

**State Water Commission
Budget 770
Senate Bill Nos. 2020, 2371**

	FTE Positions	General Fund	Other Funds	Total
2011-13 legislative appropriation (including special session appropriations)	87.00	\$14,995,199	\$494,420,221	\$509,415,420
2009-11 legislative appropriation	<u>86.00</u>	<u>14,123,899</u>	<u>312,085,809</u>	<u>326,209,708</u>
2011-13 appropriation increase (decrease) to 2009-11 appropriation	1.00	\$871,300	\$182,334,412	\$183,205,712

Item Description

FTE position changes - The Legislative Assembly authorized the State Water Commission a total of 87 FTE positions, an increase of 1 FTE position from the 2009-11 authorized level of 86 FTE positions. The Legislative Assembly added 1 FTE Water Development Division director position funded from the resources trust fund (\$231,899).

One-time funding - In Section 2 of 2011 Senate Bill No. 2020, the Legislative Assembly identified \$7,771,773 of one-time funding from special funds, of which \$7,271,773 is a continuation of federal fiscal stimulus funding provided for the Southwest Pipeline Project's water treatment plant during the 2009-11 biennium.

The Legislative Assembly in 2009 House Bill No. 1305 provided \$2,792,000 from the permanent oil tax trust fund for water project grants, including \$864,000 to assist in the local cost-share of the Ray and Tioga Water Supply Project; \$985,000 to assist in the local cost-share of the Burke, Divide, and Williams Water District Water Supply Project; \$593,000 to assist in the local cost-share of the Wildrose Water Supply Project; and \$350,000 to assist in the repayment of outstanding bonds associated with the Stanley water pipeline construction project. The Legislative Assembly in 2011 identified \$500,000 of one-time funding from special funds to complete these projects during the 2011-13 biennium and provided the Office of Management and Budget transfer any unexpended funds appropriated from the permanent oil tax trust fund for these projects to the State Water Commission fund at the end of the 2009-11 biennium.

Sovereign lands enforcement grant - Section 3 of 2011 Senate Bill No. 2020 directs the State Water Commission to provide a grant of \$200,000 from the general fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state, the same amount as provided for the 2009-11 biennium.

Wildlife Services and Nelson County projects - Section 8 of 2011 Senate Bill No. 2020 requires the State Water Commission to provide funding for a grant to Wildlife Services for animal control (\$250,000) and

Status/Result

The State Water Commission filled the Water Development Division director position in June 2011.

Southwest Pipeline Project's water treatment plant - The plant is under construction with an estimated completion date of June 2012. The estimated total cost of the plant is \$17.1 million, of which \$11.9 million is from federal fiscal stimulus funding and the remaining \$5.2 million is from the resources trust fund.

Permanent oil tax trust fund water project grants - At the close of the 2009-11 biennium, \$465,222 of the permanent oil tax trust fund appropriation remained unspent, of which \$84,445 related to the repayment of outstanding bonds associated with the Stanley water pipeline construction project. The Stanley water pipeline construction project funds were not continued as they were in excess of the funding needed for the bond repayment. As a result, \$380,777 is available for the remaining water projects during the 2011-13 biennium. Through March 2012 the State Water Commission has spent \$258,128 on the remaining projects. The State Water Commission plans to use any funds remaining after the completion of these water projects for other State Water Commission projects.

During the 2009-11 biennium, the State Water Commission reimbursed the Game and Fish Department \$45,183 for law enforcement activities on sovereign lands of the state. Through March 2012 the commission has not received a request for reimbursement from the Game and Fish Department for law enforcement activities on sovereign lands during the 2011-13 biennium.

The State Water Commission is sharing the cost of animal control with the Game and Fish Department and Agriculture Commissioner on a pro rata basis. There have been no funds provided for animal control through March 2012;

flood-related water projects in the Nelson County Water Resource District (\$250,000) during the 2011-13 biennium.

Western Area Water Supply Authority - House Bill No. 1206 (2011) establishes the Western Area Water Supply Authority to treat, store, and distribute water to western North Dakota and to provide for the supply and distribution of water to the people of western North Dakota for domestic, rural water, municipal, livestock, industrial, oil and gas development, and other purposes. The authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities; water districts; and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. The bill provides that the Bank of North Dakota provide a loan of \$50 million to the authority for the construction of the project. The State Water Commission is required to make available from funding appropriated to the commission \$25 million as a zero interest loan to the authority. The bill also appropriates \$25 million from the general fund to the Bank to provide a loan to the authority for a maximum term of eight years from the completion of the \$50 million loan from the Bank at 5 percent interest per year. The bill appropriates \$10 million from the resources trust fund to the Bank for the purpose of providing a loan to the authority for a maximum term of two years from the completion of the \$25 million loan from the general fund at 5 percent interest per year. The bill provides that this funding must be structured so that funding is provided, as needed, first from the \$25 million zero interest loan from the State Water Commission, second from the \$50 million loan from the Bank, third from the \$25 million loan from the general fund, and last from the \$10 million loan from the resources trust fund. Repayment of loans must be structured in the following order:

1. The \$50 million loan from the Bank;
2. The \$25 million loan from the general fund with deposit of the principal in the general fund and interest in the resources trust fund;
3. The \$10 million loan from the resources trust fund for deposit in the resources trust fund; and
4. The \$25 million zero interest loan from the State Water Commission for deposit in the resources trust fund.

The authority is required to repay the loans from revenues from the project. Upon repayment of the State Water Commission zero interest loan,

however, the State Water Commission anticipates all of the funding will be spent by the end of the 2011-13 biennium.

The State Water Commission has provided \$86,260 for flood-related costs incurred by the Nelson County Water Resource District through March 2012. The State Water Commission anticipates the remaining \$163,740 of funding identified for flood-related water projects in the Nelson County Water Resource District will be spent by the end of the 2011-13 biennium.

Through March 2012, the State Water Commission has provided \$16,161,033 of the funds made available under the \$25 million zero interest State Water Commission loan, the first funding source identified by the Legislative Assembly.

the authority is required to provide 5 percent of the net profits to the State Water Commission for deposit by the State Treasurer in the resources trust fund until June 30, 2040. At the request of the authority, the State Water Commission is required to consider a loan of \$40 million from the resources trust fund for inclusion in the State Water Commission's budget for second phase funding.

Fargo flood control project - Section 7 of 2011 Senate Bill No. 2020 provides that of the funds appropriated to the State Water Commission for grants and projects for the 2011-13 biennium, \$30 million is for Fargo flood control projects. The section also provides that any funds not spent by June 30, 2013, are not subject to North Dakota Century Code Section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings. No more than 10 percent of the funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County Joint Water Resource District must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state. This funding is in addition to \$45 million provided for Fargo flood control by the Legislative Assembly in 2009 for a total of \$75 million.

Floodway property acquisition and construction funding - Section 19 of 2011 Senate Bill No. 2371 approved during the November 2011 special legislative session provides \$50 million from the resources trust fund for additional State Water Commission expenses. As provided in Section 4 of 2011 Senate Bill No. 2020, any expenditure of these funds requires Budget Section approval. In addition, Section 18 of Senate Bill No. 2371 provides the State Water Commission in its future plans place a high priority on providing funding for floodway property acquisitions and construction. The funding must be used to supplement federal hazard mitigation grant funds or other federal funds for acquiring property and for the construction of flood control projects in qualifying political subdivisions, including necessary funding for any state or local match requirements. Qualifying political subdivisions are cities or counties that are eligible for Federal Emergency Management Agency (FEMA) hazard mitigation grant funding or other comparable federal programs for flood mitigation and have received, or are located within counties that have received, an individual assistance designation by FEMA as a result of a flood event occurring during 2011.

During the 2009-11 biennium, the State Water Commission spent \$8.53 million for Fargo flood control. Through February 2012 the State Water Commission has spent an additional \$12.65 million to reimburse the city of Fargo for eligible flood control project costs for a total of \$21.18 million spent on the project of the \$75 million authorized.

In December 2011 and March 2012, the Budget Section approved the State Water Commission's requests pursuant to 2011 Senate Bill No. 2371 and Section 4 of 2011 Senate Bill No. 2020 to spend \$37,264,000 of additional funding available in the resources trust fund for Minot and communities along the Mouse River (\$2.5 million), the Souris River Joint Water Resource District disaster relief projects (\$50,000), and for property acquisitions (\$34,714,000). The State Water Commission anticipates using the \$34,714,000 of the additional funding approved for the acquisition of 219 properties as follows:

Project	Property Acquisitions	Amount
City of Burlington	11	\$1,039,000
Burleigh County	4	1,425,000
Valley City	31	3,000,000
Ward County	56	11,500,000
City of Minot	117	17,750,000
Total	219	\$34,714,000