following conditions:

5.2.1 If Commission funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for water delivery to the User pursuant to this contract. The contract may be modified to accommodate a reduction in funds by mutual consent of the User and the Commission.

5.2.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the water delivery is no longer allowable nor appropriate for purchase under this contract or is no longer eligible for funding proposed by this contract.

5.2.3 If any license or certificate required by law or regulation to be held by the User to participate in this contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

5.3 Termination by Mutual Consent.

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

5.4 Termination for Default.

The Commission, by written notice of default (including breach of contract) to the User, may terminate the whole or any part of this agreement:

5.4.1 If the User fails to make payment as called for by this contract within the time specified herein or any extension thereof; or

5.4.2 If the User fails to perform any of the other provisions of this contract, or so fails to pursue a provision of this contract as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Commission fails to correct such failures within ten days or such longer period as the Commission may authorize.

The rights and remedies of the Commission provided in the above clause related to defaults (including breach of contract) by the User shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6. WATER SERVICE: DELIVERY OF WATER

The Commission and the User agree that water will be delivered to the User in accordance with the following terms and provisions:

6.1 Quality of Water.

All water delivered to the User pursuant to this contract, or any renewal, extension, or modification thereof, shall be potable treated water which meets applicable drinking water quality standards of the North Dakota Department of Health and EPA.

6.2 Quantity of Water and Flow Rate

6.2.1 Minimum annual water purchase. The User hereby agrees to a minimum annual water purchase and payment for not less than 70,000 gallons per day during the entire term of this contract.

6.2.2 Maximum flow rate. The maximum flow rate to be provided by the Commission to the User shall not exceed 238 gallons per minute.

6.3 Point of Deliver .

The Commission will furnish water to the User at the metering points of the ASWUD Reservoir 6 master meter, NW1/4 of S27, T163N, R82W near ASWUD System III WTP, and rural turnout at NE1/4 of S24, T161N, R83W, hereafter referred to as the point of delivery. Additional connections are planned for User's System III and System I, and those will connections will be determined by the Commission, in consultation with the User, during design of those NAWS pipeline features.

6.4 Additional Water

To the extent allowed by its other contractual obligations, and subject to the limitations stated hereafter, the Commission may, at its sole discretion, deliver to the User any additional water which the User desires to purchase.

6.5 Water Shortages.

6.5.1 No liability for shortages. No liability shall accrue, and the User agrees to indemnify and hold harmless, the Commission, or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from any water shortages or other interruptions in water deliveries, whether or not attributable to the Commission's negligence or any other cause. The User's duties under this contract shall not be reduced or altered by reason of such shortages or interruptions.

6.5.2 Proportional sharing of water shortage.

The Commission shall have the right during times of water shortage from any cause to allocate and distribute the available water supply to water user entities on the affected water system on a proportionate basis with respect to the proportion that the annual water purchase of each water user entity for the prior calendar year bears to the total annual water purchase of all water service entities on the affected water system for the prior calendar year.

6.6 Curtailment of Delivery for Maintenance Purposes.

The Commission may temporarily discontinue or reduce the amount of water to be furnished to the User for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the facilities and works necessary for the furnishing of water to the User. To the extent possible, the Commission will give to the User reasonable notice in advance of any such temporary discontinuance or reduction. No advance notice will be required to be given in the case of an emergency. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

6.7 Measurement of Water.

The Commission shall furnish, install, operate, and maintain, at its own expense, at the point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the User. The Commission shall calibrate the metering equipment at least every other year unless the User is otherwise notified in writing.

6.7.1 Access.

The Commission and the User shall have access to the metering equipment belonging to the Commission or the User at all reasonable times for the purpose of verifying readings of both project water deliveries and total water usage. Access includes all reasonable means of access including any necessary easement. In addition, the Commission will have the same access to the point of delivery to the User's distribution system.

6.7.2 Dispute over measurement of water.

If the User believes the measurement of water delivered to the User to be in error the Commission will cause the meter to be calibrated. The User

shall pay for the cost of the calibration. However, if the meter is found to over register by more than two percent (2%) of the correct volume, the User's payment for the cost of calibration will be refunded to the User.

6.7.3 Claim of error after a payment is delinquent.

A claim of error presented after a payment has become delinquent shall not prevent discontinuance of service or civil action as provided in this contract. The User agrees to continue to make payments for water service after a claim of error has been presented, however, it may do so under protest, and such payments will not prejudice the User's claim of error.

6.7.4 Correction of meter readings.

If the calibration of any meter establishes that the previous readings of such meter over-registered by more than two percent (2%) the correct volume of water delivered to the User, the meter readings for that meter shall be corrected to the beginning of the year current to the calibration by the percentage of inaccuracy found in such tests. The amount of any overpayment by the User because the meter over-registered the amount of water delivered to the User, for the period of time for which the correction is applied, shall be applied first to any delinquent payments for water service, and any remaining amounts shall, at the option of the User, be refunded to the User or credited upon future payments for water service by the User in the ensuing years.

6.7.5 Failure of meter.

If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Commission and the User shall agree upon a different amount.

6.8 Responsibility for Distribution and Use of Water.

The User shall be responsible for the control, distribution, and use of all water delivered to the User by the Commission under this contract, beyond the point of delivery, and all services, maintenance, and repair of the User's distribution system.

The User shall hold the Commission, its officers, agents, employees and successors, and assigns harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, distribution, and use of water delivered under this contract, and the operation, maintenance, and replacement of the User's

distribution system. The User's distribution system includes all works extending from the point of delivery of water to the User.

7. **WATER SERVICE: WATER RATES AND PAYMENT FOR WATER SERVICE**

The User agrees to make payments for water service in accordance with the following terms and conditions:

7.1 Notice of First Delivery of Water and Beginning of Water Service Payments.

Ninety (90) days prior to completion of the Project to the point of delivery to the User, the Commission shall notify the User, in writing, by certified mail, the date when water will be first available to the User. The User will make payment for water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the User, whichever is later in time.

7.2 Payment for Water Service.

The User's water service payment for each month shall equal the sum of the following:

7.2.1 The User's proportionate share of the OM&R costs; plus

7.2.2 The User's payment for capital costs.

7.3 Minimum Annual Water Purchase: Minimum Payment for Water.

The User will make payment for the minimum annual water purchase specified in this contract in accordance with the rates and terms for payment of water specified in this contract, regardless of whether or not the User actually takes delivery on a lesser amount.

7.4 Payment for Operation and Maintenance.

The User will make monthly payments to the Commission for its share of the OM&R costs for the Project. The payment will be determined by the Commission and based upon actual and forecasted OM&R costs and may be adjusted annually. The amount of the monthly payment will be determined as follows:

7.4.1 OM&R budget

Prior to December 1 of each year, the Commission shall establish and adopt a budget for OM&R for the Project for the next ensuing year. The

Commission will then estimate the total annual water sales for the next ensuing year, and calculate the "estimated water rate for OM&R" for the Project. At the end of each year, the Commission shall prepare a statement of the actual cost for OM&R for that same year. If the actual cost exceeds the budget, an appropriate increase in User payments shall be made during the ensuing year. If the actual cost is less than the budget, an appropriate reduction will be made in the ensuing year's User payments.

7.4.2 Reserve fund.

The Commission shall have the authority to include in the OM&R budget for each year an amount per thousand gallons to be accumulated and maintained in a reserve fund for the purpose of replacement and for extraordinary maintenance of project works. The amount shall be calculated to generate 10% of the Project costs within 15 years, but accumulation and maintenance of the fund shall extend beyond 15 years.

7.4.3 Monthly payment.

The User's monthly payment for OM&R shall be determined by multiplying the amount of water actually delivered to the User for each month by the "estimated water rate for OM&R."

7.4.4 Adjustment for underuse

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for OM&R" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5 Payment for Capital Costs.

The User will pay to the Commission a water rate for costs of the Project.

7.5.1 Base water rate for capital costs.

The base water rate for capital costs shall be **\$0.00** per each one thousand (1,000) gallon of water. This rate is based upon the December 1994, cost estimate of the project and is also based upon the assumption that the User and other purchasers will be financing collectively **35%** of the total cost of the Project **and the assumption that the City of Minot continues to share in the cost of the Project.**

7.5.2 Adjustment of the water rate for capital costs.

The Commission shall have the authority to adjust the water rate for capital costs annually in accordance with the increase or decrease in total capital costs of the project. The total capital costs of the project shall be those attributable to the present scope of the project as of the execution of this contract, unless the scope is altered by mutual consent pursuant to the next paragraph. Costs for items which essentially are replacements for existing improvements shall not be considered capital costs.

When such total capital cost obligations of the project are met, payments for capital costs will cease. All interest earned by sinking fund deposits shall be credited to this computation and all amounts collected for reserves for debt shall also be taken into consideration in determining when capital cost obligations have been met.

The Commission shall also have the authority to adjust the water rate if the project is redesigned as specified in section 9 of this contract. The User and the Commission must mutually agree to any change of water rate for capital costs resulting from a redesign or to any change of the water rate for capital costs resulting from a change in the percentage of the total cost

7.5.3 Adjustment for underuse.

At the end of each year, if the amount of water actually delivered to the User is less than the amount of the minimum annual water purchase, the User shall pay an amount equal to the "estimated water rate for capital costs" multiplied by the difference. This payment shall be applied, in equal increments, to the User's next four (4) monthly statements.

7.5.4 Credit for qualifying water supply facility debt service cost.

A credit for debt service costs of the User's qualifying water supply facilities shall be applied to the monthly water payment for capital costs, upon approval by the Commission. The amount of such monthly credit shall be determined by dividing seventy-five percent (75%) of the total annual debt service cost for "qualifying water supply facilities in the immediate ensuing year by twelve (12). However, in no event shall any credit exceed the total monthly water payment for capital costs, nor can any credit be transferred or assigned to any other water user entity. In order to receive a credit as provided herein, the User must submit a request for credit, with supporting documentation, to the Commission, no later than December 1 of the year preceding each year in which a credit is to be applied. The Commission will terminate all credits ten (10) years after first delivery of water to the User.

7.6 Billing Procedure.

The Commission will furnish to the User, at the address shown on the signature page of this contract, not later than **the fifteenth day** of each month, an itemized statement of the payment due from the User for water service for the preceding month. The metering equipment at the point of delivery to the User shall be read monthly by the Commission.

7.7 **When Payments Are Due.**

All payments for water service shall be made no later than 30 days following receipt of the statement from the Commission. Payments not made by such date shall be considered delinquent and in default.

7.8 **Delinquent Payments and Default: Suspension of Water Service.**

The User shall cause to be levied and collected all necessary taxes, assessments, and water charges, and will use all of the authority and resources available to it to pursuant to this contract on or before the date such payments become due. In the event of any default by the User in making payments as required under this contract, the Commission, in its discretion, may suspend delivery of water to the User through the Project during the time when the User is in default, or bring a civil action against the User in a North Dakota state district court.

During any period when the User is in default, the User shall remain obligated to make all payments required under this contract. Any action of the Commission pursuant to this section shall not limit or waive any remedy provided by the contract or by law for the recovery of money due or which may become due under this contract.

7.9 **Penalty for Late Payment.**

Every payment required to be paid by the User to the Commission under this contract, which is unpaid after its due date shall be imposed a penalty of one percent (1%) per month of the amount of such delinquent payment from and after the date when the same becomes due and payable, provided that no penalty shall be chargeable against any adjustment made pursuant to section 6.7 of this contract.

7.10 **Refusal of Water.**

The User's failure or refusal to accept delivery of water to which it is entitled under this contract shall in no way relieve the User's obligation to make payments to the Commission as provided in this contract.

7.11 **Payments Dedicated to the Project.**

All payments collected by the Commission pursuant to the provisions above and the earnings thereon shall be held in a special fund and dedicated to the construction, operation, and maintenance of the Project in accordance with the laws of the State of North Dakota.

8. GENERAL PROVISIONS

8.1. Rules and Regulations.

The Commission will have the authority to develop and adopt such rules and regulations as the Commission may deem proper and necessary to carry out this contract and to govern the administration of this contract. The User agrees to comply with all rules and regulations promulgated by the Commission.

8.2 Access to and Inspection of Books and Records.

Each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

8.3 Remedies not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

8.4 Amendments.

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law, but such amendments will not be binding or effective unless made in writing or executed by the parties.

8.5 Waiver of Rights.

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

8.6 Notices.

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

8.7 Assignment.

The provisions of this contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract, or any part hereof or interest herein, shall be valid until and unless approved by the non-assigning party. The Commission may delegate the operation and maintenance of the Project, but shall retain the obligation to establish water rates and annual budgets.

9. ADJUSTMENT OF DESIGN

The Commission reserves the right to redesign the Project.

10. MERGER CLAUSE

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing, signed by the parties, and attached herein. Such waiver, consent, modification, or change, if made, shall be effective only in a specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue

Bismarck, ND 58505

By: Dale L FRINK

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this day of
December 11, 2009

Dale L Frink
Secretary and State Engineer

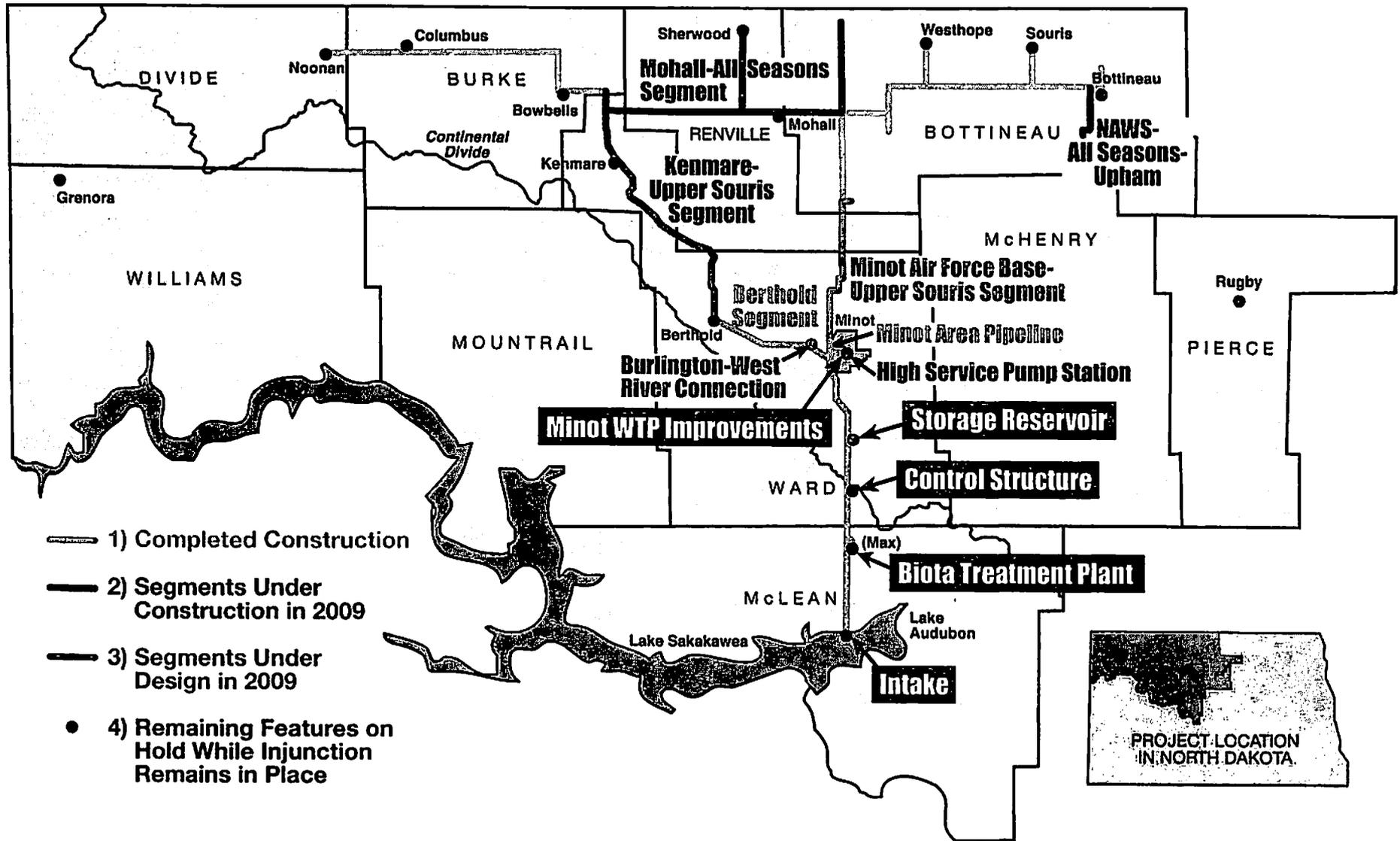
USER:
By: William Langer

Title: President

Date: 11/9/09

Exhibit A

Northwest Area Water Supply



Amendment 1 to Contract 237-4-9

This amends Contract 237-4-9, Northwest Area Water Supply (NAWS) Project Water Service Contract, between the State of North Dakota, acting through the State Water Commission (Commission) and the All Seasons Water User District (User). This amendment allows for an interim period during which Commission will provide water service to User from water supplied by Minot rather than from water supplied by Lake Sakakawea.

The term of this amendment shall begin when both parties have executed this amendment and shall end when Commission sends written notice to User that water supply from Lake Sakakawea is operational.

During the term of this amendment, Sections 6.2 (Quantity of Water and Flow Rate), 6.3 (Point of Delivery), 7.1 (Notice of First Delivery of Water and Beginning of Water Service Payments), and 7.3 (Minimum Annual Water Purchase: Minimum Payment for Water) of Contract 237-4-8 are void and shall have no legal force or binding effect and the following terms shall apply:

1. User's estimated usage is 106,000 gallons per day.
2. Water supply to User shall be delivered to the NAWS-ASWU Reservoir 6 turnout and the rural turnout in Section 24 of T161N R83W and shall be metered and billed at these turnouts.
3. Water moved through the NAWS system and delivered to User turnout will be charged according to Section 7.4 of Contract 237-4-9.
4. For 2010, Commission set the rate at \$2.20/1000 gallons. The four parts of this rate include Capital Costs at \$0.00/1000 gallons, Supply and Treatment at \$1.14/1000 gallons, Reserve for Replacement and Extraordinary Maintenance (REM) at \$0.15/1000 gallons, and Operation and Maintenance at \$0.91/1000 gallons.
5. For years after 2010, each September Commission will establish a rate that will be effective on January 1st of the following year.

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

NORTH DAKOTA STATE WATER COMMISSION

900 East Boulevard Avenue

Bismarck, ND 58505

By: Dale L Frink

Title: Secretary

Date: 2-15-2010

Approved and entered into by resolution of the State Water Commission this 11th, day of December, 2009.

Dale L Frink
Secretary and State Engineer

ALL SEASONS WATER USERS DISTRICT

By: Willis Jager

Title: President

Date: 11/9/09

December 11, 2009

CERTIFICATION

The undersigned, being the duly appointed, qualified and acting State Engineer and Secretary of the North Dakota State Water Commission (the "Commission"), does hereby certify that attached hereto is a true, correct and complete copy of the following resolution:

Supplemental Resolution Amending North Dakota State Commission, Southwest Pipeline Project, 2009 Series A Bond Resolution, adopted on December 11, 2009, by the Commission.

The undersigned further certifies that such resolution has not been amended, modified or supplemented by the Commission and that such resolution remains in full force and effect as of the date hereof.

Dated this 14th day of December, 2009.



State Engineer and Secretary of the
North Dakota State Water Commission

**SUPPLEMENTAL RESOLUTION AMENDING
NORTH DAKOTA STATE WATER COMMISSION
SOUTHWEST PIPELINE PROJECT
2009 SERIES A BOND RESOLUTION**

WHEREAS, the North Dakota State Water Commission (the "Commission") issued \$3,005,000 Water Development Revenue Bonds, Southwest Pipeline Project, Medora-Beach Regional Service Area Phase III (Fairfield Service Area) 2009 Series A (the "2009 Series A Bonds") pursuant to a 2009 Series A Bond Resolution adopted by the Commission on April 28, 2009 (the "2009 Bond Resolution"), to finance improvements to the Southwest Pipeline Project; and

WHEREAS, the 2009 Series A Bonds were purchased on May 14, 2009, by the United States Department of Agriculture, Rural Utilities Service ("RUS") pursuant to a Letter of Conditions from RUS dated March 20, 2008, as amended May 5, 2009, which specified the terms and conditions for the purchase of the 2009 Series A Bonds; and

WHEREAS, the May 5, 2009, amendment to the Letter of Conditions provided for a reduction in the interest rate on the 2009 Series A Bonds from 4.375% to 3.75% contrary to provisions in Title VI of the Consolidated Farm and Rural Development Act which do not permit a reduction in the interest rate for bonds approved but not closed before May 22, 2008; and

WHEREAS, Section 6.4 of the 2009 Bond Resolution provides that the Holder of the 2009 Series A Bonds may consent to and approve the execution by the Commission and the Trustee of such supplemental resolutions as shall be deemed necessary or desirable by the Commission for the purpose of modifying, altering, amending, adding to or rescinding in any particular, any of the terms or provisions contained in the 2009 Bond Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Commission as follows:

SECTION 1. AMENDMENTS TO SECTION 1.1. The following defined terms in Section 1.1 of the 2009 Bond Resolution are hereby amended and restated to read as follows:

"Debt Service Reserve Requirement" means, for the purpose of the 2009 Series A Bonds, the amount of \$163,680 to be met on or before July 1, 2021.

"Reserve for Emergencies and Extensions Requirement" means, for the purpose of the 2009 Series A Bonds, the amount of \$163,680 to be met on or before July 1, 2021.

SECTION 2. AMENDMENT TO SECTION 2.3. Section 2.3 of the 2009 Bond Resolution is hereby amended and restated to read as follows:

SECTION 2.3. DATE, MATURITY AND INTEREST RATE. The 2009 Series A Bonds shall be dated and delivered on the Date of Issue.

The 2009 Series A Bonds shall mature on July 1, 2048, and shall bear interest at the rate of 4.375% per annum. Interest shall be payable on each July 1 after the Date of Issue (calculated on the basis of calendar days and a 365-day year), with the last interest payment being made on July 1, 2048.

The 2009 Series A Bonds are subject to annual principal installments commencing July 1, 2011, with the last principal payment being made on July 1, 2048, in accordance with the principal payment schedule to be attached to the 2009 Series A Bonds on the Date of Issue. Each Program Loan advance shall be recorded on the grid on the reverse of the 2009 Series A Bonds. The specific process to be followed for the payment of principal and interest is as set out in a letter from Rural Utilities Service to the Trustee, attached hereto as Attachment 2.

SECTION 3. AMENDMENT TO SECTION 5.3. Section 5.3 of the 2009 Bond Resolution is hereby amended and restated to read as follows:

SECTION 5.3. 2009 SERIES A BOND DEBT SERVICE RESERVE SUBACCOUNT. Revenue in excess of that required to be deposited pursuant to Section 5.02(A) of the General Resolution shall be deposited in the 2009 Series A Bond Debt Service Reserve Subaccount in monthly installments commencing July 1, 2011, in amounts not less than \$1,364.00, to meet the Debt Service Reserve Requirement on or before July 1, 2021. The Trustee will determine the value of the investments in the 2009 Series A Bond Debt Service Reserve Subaccount on or before July 1 of each year at the lower of cost or market value. If at any time after July 1, 2011, the balance in the 2009 Series A Bond Debt Service Reserve Subaccount is less than the Debt Service Reserve Requirement, the Commission will deposit Revenue therein in an amount not less than \$1,364.00 per month until the balance is accumulated or restored to the Debt Service Reserve Requirement.

Subject to the provisions of Section 8.21 of the General Resolution, at any time the moneys available in the Revenue Account are insufficient to pay interest when due and principal at maturity on the 2009 Series A Bonds, the Trustee, without further authority, may draw moneys to the extent necessary from the 2009 Series A Bond Debt Service Reserve Subaccount for payment of such interest and principal. The Trustee shall notify the Commission at least three Business Days prior to any such withdrawals from the 2009 Series A Bond Debt Service Reserve Subaccount. Amounts withdrawn therefrom shall be replenished by the Commission as required by Section 5.03 of the General Resolution.

SECTION 4. AMENDMENT TO SECTION 5.4. Section 5.4 of the 2009 Bond Resolution is hereby amended and restated to read as follows:

SECTION 5.4. 2009 SERIES A RESERVE FOR EMERGENCIES AND EXTENSIONS ACCOUNT. Commencing July 1, 2011, a portion of the water rate charged for operation, maintenance and replacement in excess of that required to be deposited pursuant to Section 5.02 and 5.03 of the General Resolution shall be deposited in the 2009 Series A Reserve for Emergencies and Extensions Account in monthly amounts of not less than \$1,364.00 to meet the Reserve for Emergencies and Extensions Requirement on or before July 1, 2021. If at any time after July 1, 2011, the balance in the 2009 Series A Reserve for Emergencies and Extensions Account is less than the Reserve for Emergencies and Extensions Requirement, the Commission will deposit a portion of the water rate charged for operation, maintenance and replacement therein in an amount not less than \$1,364.00 per month until the balance is accumulated or restored to the Reserve for Emergencies and Extensions Requirement.

Moneys in the 2009 Series A Reserve for Emergencies and Extensions Account will be held by the Authority and used only to pay the cost of repairs, replacements or extensions to the Project. Any amounts on deposit in the 2009 Series A Reserve for Emergencies and Extensions Account, including interest earnings, in excess of the Reserve for Emergencies and Extensions Requirement may be may be used for any lawful purpose determined by the Commission.

SECTION 5. REVISED ATTACHMENT 1. The form of the 2009 Series A Bonds attached to the 2009 Bond Resolution as Attachment 1, is hereby amended and restated to read as Exhibit A attached hereto.

SECTION 6. EFFECTIVE DATE. This Amendment shall take effect immediately but shall apply retroactively to May 14, 2009, the date of issue of the 2009 Series A Bonds.

SECTION 7. OBLIGATIONS UNDER THE 2009 BOND RESOLUTION; EFFECT OF AMENDMENT. The Commission hereby agrees that all of its obligations under the 2009 Bond Resolution remain in full force and effect except to the extent expressly amended by this Amendment. This Amendment amends and supplements the 2009 Bond Resolution and shall be a part and subject to all of the terms thereof.

(Remainder of this page intentionally left blank.)

IN WITNESS WHEREOF, we have executed this Supplemental Resolution Amending North Dakota State Water Commission, Southwest Pipeline Project, 2009 Series A Bond Resolution on the 11th day of December, 2009.

**NORTH DAKOTA STATE
WATER COMMISSION**



John Hoeven, Governor
Chairman

ATTEST:



Dale L Frink, State Engineer
Secretary

CONSENT OF TRUSTEE

The undersigned representative of Wells Fargo Bank, National Association (the "Trustee"), acknowledges the receipt of a consent executed by the Holder of all of the aggregate principal amount of the 2009 Series A Bonds Outstanding to the adoption and execution of the foregoing Supplemental Resolution Amending North Dakota State Water Commission, Southwest Pipeline Project, 2009 Series A Bond Resolution (the "Supplemental Resolution"). In accordance with Section 6.4 of the 2009 Series A Bond Resolution, the Trustee hereby consents to the adoption and execution of the Supplemental Resolution.

Dated December _____, 2009.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Assistant Vice President

BONDHOLDER CONSENT

**NORTH DAKOTA STATE WATER COMMISSION
WATER DEVELOPMENT REVENUE BONDS
SOUTHWEST PIPELINE PROJECT
MEDORA-BEACH REGIONAL SERVICE AREA
PHASE III (FAIRFIELD SERVICE AREA)
2009 SERIES A**

The undersigned owner of \$3,005,000 principal amount of the North Dakota State Water Commission, Water Development Revenue Bonds, Southwest Pipeline Project, Medora-Beach Regional Service Area Phase III (Fairfield Service Area), 2009 Series A hereby consents to and approves the adoption and execution of the Supplemental Resolution Amending North Dakota State Water Commission, Southwest Pipeline Project, 2009 Series A Bond Resolution adopted December 11, 2009.

Dated: December _____, 2009.

**UNITED STATES DEPARTMENT
OF AGRICULTURE,
RURAL UTILITIES SERVICE**

By: _____

Its: _____

This Bond shall be considered paid and defeased upon the final principal payment by the Trustee to the Registered Owner, regardless of whether or not the Bond is presented and surrendered. Principal and the redemption price is payable in lawful money of the United States of America at Wells Fargo Bank, National Association, Minneapolis, Minnesota, designated as Trustee in the Resolution hereinafter described or at its successor as Trustee. Principal and/or Interest payments shall be made by check or draft mailed to the person in whose name this Bond is registered at the close of business on the Record Date preceding each Principal and/or Interest Payment Date (whether or not a business day) at the address set forth for each registered owner on the registration books maintained by the Trustee.

THIS BOND IS NOT A GENERAL OBLIGATION OF THE STATE OF NORTH DAKOTA, THE NORTH DAKOTA STATE WATER COMMISSION, THE SOUTHWEST WATER AUTHORITY NOR THE INDIVIDUAL MEMBERS, OFFICERS OR AGENTS THEREOF, AND IS PAYABLE SOLELY AND ONLY OUT OF THE REVENUES TO BE PRODUCED AND RECEIVED FROM THE OPERATION OF THE SOUTHWEST PIPELINE PROJECT HEREINAFTER MENTIONED AND TO THE EXTENT REQUIRED BY THE RESOLUTIONS, THE FUNDS DEPOSITED IN THE 2009 SERIES A BOND DEBT SERVICE RESERVE SUBACCOUNT.

This Bond is a duly authorized special obligation bond of the Commission in an aggregate principal amount not to exceed \$3,005,000, duly issued by the Commission to finance further construction of the Project, as described in the Series Resolution. The 2009 Series A Bonds are authorized to be issued pursuant to Chapter 61-02 and Chapter 61-24.3 of the North Dakota Century Code (collectively the "Act") and the General Bond Resolution (the "General Resolution") which was duly adopted as of May 22, 1997, as amended and supplemented. On April 28, 2009, the Commission duly adopted the 2009 Series A Bond Resolution authorizing the issuance of the \$3,005,000 2009 Series A Bonds (the "Series Resolution"). The General Resolution and the Series Resolution are herein collectively called the "Resolutions." To the Resolutions, and all resolutions supplemental thereto and amendatory thereof, reference is hereby made for a description and limitation of the revenues and funds pledged and appropriated to the payment of this Bond, the nature and extent of the security thereby created, the rights of the registered owner of this Bond, the rights, duties and immunities of the Trustee, and the rights, immunities and obligations of the Commission, the Authority, and the State of North Dakota thereunder. Executed copies of the Resolutions are on file at the office of the Trustee and at the office of the Commission in Bismarck, North Dakota.

As provided in the General Resolution, Additional Bonds, on a parity with this Bond, may be issued from time to time pursuant to additional series resolutions in one or more series and in various principal amounts, which may mature at different times, may bear interest at different rates and may otherwise vary as provided in the General Resolution or any resolution amendatory thereof or supplemental thereto. The aggregate principal amount of Bonds which may be issued under the General Resolution is not limited except as provided therein, and all Additional Bonds heretofore or hereafter issued thereunder will be equally secured by the pledge and covenants made therein.

Additional provisions of this Bond are contained on the reverse hereof and such provisions shall for all purposes have the same effects as though fully set forth at this place.

IN WITNESS WHEREOF, the North Dakota State Water Commission has caused this Bond to be executed in its behalf by the manual or facsimile signature of its Chairman and its official seal to be hereunto affixed and attested to by its Secretary.

**NORTH DAKOTA STATE WATER
COMMISSION**

John Hoeven, Governor
Chairman

Attest:

Dale L. Frink, State Engineer
Secretary

(S E A L)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is the 2009 Series A Bond described in the within mentioned Resolutions authorizing the issuance of the \$3,005,000 2009 Series A Bonds, of the Commission.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, MINNEAPOLIS,
MINNESOTA,
as Trustee**

Dated: _____

By: _____
Authorized Representative

(to be printed on back of bond)

To the extent and in the manner permitted by the terms thereof, the General Resolution and any resolution amendatory thereof or supplemental thereto may be modified or amended; provided, however, that no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bonds or of any installment of interest thereon or a reduction in the principal amount or redemption price thereof or in the rate of interest thereon without the consent of the Holder of such Bonds, or shall reduce the percentage or otherwise affect the classes of Bonds the consent of the Holder of which is required to effect any such modification or amendment without the consent of the Holder of all Bonds then Outstanding.

This Bond is transferable, as provided in the Resolution, only upon books of registration kept at the office of the Trustee by the registered owner hereof in person or by his or her duly authorized attorney, upon surrender of this Bond for transfer at the office of the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee duly executed by the registered owner hereof or his or her duly authorized attorney, and, upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, a fully registered Bond of the same principal amount, interest rate and maturity will be issued to the designated transferee or transferees.

The Bond is issuable only as a fully registered bond without coupons. As provided in the Resolutions and subject to certain limitations therein set forth, the Bond is exchangeable for a like aggregate principal amount of Bonds of a different authorized denomination, not exceeding the amount maturing in any year, as requested by the registered owner or his or her duly authorized attorney upon surrender thereof to the Trustee.

The Commission shall have the right to redeem the Bond, in whole or in part, upon notice, at a redemption price equal to the par value thereof, plus accrued interest to the date of prepayment.

Notice of any such optional prepayment or redemption shall be given to the registered owner of this Bond at least thirty days prior to the prepayment or redemption date and the notice shall fix such prepayment or redemption date, the amount of principal to be prepaid or redeemed, and the premium thereon, if any.

In case an event of default, as defined in the Resolutions, shall occur, the principal of this Bond may be declared or may become due and payable in the manner and with the effect provided in the Resolutions.

It is hereby certified that all of the conditions, acts and things required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in regular form, time and manner.

This Bond shall not be entitled to any benefit under the Resolutions or be valid or become obligatory, unless it shall have been authenticated by the Trustee, or its successor in trust, by completing the Trustee's Certificate of Authentication appearing hereon.

Record of Advances

Amount	Date	Officer's Initials	Amount	Date	Officer's Initials
(1) \$3,005,000	5/14/09		(6) \$		
(2) \$			(7) \$		
(3) \$			(8) \$		
(4) \$			(9) \$		

(5) \$			(10) \$		
		Total	\$		

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (please print or typewrite name and address of transferee) the within bond and all rights and title thereunder, and hereby irrevocable constitutes and appoints _____, attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: _____

NOTICE: Signature(s) must be guaranteed by an "eligible guarantor institution" that is a member of or a participant in a "signature guarantee program" (e.g. the Securities Transfer Agents Medallion Program, the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program).

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF ASSIGNEE _____

Applicant:	North Dakota State Water Commission
Loan Amount:	\$3,005,000
Repayment Period:	40 yrs. (annual payment)
Interest Rate (decimal e.g. 4.5% = .045):	4.375%
Amortization Factor (per \$1.00):	0.05445
Loan Closing Date	May 14, 2009

Year	Beginning Loan Bal.	Ann. Pmt.	Interest	Principal	Ending Loan Bal.
7/1/2009	\$3,005,000	\$17,290	\$17,290	\$0	\$3,005,000
7/1/2010	\$3,005,000	\$131,469	\$131,469	\$0	\$3,005,000
7/1/2011	\$3,005,000	\$163,622	\$131,469	\$32,153	\$2,972,847
7/1/2012	\$2,972,847	\$163,622	\$130,062	\$33,560	\$2,939,287
7/1/2013	\$2,939,287	\$163,622	\$128,594	\$35,028	\$2,904,258
7/1/2014	\$2,904,258	\$163,622	\$127,061	\$36,561	\$2,867,697
7/1/2015	\$2,867,697	\$163,622	\$125,462	\$38,161	\$2,829,536
7/1/2016	\$2,829,536	\$163,622	\$123,792	\$39,830	\$2,789,706
7/1/2017	\$2,789,706	\$163,622	\$122,050	\$41,573	\$2,748,134
7/1/2018	\$2,748,134	\$163,622	\$120,231	\$43,391	\$2,704,742
7/1/2019	\$2,704,742	\$163,622	\$118,332	\$45,290	\$2,659,453
7/1/2020	\$2,659,453	\$163,622	\$116,351	\$47,271	\$2,612,181
7/1/2021	\$2,612,181	\$163,622	\$114,283	\$49,339	\$2,562,842
7/1/2022	\$2,562,842	\$163,622	\$112,124	\$51,498	\$2,511,344
7/1/2023	\$2,511,344	\$163,622	\$109,871	\$53,751	\$2,457,593
7/1/2024	\$2,457,593	\$163,622	\$107,520	\$56,103	\$2,401,491
7/1/2025	\$2,401,491	\$163,622	\$105,065	\$58,557	\$2,342,934
7/1/2026	\$2,342,934	\$163,622	\$102,503	\$61,119	\$2,281,815
7/1/2027	\$2,281,815	\$163,622	\$99,829	\$63,793	\$2,218,022
7/1/2028	\$2,218,022	\$163,622	\$97,038	\$66,584	\$2,151,438
7/1/2029	\$2,151,438	\$163,622	\$94,125	\$69,497	\$2,081,941
7/1/2030	\$2,081,941	\$163,622	\$91,085	\$72,537	\$2,009,404
7/1/2031	\$2,009,404	\$163,622	\$87,911	\$75,711	\$1,933,693
7/1/2032	\$1,933,693	\$163,622	\$84,599	\$79,023	\$1,854,670
7/1/2033	\$1,854,670	\$163,622	\$81,142	\$82,480	\$1,772,190
7/1/2034	\$1,772,190	\$163,622	\$77,533	\$86,089	\$1,686,101
7/1/2035	\$1,686,101	\$163,622	\$73,767	\$89,855	\$1,596,245
7/1/2036	\$1,596,245	\$163,622	\$69,836	\$93,787	\$1,502,459
7/1/2037	\$1,502,459	\$163,622	\$65,733	\$97,890	\$1,404,569
7/1/2038	\$1,404,569	\$163,622	\$61,450	\$102,172	\$1,302,397
7/1/2039	\$1,302,397	\$163,622	\$56,980	\$106,642	\$1,195,754
7/1/2040	\$1,195,754	\$163,622	\$52,314	\$111,308	\$1,084,446
7/1/2041	\$1,084,446	\$163,622	\$47,445	\$116,178	\$968,269
7/1/2042	\$968,269	\$163,622	\$42,362	\$121,261	\$847,008
7/1/2043	\$847,008	\$163,622	\$37,057	\$126,566	\$720,442
7/1/2044	\$720,442	\$163,622	\$31,519	\$132,103	\$588,340
7/1/2045	\$588,340	\$163,622	\$25,740	\$137,882	\$450,457
7/1/2046	\$450,457	\$163,622	\$19,707	\$143,915	\$306,542
7/1/2047	\$306,542	\$163,622	\$13,411	\$150,211	\$156,331
7/1/2048	\$156,331	\$163,170	\$6,839	\$156,331	\$0
Totals		\$6,365,952	\$3,360,953	\$3,005,000	

RESOLUTION NO. 1710**RESOLUTION REGARDING DISCHARGE OF WATER
FROM DEVILS LAKE INTO THE SHEYENNE RIVER**

WHEREAS, The City of Valley City has continuing concerns regarding the discharge of water from the east end of Devils Lake through the Tolna Coulee into the Sheyenne River, from which the City of Valley City obtains its water supply; and

WHEREAS, Alternative proposals regarding the discharge of Devils Lake water into the Sheyenne River continue to be proposed to and reviewed by the North Dakota State Water Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF VALLEY CITY, BARNES COUNTY, NORTH DAKOTA AS FOLLOWS:

That the North Dakota State Water Commission promptly review and update as necessary, all data required to complete a comprehensive hydrological analysis of the Devils Lake Basin and the Sheyenne River Basin, and develop an action plan to be triggered by various levels of Devils Lake over and above its current elevation (1450 msl) to address the following concerns:

Prevent natural overflow from the east end of Devils Lake through Tolna Coulee with control structures and devices.

Placement and restoration of water retention elements throughout the Devils Lake Basin to reduce and retard inflows to Devils Lake.

Passed, adopted and approved this 7th day of December, 2009.



Mary Lee Nielson, President of the Board of
City Commissioners of the City of
Valley City, Barnes County, North Dakota

ATTEST:



Avis Richter, Auditor of the City of
Valley City, Barnes County, North Dakota

RESOLUTION

WHEREAS the discharge of water from Devil's Lake into the Sheyenne River poses a potential harm to downstream interests within the Sheyenne River Basin.

THEREFORE, the Barnes County Board of County Commissioners hereby requests that the North Dakota State Water Commission contract with an impartial out of state entity with expertise in hydrological evaluation to promptly conduct a comprehensive hydrological analysis of the Devil's Lake Basin and the Sheyenne River Basin, including but not limited to; Studies of permanent and temporary water retention to keep water from entering Devil's Lake and/or the Sheyenne River; Armoring the Tolna Coulee in anticipation of natural overflow; A water release control device installation for the Tolna Coulee; An action plan for various increased levels of Devil's Lake over and above the current level; Cost benefit analysis of each proposed plan of action; and Potential environmental impacts of each action plan or the anticipated result for failing to act.

We respectfully request that a comprehensive study of the Devils Lake flooding as it affects the Sheyenne River be undertaken promptly. This study should be conducted by an impartial out of state organization with expertise in hydrological evaluation, cost benefit analysis and environmental impacts. Results from this study should be used as a basis for future management that will result in effective flood control for Devils Lake while minimizing impact to downstream communities.

Motion by RHINY WEBER

Second by HARLAN OPDAHL

Commissioner Berntson	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay
Commissioner Froelich	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay
Commissioner Opdahl	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay
Commissioner Schwehr	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay
Commissioner Weber	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay
Motion:	<input checked="" type="radio"/> Passed	<input type="radio"/> Failed

Dated this 13th day of December, 2009.

Cindy Schwehr
Cindy Schwehr, Chair

Edward McGough
Edward McGough, Auditor



GARRISON DIVERSION CONSERVANCY DISTRICT **STATUS REPORT ON THE** **RED RIVER VALLEY WATER SUPPLY PROJECT**

Garrison Diversion is the co-lead representing the State of North Dakota on the Red River Valley Water Supply Project Environmental Impact Statement (EIS). This update is provided on a regular basis to all state agencies. If you would like additional information, please contact us at gdc@daktel.com, 800-532-0074 or go to www.garrisondiversion.org.

Environmental Impact Statement

- The Secretary of Interior signed a memorandum on January 15 that disclosed the following:
 - The project selected to meet the needs of the Red River Valley is the Preferred Alternative, a pipeline from the McClusky Canal to Lake Ashtabula; and,
 - The identified treatment processes are adequate to meet the requirements of the Boundary Waters Treaty.
- The Final EIS was available to the public on December 28, 2007.

Lake Agassiz Water Authority

- The next meeting of the LAWA Board is scheduled for October 13.

Pre-final Design Effort

The following is a summary of the ongoing efforts on the task orders:

Right-of-Way: The property owner information on the proposed right-of-way has been collected. There are approximately 264 parcels with 177 landowners that will need to be negotiated. All offer letters have been mailed; to date, 105 signed option agreements have been received.

Garrison Diversion has met with local landowners and listened to several concerns. In response to this input, the Crop Damage Payment Policy and some of the conditions in the easement are being revised to clarify Garrison Diversion's intentions and commitments to assure that the project is constructed in a way that minimizes the impacts to the agricultural lands. These revisions are anticipated to be presented to the remaining landowners the week of October 5.

Three small adjustments to the pipeline route are currently being considered based on landowners' input.

Permitting and Environmental Services: Crews are currently in the field collecting data. A second coordination meeting with Reclamation was held on September 18 to review the collected field data. The US Fish and Wildlife Service has identified the parcels with wetland easements, and one area manager has been designated to work on conditions to cross the parcels with a wetland easement. Field surveys of the wetland easements are scheduled for mid October.

Operational Plan: The second workshop was held on August 11 to review the issues identified and discuss possible solutions. The primary issues that were addressed include maintenance flow requirements for water quality in the canal and in the pipeline, flood control constraints on Baldhill Dam, water measurement and accounting in Lake Ashtabula, the Sheyenne River and the Red River, and protocol for operation of the project.

The next workshop is scheduled for December 8.

Preliminary Design: Work has begun on engineering evaluations regarding the preliminary design of the system.

Current & Upcoming Activities:

- The design team is currently working on the following issues:
 - Technical Memorandums (TM):
 - TM1 - Trenchless crossings methods & schedule
 - TM2 - Pipe hydraulic model & pipe diameter selection
 - TM3 - Location of bedding materials study
 - TM4 - Pipeline scour studies (at three river/creek crossings)
 - TM5 - Pipe material, lining & wall thickness
 - TM6 - Pipe minimum cover depth
 - TM7 - Leak detection & monitoring
 - TM8 - SCADA system
 - TM9 - Discharge structure location & configurations
 - TM10 - Pressure control stations
 - TM11 - Line valves & turnouts
 - TM13 - Air/vacuum controls & blowoffs
 - TM15 - Steel pre-purchase
 - TM 16 - Construction Phasing Alternatives
 - TM17 - Preliminary Transient Model and Results
 - TM18 - Preselection of a pipe manufacturer
 - TM19 - Specifications for Reclaiming Ag Lands
 - Refining the pipeline alignment
 - CAD package development for final design drawings
 - Geotechnical investigation of crossings
 - Utility potholing
 - GIS based data management system
 - Preliminary water quality investigation

Work has also begun on fine-tuning the pipeline route based on the field information and the information gathered in the technical memorandums. Contracts have been issued to complete the geotechnical evaluations and the pothole utility locations.

A third design team meeting was held on October 6 and 7 in Denver.

State Agencies

- Garrison Diversion has met with the State Water Commission, ND Department of Health, and the ND Game and Fish to brief them on the upcoming efforts to develop the operational plan.

Schedule

- The next steps are to get authorization from Congress and to obtain a Record of Decision from the lead federal agency. Garrison Diversion, the State Water Commission and the Governor's office are working with the Congressional Delegation to move these efforts forward.



Dave Koland, General Manager



GARRISON DIVERSION CONSERVANCY DISTRICT **STATUS REPORT ON THE** **RED RIVER VALLEY WATER SUPPLY PROJECT**

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 - The identified treatment processes are adequate to meet the requirements of the Boundary Waters Treaty.
- The Final EIS was available to the public on December 28, 2007.

Lake Agassiz Water Authority

- The next meeting of the LAWA Board is scheduled for December 8.

Pre-final Design Effort

The following is a summary of the ongoing efforts on the task orders:

Right-of-Way: The property owner information on the proposed right-of-way has been collected. There are approximately 264 parcels with 177 landowners that will need to be negotiated. Due to some minor adjustments to the pipeline route, seven additional Option Agreements will need to be secured. To date, 110 signed option agreements have been received.

Garrison Diversion has met with local landowners and listened to several concerns. In response to this input, the Crop Damage Payment Policy and some of the conditions in the easement were revised and approved by the Garrison Diversion Board of Directors on October 16. These revisions clarified Garrison Diversion's intentions and commitments to assure that the project is constructed in a way that minimizes the impacts to the agricultural lands. These revised documents have been mailed to the remaining landowners.

Permitting and Environmental Services: Crews have completed collecting field data on the parcels with access agreements. The US Fish and Wildlife Service has identified the parcels with wetland easements, and field surveys of the wetland easements have been completed. The determination of wetlands under the jurisdiction of the Corps of Engineers is scheduled to be completed by November 15. The next steps will be to develop permit conditions and draft permit applications for all of the permits required for the project.

Operational Plan: On November 2, Garrison Diversion met with the ND Game and Fish Department and the State Water Commission to discuss the project's operation related to aquatic flows.

The next workshop is scheduled for December 8.

Preliminary Design: Work has begun on engineering evaluations regarding the preliminary design of the system.

Current & Upcoming Activities:

- The design team is currently working on the following issues:
 - Technical Memorandums (TM):
 - TM1 - Trenchless crossings methods & schedule
 - TM2 - Pipe hydraulic model & pipe diameter selection
 - TM3 - Location of bedding materials study
 - TM4 - Pipeline scour studies (at three river/creek crossings)
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 - Refining the pipeline alignment
 - CAD package development for final design drawings
 - Geotechnical investigation of crossings
 - Utility potholing
 - GIS based data management system
 - Preliminary water quality investigation

Contracts have been issued to complete the geotechnical evaluations and the pothole utility locations; this work is approximately 50% complete.

State Agencies

- Garrison Diversion has met with the State Water Commission, ND Department of Health, and the ND Game and Fish to brief them on the upcoming efforts to develop the operational plan.

Schedule

- The next steps are to get authorization from Congress and to obtain a Record of Decision from the lead federal agency. Garrison Diversion, the State Water Commission and the Governor's office are working with the Congressional Delegation to move these efforts forward.



Dave Koland, General Manager



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 - The identified treatment processes are adequate to meet the requirements of the Boundary Waters Treaty.
- The Final EIS was available to the public on December 28, 2007.

Lake Agassiz Water Authority

- The next meeting of the LAWA Board is scheduled for December 8.

Pre-final Design Effort

The following is a summary of the ongoing efforts on the task orders:

Right-of-Way: The property owner information on the proposed right-of-way has been collected. There are approximately 264 parcels with 177 landowners that will need to be negotiated. To date, 119 landowners have signed option agreements. In Sheridan County, 27 of 32 landowners have signed; Wells County 19 of 53 landowners have signed; Foster County 45 of 58 landowners have signed; and Griggs County 28 of 34 landowners have signed.

Garrison Diversion has met with local landowners and listened to several concerns. In response to this input, the Crop Damage Payment Policy and some of the conditions in the easement were revised and approved by the Garrison Diversion Board of Directors on October 16. These revisions clarified Garrison Diversion's intentions and commitments to assure that the project is constructed in a way that minimizes the impacts to the agricultural lands. These revised documents have been mailed to the remaining landowners. A meeting was requested by some landowners and has been scheduled for December 15 to answer any remaining questions on the new documents.

Permitting and Environmental Services: Crews have completed collecting field data on the parcels with access agreements. The US Fish and Wildlife Service has identified the parcels with wetland easements, and field surveys of the wetland easements have been completed. The determination of wetlands under the jurisdiction of the Corps of Engineers was completed by the Corp of Engineers, and notice was given to Garrison Diversion via letter dated November 23, 2009. These wetlands will be field verified in the next two weeks if weather permits.

The team is currently drafting permit applications for all of the permits required for the project.

Operational Plan: On November 2, Garrison Diversion met with the ND Game and Fish Department and the State Water Commission to discuss the project's operation related to aquatic flows. A meeting is scheduled for December 4 to brief Reclamation on the Draft Operational Plan.

The next workshop is scheduled for December 8.

Preliminary Design: Work on engineering evaluations regarding the preliminary design is approximately 75% complete, and the team is drafting the preliminary engineering report.

Current & Upcoming Activities:

- The design team is currently working on the following issues:
 - **Technical Memorandums (TM) that have been issued as final draft:**
 - TM1 - Trenchless crossings methods & schedule
 - TM2 - Pipe hydraulic model & pipe diameter selection
 - TM3 - Location of bedding materials study
 - TM4 - Pipeline scour studies (at three river/creek crossings)
 - TM5 - Pipe material, lining & wall thickness
 - TM6 - Pipe minimum cover depth
 - TM7 - Leak detection & monitoring
 - TM8 - SCADA system
 - TM10 - Pressure control stations
 - TM11 - Line valves & turnouts
 - TM13 - Air/vacuum controls & blowoffs
 - TM15 - Owner pre-purchase alternatives evaluation
 - TM18 - Realignment Feasibility Evaluation for Crossing Sections Diagonally
 - **Technical Memorandums that are currently being developed:**
 - TM9 - Discharge structure location & configurations
 - TM12 - Corrosion Control Plan
 - TM14 - Trenchless Crossing Methods
 - TM15A - Pipe Manufacturer Preselection
 - TM16 - Construction Phasing Alternatives Evaluation
 - TM17 - Preliminary Transient/Surge Model
 - TM19 - Specifications for Reclaiming Ag Lands
 - Refining the pipeline alignment is completed
 - Geotechnical investigation of the pipeline route
 - Utility potholing has been discontinued for the season and will be completed next spring.
 - GIS based data management system
 - Preliminary water quality investigation

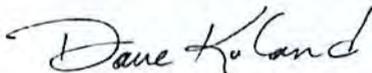
Contracts have been issued to complete the geotechnical evaluations and the pothole utility locations; this work is approximately 60% complete.

State Agencies

- Garrison Diversion has met with the State Water Commission, ND Department of Health, and the ND Game and Fish to brief them on the upcoming efforts to develop the operational plan.

Schedule

- The next steps are to get authorization from Congress and to obtain a Record of Decision from the lead federal agency. Garrison Diversion, the State Water Commission and the Governor's office are working with the Congressional Delegation to move these efforts forward.

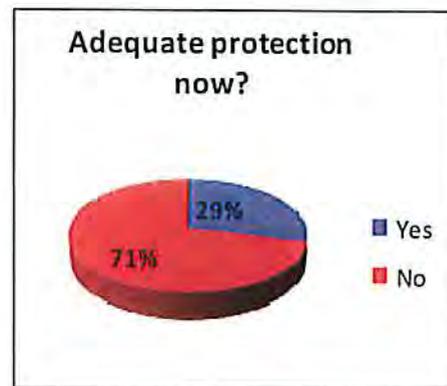
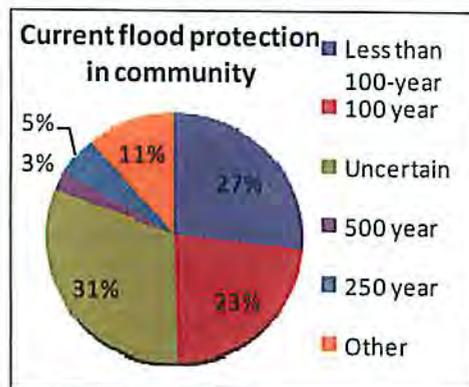


Dave Koland, General Manager



✓ We are generating first-hand information to use for leaders in the basin and policy makers

- **Public forums:** We held 16 public forums around the basin to engage with the public and solicit feedback on comprehensive plan. 700 residents collectively attended. We are proposing 6-10 more in January.
- **Public surveys:** About 260 basin residents have completed our ongoing public survey to date providing us with their views on ideal levels of protection, and proposed solutions, among other things. Below is a sample of the preliminary findings:



- **Board retreat:** RRBC Board members met November 4-5 to begin a process of setting basin-wide goals and principles with which to approach flood solutions
- ✓ We are leveraging funds in the basin to efficiently get results on long term flood solutions
- State funds are leveraging federal funds through the U.S. Army Corps of Engineers Red River Basin-wide Feasibility 1:1.
- ✓ We are developing creative and effective pilot projects to get real results
- Mitigating downstream impacts by upstream storage
 - Exploring venues to address on stream storage, mitigation, permitting, funding and timelines
- ✓ We are formulating goals and principles that will guide us through this project and into the future on basin-wide comprehensive water management

✓ We are preparing recommendations and a report to state policy makers for action

- Final report outline
- Legislative Report 2010 -- draft to the state in February

✓ FUNDING

LTFS PROJECT	3-Dec-09		
	July 09- June 10	July 10- June 11	
Phase I			\$ 1,000,000.00
RRBC Mang/Fin Fee	\$ 25,000.00	\$ 25,000.00	\$ 50,000.00
Policy Gov Rel	\$ 50,000.00	\$ 50,000.00	\$ 100,000.00
Barr Initial - Survey	\$ 25,000.00		\$ 25,000.00
Barr Phase I	\$ 153,000.00		\$ 153,000.00
Nitzkowski Public Mtg	\$ 10,000.00		\$ 10,000.00
Sub-Total 3 Dec 09	\$ 263,000.00	\$ 75,000.00	\$ 338,000.00
Remainign Uncommitted			\$ 662,000.00
Phase II	\$ 200,000.00	\$ 200,000.00	\$ 400,000.00
Media Outreach	\$ 25,000.00	\$ 25,000.00	\$ 50,000.00
Other Expenses	\$ 25,000.00	\$ 25,000.00	\$ 50,000.00
Economic Analysis	\$ 20,000.00		\$ 20,000.00
Phase II Projected	\$ 270,000.00	\$ 250,000.00	\$ 520,000.00
Toal All Expenditures			\$ 858,000.00
Un Committed Funds Curr/Proj			\$ 142,000.00