

2011-13 Deficiency Appropriation Request – 2009 Flood Valley City State University

Deficiency Appropriation Request Summary 2009-11:

o 10% State Share	\$41,361
o FEMA Ineligible	<u>17,543</u>

2009 Flood Expenditures-Total Deficiency Request: \$58,904

Expenses related to the flood of 2009 totaled \$431,149. Through June 30, 2010, Federal reimbursement in the amount of \$334,834 had been received. The total unreimbursed amount at June 30, 2010 was \$96,315.

Pending Items:

All flood related projects were completed in the 2009-11 biennium. Efforts over the past year have been focused on the FEMA close out process for one large project.

The following additional costs are pending resolution by FEMA, resulting in either payment by FEMA or an additional deficiency request.

o Parking Lots	<u>\$37,411</u>
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Total Costs pending payment from FEMA \$37,411

FEMA Ineligible:

Payroll expenses:

Payroll expenses of \$9,750 were deemed FEMA ineligible and are included in the deficiency appropriation request. The payroll expenses were incurred to mitigate flood damage and also to keep the campus operational. Information Technology staff continued working during the campus closure to provide the technology necessary to finish the semester through delivery of courses to students who had all evacuated from Valley City.

Parking Lot repairs:

Parking lot repair expense exceeded the FEMA estimates by \$7,793. This amount is included in the deficiency appropriation request.

Bismarck State College
2011-13 Deficiency Appropriation Requests
Jack Science Center Water Damage

Background:

BSC requests a deficiency appropriation related to Jack Science Center (JSC) water damage. In September of 2008, the ground floor of the JSC was flooded as a result of construction work taking place on campus. Due to the construction of the BSC Aquatic and Wellness Center project it was necessary to temporarily turn off high pressure water service to the college to allow high pressure water line hookup for the Aquatic and Wellness Center. This work was being done by Weisz & Sons Inc. contractors. The contractor indicated that the Bismarck Public Water department thought they could reroute water to continue service to BSC and other business in the area during the time the high pressure line was shut down. A valve was opened by a Bismarck Public Works employee that flooded the JSC. The Bismarck Public Works department relied on erroneous information in their database to determine that by opening the valve, temporary water service to the JSC could be maintained.

Deficiency Request (cost information):

The total cost of restoration and the estimated cost of replacement/mitigation of damage infrastructure is \$195,000. The actual costs incurred for clean-up and restoration is \$145,000. We are estimating the cost to remove the valve and water line to be \$25,000 and the estimated cost to litigate to be \$25,000.

Insurance/Pending Claim:

BSC did make a claim to the ND Fire and Tornado fund but was denied due to policy exclusions. The North Dakota Insurance Department, State Fire and Tornado Fund did provide a formal coverage opinion regarding this incident. The opinion stated that the property insurance coverage has exclusions on page 2, Section B, paragraph g.

B. Exclusions. We will not pay for loss or damage caused directly or indirectly by the following.

g. Water

(4) Water under the ground surface pressing on, or flowing and seeping through

(a) Foundation, walls, floors or paved surfaces

The opinion indicated that the water that damaged the Jack Science Center seeped in through the floors. BSC does agree with the determination as to what occurred but was not aware of the policy exclusion and doesn't understand why the insurer we are required to utilize by state law would have such an exclusion.

A forensic study of the matter suggested at least partial liability on the part of the City of Bismarck who was responsible for opening the valve to the water service line that resulted in the flooding. We have submitted a claim to their insurance carrier who is the North Dakota Insurance Reserve Fund. At this time it is unknown if BSC will recover any insurance proceeds or when a decision by the City of Bismarck

will be reached. It would be the intent of Bismarck State College that any recovery of cost through litigation or settlement would reduce the deficiency appropriation request by the amount recovered.