

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

December 10, 1999

The North Dakota State Water Commission held a meeting at the Radisson Inn, Bismarck, North Dakota, on December 10, 1999. Governor-Chairman, Edward T. Schafer, called the meeting to order at 8:30 AM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff
Approximately 75 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

There being no additional items for the agenda, the Chairman declared the agenda approved, and requested Secretary Sprynczynatyk to present the agenda.

**CONSIDERATION OF MINUTES
OF SEPTEMBER 13, 1999 STATE
WATER COMMISSION MEETING -
APPROVED**

The minutes of the September 13, 1999 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner DeWitz, seconded by Commissioner Olin, and unanimously carried, that the minutes of the September 13, 1999 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF MINUTES
OF OCTOBER 27, 1999 STATE WATER
COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the October 27, 1999 State Water Commission telephone conference call meeting were approved by the following motion:

It was moved by Commissioner DeWitz, seconded by Commissioner Olin, and unanimously carried, that the minutes of the October 27, 1999 State Water Commission telephone conference call meeting be approved as prepared.

**FINANCIAL STATEMENT -
AGENCY PROGRAM BUDGET
EXPENDITURES**

Dale Frink, Assistant State Engineer, presented and discussed the Program Budget Expenditures for the period ending October 31, 1999, reflecting 17 percent of the 1999-2001 biennium.
SEE APPENDIX "A"

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

Dale Frink reported because of higher oil prices, revenue into the Resources Trust Fund for the first four months of the 1999-2001 biennium exceeded the December, 1998 forecast by approximately 40 percent. The State Water Commission's Resources Trust Fund authority for the 1999-2001 biennium is \$13,847,104, which has an unobligated balance of \$2,496,546 for general projects. The Projects-Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, is based on the agency's currently-authorized funding appropriation from the Resources Trust Fund.

**APPROVAL OF DRAINAGE
PROJECTS COST SHARE
FUNDING LIMITATION
OF \$136,000 DURING
1999-2001 BIENNIUM
(SWC File AS/SWC/POL)**

On August 13, 1998, the State Water Commission adopted a policy to limit the funding for drainage projects to 5 percent of new funding for general projects per biennium for any specific project. The new funding for general projects in the 1997-1999 biennium was approximately \$3,000,000. Five (5) percent of that figure is \$150,000, which was the limitation set after the Commission approved the revision to the policy on August 13, 1998.

Dale Frink stated the new funding for general projects in the 1999-2001 biennium is \$2,731,112, of which five (5) percent of that figure is \$136,000.

It was the recommendation of the State Engineer that the State Water Commission approve a \$136,000 funding limitation for drainage projects during the 1999-2001 biennium.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve a \$136,000 funding limitation for drainage projects during the 1999-2001 biennium.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**SENATE BILL 2188 -
NORTH DAKOTA WATER
the DEVELOPMENT BONDS
(SWC Project No. 1907)**

Secretary Sprynczynatyk stated that passage of Senate Bill 2188 by North Dakota 56th Legislative Assembly represents a landmark in water management and water

development. He said the new law not only recognizes the state's critical water needs, but creates a framework and the means for addressing those needs well into the 21st century.

Based upon the 1999 State Water Management Plan, Senate Bill 2188 addressed implementation of specific projects in the 1999-2001 biennium and clearly stated North Dakota's intent to meet identified water needs in future bienniums.

The Legislature's commitment is further depicted in the passage of House Bill 1475, which established a special Water Development Trust Fund. This fund will finance water projects with money from the state's tobacco settlement. The total amount of bonds authorized for construction during the 1999-2001 biennium is \$84.8 million for five projects: Southwest Pipeline Project - \$4.5 million; Grand Forks - \$52 million; Wahpeton - \$3.5 million; Grafton - \$4.8 million; and Devils Lake flood control - \$20 million.

A management requirement of Senate Bill 2188 is that the State Engineer report periodically to the Budget Section, any other interim committee designated by the Legislative Council, and to the North Dakota Senate and House of Representatives standing committees on Appropriations and Natural Resources regarding the implementation of the

comprehensive statewide water development and state water management plan and the issuance of bonds to finance the construction of flood control projects, the Southwest Pipeline Project, a Devils Lake outlet, and a statewide water development program during the 1999-2001 biennium. The report is to include information on the funding sources used to repay any bonds issued under the authority of Senate Bill 2188. Secretary Sprynczynatyk informed the Commission members that he provided an update on Senate Bill 2188 before the Budget Section of the Legislative Council on December 9, 1999. The State Engineer's report to the Budget Section is attached hereto as **APPENDIX "C"**.

Dale Frink indicated the State Water Commission continues its efforts toward an approximately \$36 million bond sale anticipated in February, 2000. The bond sale will provide \$25 million to Grand Forks, \$4.5 million to the Southwest Pipeline Project, \$500,000 for Wahpeton, and costs of approximately \$6 million for bond issuance, reserve fund, and capitalized interest. Mr. Frink said that if the efforts are finalized for the federal project for the Devils Lake outlet sooner than anticipated, funds for that project could be included in the February bond sale, or at a later time during the biennium.

Bond consultants have prepared final drafts for the General Bond Resolution, the 2000 Series A Bond Resolution, and the Preliminary Official Statement. Mr. Frink explained that the General Bond Resolution will be used for all future sales related to Senate Bill 2188 bonding. The 2000 Series A Bond Resolution and the Preliminary Official Statement are specific to the February bond sale. These documents will be presented for the State Water Commission's consideration prior to a bond sale.

Mr. Frink provided a status report on the Grand Forks project, and the legislated requirements that must be met as a condition to issuing the bonds. A final draft of the Project Cooperative Agreement (PCA) has been approved by the Corps of Engineers headquarters in Washington, DC. The Governor and the State Engineer must approve the details in the PCA, although the actual PCA will be signed by the Corps of Engineers and the cities of Grand Forks and East Grand Forks. The PCA will provide the majority of the requirements listed in Senate Bill 2188. The Corporate Center and approval of the final design remain to be completed. Construction on the project is anticipated to begin in 2000.

APPROVAL OF REQUEST FROM SHEYENNE RIVER JOINT WATER RESOURCE DISTRICT FOR COST SHARE FOR THE BALDHILL DAM FLOOD POOL RAISE IN 1999-2001 BIENNIUM OF \$250,000; AND APPROVAL OF RESOLUTION NO. 99-12-486 IN SUPPORT OF PROJECT (SWC Project No. 300) (SWC Resolution No. 99-12-486)

A request from the Sheyenne River Joint Water Resource District was presented for the Commission's consideration for cost share for construction of a five-foot raise at Baldhill Dam. The pool raise would potentially store an additional 30,700 acre-feet of water. The project is included in the Corps of Engineers Fiscal Year 2000 budget, therefore, construction could begin in 2000.

Secretary Sprynczynatyk explained that the Corps had previously indicated this project would not receive federal funding this biennium, so it was not included in the State Water Commission's Resources Trust Fund report submitted to the Legislature in December, 1998. He said the project has considerable merit and strong local interest and support and it would be beneficial to have the project in place to provide needed flood control.

The Corps of Engineers recently completed dam safety modifications to Baldhill Dam. Due to local concerns, the five-foot flood pool raise was not included in the modifications, but the project was designed to be compatible with a future pool raise. The Corps indicated there would not have been a significant cost savings if both the pool raise and dam safety modifications would have been built at the same time. The construction portion of the pool raise primarily includes raising the existing gates, at an estimated project cost of \$16 million. The Joint Board estimates the total nonfederal cost at \$3.5 million, which includes \$525,000 for construction and \$2,975,000 for land acquisition (fee or easements), relocation, and administrative expenses. Several landowners have expressed concerns regarding the project, and condemnation by the Joint Board is a possibility for which the Joint Board expects additional expense.

Secretary Sprynczynatyk explained that the State Water Commission normally does not cost share in land acquisition for non-federal projects, however, for federal projects most of the non-federal cost is land related, and the Commission has agreed to cost share in the actual land cost. Therefore, it was the State Engineer's recommendation that the State Water Commission cost share on land and relocation costs for this project.

The Joint Board included \$290,000 of administrative costs for the water resource districts. Secretary Sprynczynatyk said the State Water Commission has not cost shared on these types of expenses in the past, and recommended the State Water Commission not cost share in the administrative expenses for this project.

The Baldhill Dam flood pool raise project meets the current State Water Commission's policy and guidelines for cost share up to 50 percent of the eligible costs for flood control projects. The estimated non-federal costs eligible for cost share are \$3,210,000, of which the state's share would be \$1,605,000. Secretary Sprynczynatyk explained that because the project was not included in the Commission's Resources Trust Fund report to the Legislature in December, 1998, it would be impossible to provide \$1.6 million in the 1999-2001 biennium. Therefore, it was the recommendation of the State Engineer that the State Water Commission approve \$250,000 for the Baldhill Dam flood pool raise in the 1999-2001 biennium, and approve a declaration of intent seeking additional funding in future bienniums, subject to legislative appropriation.

It was moved by Commissioner Thompson and seconded by Commissioner Bjornson that the State Water Commission:

- 1) approve Resolution No. 99-12-486, Resolution of Support for the Baldhill Dam five-foot flood pool raise, which includes a declaration of intent seeking additional project funding in future bienniums, subject to legislative appropriation; and SEE APPENDIX "D"***
- 2) approve the expenditure of \$250,000 from the Contract Fund in the 1999-2001 biennium for the Baldhill Dam five-foot flood pool raise, contingent upon the availability of funds.***

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF REQUEST FROM
GRAND FORKS COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARE IN RURAL RING DIKES
PROJECT IN TURTLE RIVER
TOWNSHIP
(SWC Project No. 1280)**

Turtle River township who have requested assistance for engineering and construction of the ring dikes. The four sites are located in Sections 14 and 23, Township 154 North, Range 51 West in the vicinity of Manvel, ND.

A request from the Grand Forks County Water Resource District was presented for the Commission's consideration for cost share in the rural ring dikes project.

The project involves the construction of four rural ring dikes for landowners in

Secretary Sprynczynatyk explained that ring dikes are the most acceptable and efficient way to protect farmsteads during a flood event, with the intent being to protect farmsteads, grain bins, and other developed areas. He said it is not intended to provide protection to cropland. Secretary Sprynczynatyk said the project provides a public benefit of protection for personal safety and health related concerns, which include the prevention of farm chemicals and other debris from reaching the river.

The preliminary cost estimate for the project is \$100,000. The request before the State Water Commission is to cost share in 25 percent of the eligible costs in the amount of \$25,000. Secretary Sprynczynatyk said the Commission staff has reviewed the project and determined the project serves a public purpose, that is, "one that promotes the public welfare", and provides flood protection to the area.

It was the recommendation of the State Engineer that the State Water Commission cost share in 25 percent of the eligible costs, not to exceed \$25,000 from the Contract Fund, in the Grand Forks County Water Resource District's rural ring dikes project in Turtle River township, contingent upon the availability of funds.

The State Water Commission approved funds for similar projects in Walsh county, North Cass county, and Grand Forks county on December 21, 1998, August 13, 1998, and September 13, 1999, respectively. The cost share approved by the Commission for all of these projects was limited to 25 percent. Because of concerns expressed on behalf of the landowners that the level of funding approved would not be adequate for the landowners to pursue the program, the Commission directed the State Engineer to pursue options for a partnership of funding for the program that could involve the Red River Joint Water Resource Board, the local water resource district, the landowner, and the state.

On January 27, 1999, Secretary Sprynczynatyk reported the Red River Joint Water Resource Board considered the request to provide funds for farmstead ring dikes in the Red River area at its meeting on January 13, 1999, but because of concerns expressed relative to the Board's funding limitations, action was deferred by the Board until a later meeting.

Jim McLaughlin, Vice Chairman of the Red River Joint Water Resource Board, expressed support for the rural farmstead ring dikes program and a cost participation, but he said the Board's legal counsel has indicated the bylaws do not specifically provide cost share authority on these types of programs and projects. Mr. McLaughlin requested the Board and the State Engineer continue to pursue efforts to resolve the Board's cost share issue.

It was the consensus of the Commission members that the State Engineer continue discussions with the Red River Joint Water Resource Board in an effort to increase the cost share percentage for rural farmstead ring dikes.

It was moved by Commissioner Johnson and seconded by Commissioner Hillesland that the State Water Commission approve cost share of 25 percent of the eligible costs, not to exceed \$25,000 from the Contract Fund in the 1999-2001 biennium, in the Grand Forks County Water Resource District's rural ring dikes project in Turtle River township. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF REQUEST FROM
RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR
ADDITIONAL COST SHARE IN
RICHLAND COUNTY DRAIN NO. 95
(SWC Project No. 1900)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for an additional cost share on the Richland County Drain No. 95 project.

Todd Sando, Director of the State Water Commission's Water Development Division, presented the completed project. The engineer's cost estimate for the project was \$1,220,110, of which \$925,435 was considered eligible for a 40 percent cost share, in the amount of \$370,200.

On July 22, 1997, the State Water Commission passed a motion approving 40 percent cost share in the amount of \$100,000 from the Contract Fund, and deferred action on the remainder of the cost share request. Since the Commission's action on July 22, 1997, the cost share policy and guidelines were revised by the Commission, limiting the funds approved in the 1997-1999 biennium to \$150,000. On December 21, 1998, the State Water Commission passed a motion approving an additional \$50,000 for the project.

The State Water Commission passed a motion at its meeting on this date (December 10, 1999), approving a \$136,000 funding limitation for drainage projects during the 1999-2001 biennium.

Secretary Sprynczynatyk stated since the project was approved under the 40 percent guidelines, it would be appropriate to use the 40 percent guidelines for the additional cost share request, although the funds would be limited to \$136,000.

It was the recommendation of the State Engineer that the State Water Commission approve an additional 40 percent cost share of the eligible items, not to exceed an additional \$136,000 in the 1999-2001 biennium from the Contract Fund, for Richland County Drain No. 95, and defer consideration of the remaining cost share request (\$84,200) until the 2001-2003 biennium.

It was moved by Commissioner Johnson and seconded by Commissioner Hillesland that the State Water Commission approve cost share of 40 percent of the eligible items, not to exceed an additional \$136,000 in the 1999-2001 biennium from the Contract Fund, for Richland County Drain No. 95. This motion is contingent upon the availability of funds.

This action increases the State Water Commission's cost share contribution to \$286,000. The remainder of the cost share request (\$84,200) is to be deferred for consideration during the 2001-2003 biennium.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF REQUEST FROM
RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR
COST SHARE IN CONSTRUCTION
OF RICHLAND COUNTY DRAIN
NO. 97
(SWC Project No. 1906)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost share on the construction of Richland County Drain No. 97.

Todd Sando presented the project, which involves the construction of approximately 3.5 miles of drain located in Sections 16, 17, 21 and 22, Township 133 North, Range 49 West, Ibsen township. On March 30, 1999, the State Engineer approved drain permit No. 2883 for the project.

The engineer's cost estimate is \$204,754, of which \$176,500 is eligible for cost share. Under the State Water Commission's policy and guidelines for cost share, 35 percent of the eligible costs qualify for cost share. The request before the State Water is to cost share in the amount of \$62,000.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible costs, not to exceed \$62,000 from the Contract Fund in the 1999-2001 biennium, for Richland County Drain No. 97, contingent upon the availability of funds.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$62,000 from the Contract Fund in the 1999-2001 biennium, for the Richland County Drain No. 97 project. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF REQUEST FROM
TRAIL COUNTY WATER RESOURCE
DISTRICT FOR ADDITIONAL COST
SHARE IN TRAIL COUNTY
DRAIN NO. 57A
(SWC Project No. 1903)**

A request from the Traill County Water Resource District was presented for the Commission's consideration for additional cost share in the construction of the Traill County Drain No. 57A project. The project has been completed and inspected by the Commission staff.

Todd Sando presented the request, which was deferred by the Commission at its January 27, 1999 meeting due to the revenue situation for the Resources Trust Fund in the 1997-1999 biennium.

The engineer's project cost estimate was \$723,661, of which \$642,669 is eligible for cost share to construct approximately 9 miles of the drain. Under the State Water Commission's policy and guidelines for cost share, 35 percent of the eligible costs qualify for cost share in the amount of \$224,934. The current guidelines limits the amount of cost share per biennium to 5 percent of new funding available for general projects, and not to exceed \$150,000 in the 1997-1999 biennium.

On June 9, 1999, the State Water Commission passed a motion approving 35 percent cost share of the eligible items, not to exceed \$150,000 from the Contract Fund. The remaining portion eligible for cost share (\$74,934) was recommended for deferral until the 1999-2001 biennium.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed an additional \$74,934 from the Contract Fund in the 1999-2001 biennium, for the Traill County Drain No. 57A project.

It was moved by Commissioner Johnson and seconded by Commissioner DeWitz that the State Water Commission approve cost share of 35 percent of the eligible costs, not to exceed an additional \$74,934 from the Contract Fund in the 1999-2001 biennium, for the Traill County Drain No. 57A project. This motion is contingent upon the availability of funds.

This action increases the total State Water Commission contribution to \$224,934.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF REQUEST
FOR EXPENDITURE OF
\$100,000 FOR RED RIVER
BASIN BOARD IN FISCAL
YEAR 2000
(SWC File AOC/RRB)**

The Red River Basin Board was organized in 1997 to develop and cause to be implemented, a comprehensive water management plan for the Red River basin addressing the needs on a watershed basis and to facilitate and pursue the resolution of inter-jurisdictional issues.

Economic and social growth potential in eastern North Dakota has been and will continue to be complicated by the condition and variability of the region's water resources. Secretary Sprynczynatyk stated an important juncture in supporting the needs of the people in this region has been reached, but many management decisions still remain which basically involve working with our neighboring states and province. He said it is fortunate that the Red River Basin Board is in place to facilitate the development of a basinwide plan built on common goals and objectives and to provide a forum to work out differences. Since the Board's inception in 1997, Secretary Sprynczynatyk said a positive relationship among the local, state and province members has developed that will be conducive to better water management decisions.

The Board has developed and published a set of Guiding Principles, and continues to make progress in developing a comprehensive basinwide water management plan. An interim

plan report is being developed and will be presented to the Board for consideration at its January, 2000 meeting. The report provides a plan for how the Board will proceed with the balance of its planning process and for doing business in the future. It is anticipated the report will receive public comments this winter during a series of meetings scheduled by The International Coalition.

James Moench was hired as the Red River Basin Board's Executive Director on December 1, 1999. Mr. Moench expressed appreciation to the State Water Commission for its past support, and said he is looking forward to a continued working relationship with the Board and the Commission to address the water management issues in the Red River basin.

During the 1997-1999 biennium, funding for the Red River Basin Board was provided by the State of Minnesota in the amount of \$200,000; grant funds from the State of North Dakota, including funds from the State Water Commission and the Department of Health in the form of Environmental Protection Agency's Wetlands Conservation and the Federal Emergency Management Agency funds allocated to North Dakota; and funds from regional water boards in Minnesota and North Dakota. Manitoba provided \$120,000 to the Board for the period April 1, 1999 to April 1, 2000, with the intent of providing \$120,000 for the following fiscal year.

Secretary Sprynczynatyk stated that the Minnesota Legislature has appropriated \$200,000 for the 1999-2001 biennium to the Board, contingent upon an equal match from North Dakota. In discussing the funding arrangements for North Dakota's share, Secretary Sprynczynatyk said the Department of Health indicated the EPA grants used to pay North Dakota's share in the 1997-1999 biennium are no longer available to the Department. He said he will continue to work with the Department of Health and, hopefully, that agency will be able to provide funds towards North Dakota's share in the 1999-2001 biennium. He emphasized the need for funding support on the local level and addressed the efforts that are being pursued.

It was the recommendation of the State Engineer that the State Water Commission approve \$100,000 for the Red River Basin Board in Fiscal Year 2000 to continue its basinwide water management plan, and to provide a forum to resolve water management conflicts that exist or might arise between the member states, province and local entities. These funds are to be used as a partial match for Minnesota's \$200,000 grant to the Red River Basin Board.

It was moved by Commissioner Johnson and seconded by Commissioner Bjornson that the State Water Commission approve \$100,000 from the Contract Fund for the Red River Basin Board in Fiscal Year 2000 to continue its basinwide water management plan, and to

provide a forum to resolve water management conflicts that exist or might arise between the member states, province and local entities. These funds are to be used as a partial match for Minnesota's \$200,000 grant to the Red River Basin Board. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF NORTH DAKOTA
WETLANDS TRUST ALLOCATION
FOR FISCAL YEAR 1999
(SWC Project No. 1826)**

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

program and the Wetlands Trust. Both features are widespread programs benefitting much of the state.

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

In 1993, the Garrison Diversion Conservancy District, the State Water Commission, and the North Dakota Game and Fish Department entered into a memorandum of agreement in which the three entities agreed to share equally the state's commitment, in accordance with terms set out in a February 14, 1991 agreement between the State of North Dakota, the Bureau of Reclamation, and the North Dakota Wetlands Trust. That agreement provides that the state's share shall be based on 0.15 percent of the federal Garrison Diversion Unit (GDU) appropriation. The Fiscal Year 1999 GDU appropriation is \$22.6 million; therefore, the state's commitment is \$40,203. The State Water Commission's share is \$13,401.

The North Dakota Wetlands Trust requested the state to consider the acceleration of its matching funds to the Trust for the balance of its annual payments, which would amount to approximately \$320,130. Warren Jamison, Manager of the Garrison Diversion Conservancy District, stated that the executive board, at its December 3, 1999 meeting, considered a similar request, and passed a motion to decline the request, contingent upon the North Dakota Wetlands Trust providing specific documentation relating to the benefits derived from an accelerated payment schedule.

It was the recommendation of the State Engineer that the State Water Commission approve the obligation of \$13,401 for one-third of the state's Fiscal Year 1999 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

It was moved by Commissioner Swenson and seconded by Commissioner Johnson that the State Water Commission approve the obligation of \$13,401 for one-third of the state's Fiscal Year 1999 North Dakota Wetlands Trust contribution. This motion is contingent upon the availability of funds, and an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

The State Water Commission did not take action at this meeting on the North Dakota Wetlands Trust's request to consider the acceleration of the state's matching funds to the Trust for the balance of its annual payments. The Commission requested the North Dakota Wetlands Trust to provide specific documentation relating to the benefits derived from an accelerated payment schedule.

**APPROVAL OF REQUEST FROM
ELK/CHARBON IRRIGATION
DISTRICT FOR COST SHARE
IN CONSTRUCTION OF IRRIGATION
SUPPLY WORKS
(SWC Project No. 1857)**

On December 4, 1996, the State Water Commission passed a motion to cost share with the McKenzie County Water Resource District for 50 percent of the eligible costs, not to exceed \$25,000, for a feasibility study of developing irrigation in the Elk/

Charbonneau/Timber Creek area of McKenzie County. IRZ Consulting of Hermiston, Oregon, completed the feasibility study. The results of the feasibility study were presented to the Commission at its February 13, 1998 meeting, which showed that irrigation in the area was feasible.

The steering committee petitioned for the creation of an irrigation district, which was processed in accordance with state law. The Order creating the Elk/Charbon Irrigation District was executed by the State Engineer on March 3, 1999. The original project name of Elk/Charbonneau/Timber Creek Irrigation was shortened to Elk/Charbon Irrigation.

A request was received from the Elk/Charbon Irrigation District on March 10, 1999 requesting funding for the construction of the project. The request was for \$1.98 million, which is 40 percent of the irrigation water delivery works. The total cost of the project, including onfarm cost, is approximately \$4.8 million, a per acre cost of approximately \$1,006.

Because of the revenue situation in the Contract Fund, the State Engineer informed the District that funds were not available in the 1997-1999 biennium for the project.

On November 23, 1999, the State Water Commission received a request for funding for the Elk/Charbon Irrigation project. The project has a total cost estimate of \$7,449,669 and includes about 4,800 acres of irrigation. The District intends to irrigate sugar beets on about one-third of the acreage, along with dry beans, alfalfa, and possibly potatoes in the future.

The cost of the delivery system for the project is \$5,534,668, which is the only portion the State Water Commission would consider eligible for cost share. The District requested a 40 percent cost share, or \$2.2 million.

Matt Iverson, chairman of the Elk/Charbon Irrigation District, provided a project status report. He said the District hopes to advertise for an initial design and construction bid in December, 1999, with anticipation that the project would be under construction in 2000. The State Engineer approved a conditional water permit for the project on July 27, 1999. The District has applied to the Corps of Engineers for a Section 404 permit and is hopeful that a permit will be granted within the next few weeks.

Mr. Iverson said the District has a long-term opportunity that the sponsors hope will enhance the feasibility of the project. Holly Sugar in Sidney, Montana is expanding its production while also encouraging current producers to develop a three-year rotation to reduce disease. Most of the District's acres are only 20-25 miles from the Holly Sugar plant, so there is a lot of interest in this project.

Mr. Iverson requested the State Water Commission's favorable consideration of the cost share request. Comments of support for the Elk/Charbon Irrigation project were provided by Mike Ames, former State Water Commission member, Williston.

Secretary Sprynczynatyk explained that the Contract Fund cannot support the entire 40 percent state cost share request of \$2.2 million, however, due to the excellent economic development potential of irrigation, the State Water Commission could consider \$1 million for

the District at this time, with an understanding that the project sponsors could request additional funds from the Commission in the future. He said this is beyond the \$800,000 allocation for irrigation in the agency's 1999-2001 budget, but in conversations with representatives of the project, \$1 million will allow the project to move forward.

Secretary Sprynczynatyk said this recommendation is consistent with the action taken by the State Water Commission on September 11, 1997 for the Nesson Valley irrigation project, of which a 40 percent cost share was approved in the amount of \$1.5 million, with the Nesson Valley project sponsors knowing they could come back, if necessary, to request additional funds for the entire 40 percent.

It was the recommendation of the State Engineer that the State Water Commission approve a cost share of 40 percent of the eligible costs, not to exceed \$1 million from the Contract Fund in the 1999-2001 biennium, for the construction of the irrigation supply works for the Elk/Charbon Irrigation project in McKenzie County, contingent upon the availability of funds and receipt of a Section 404 permit from the Corps of Engineers. The State Engineer also recommended that the Commission staff continue to work with the project sponsors to determine ways for the project to move forward and, if necessary, that the project sponsors may request additional funds from the Commission in the future for the entire 40 percent cost share.

Commissioner Thompson questioned the recommendation to approve a 40 percent cost share with an allocation of \$1 million in the 1999-2001 biennium for the Elk/Charbon irrigation project. He said although he supports statewide irrigation and does not object to the Elk/Charbon irrigation project, he does have concerns that the project will cost approximately \$1,551 per acre and will benefit only a few farmers. He said approving the recommendation for cost share will send the wrong message to those farmers who have financed irrigation systems on their own. Commissioner Thompson said it is important that the Commission adopt cost share guidelines for irrigation, and suggested the Commission limit its spending for irrigation projects based upon the cost per acre of irrigation.

Secretary Sprynczynatyk said the current policy for irrigation cost share has been in place for approximately 25 years. The essence of that policy is that the Commission will consider cost share for the principal supply works of a project if requested by a political subdivision of the state, and in the case under consideration, an irrigation district. The district must first determine if the project is in the public interest in its area, then whether or not it is in the public interest of the region and the state, which is the basis for potential state cost share.

When the Commission considers cost share, only the principal supply works are considered eligible for state participation, and not the individual on-farm pivot itself. Secretary Sprynczynatyk said that is why it is a difficult decision for a district, since the potential cost participation by the state is only for a portion of the total cost. Referencing the Elk/Charbon irrigation project, the potential state participation is 29 percent of the total cost, with the remaining 71 percent to be paid by the district.

The policy for cost share for the public infrastructure supply works for irrigation projects has been 40 percent of the eligible items. Secretary Sprynczynatyk said there has never been a policy adopted by the Commission based upon the cost per acre. The decisions made by the Commission in the past have been based upon the overall net economic development and the return to the state as a result of the project being constructed, including consideration of other future business development.

(Note: Because of the considerable discussion at the December 10, 1999 Commission meeting regarding the Commission's policies for project cost share, particularly for irrigation, a subsequent memorandum was prepared by the State Engineer providing additional information. This memorandum is attached hereto as **APPENDIX "E"**.)

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission:

- 1) approve a cost share of 40 percent of the eligible costs, not to exceed \$1 million from the Contract Fund in the 1999-2001 biennium, for the construction of the irrigation supply works for the Elk/Charbon irrigation project in McKenzie County. This motion is contingent upon the availability of funds, and upon the receipt of a Section 404 permit from the Corps of Engineers; and***
- 2) staff continue to work with the Elk/Charbon Irrigation District to determine ways for the project to move forward and, if necessary, to request additional funds from the State Water Commission in the future.***

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, and Chairman Schafer voted aye. Commissioner Thompson voted nay. The recorded vote was 8 ayes; 1 nay. The Chairman announced the motion carried.

**APPROVAL OF REQUEST FROM
NORTH DAKOTA IRRIGATION
CAUCUS FOR EXPENDITURE OF
\$40,000 FOR IMPLEMENTATION
OF IRRIGATION STRATEGIC PLAN
(SWC File AOC/IRR)**

A request from the North Dakota Irrigation Caucus was presented for the State Water Commission's consideration for an expenditure of \$40,000 for the implementation of the Irrigation Strategic Plan. The Plan includes a proposed Irrigation Caucus coordinator to address the

irrigation issues to successfully expand irrigation and build and diversify the economy.

The North Dakota Irrigation Caucus was formed in 1998 under the umbrella of the North Dakota Water Users Association. Secretary Sprynczynatyk said through the Water Users Association, the Irrigation Caucus has gained credibility, which includes the joint scheduling of an irrigation workshop and other items pertaining to irrigation during the annual North Dakota Water Convention and Irrigation Expo. During the last Legislative Session, the water interests, including the Irrigation Caucus, were successful in obtaining funding for irrigation development through the State Water Commission, and in developing a new irrigation bonding authority through the Commission. As has been experienced in the past, Secretary Sprynczynatyk said when the various water development and management interests have been able to work closely together and under the same general umbrella, there has generally been a positive outcome.

The total budget of the Irrigation Caucus for 2000 and 2001 is \$191,000. To support this budget, the Irrigation Caucus requested \$40,000 from both the State Water Commission and the Garrison Diversion Conservancy District. The Conservancy District's executive board acted favorably on the request at its meeting in October, 1999. The Irrigation Caucus also requested \$80,000 from APUC, but the request was deferred until after the State Water Commission acted on its request, since APUC sees the Commission as the state's lead agency in irrigation development. Secretary Sprynczynatyk said if the Commission acts favorably on the funding request, the request to APUC will be resubmitted for consideration.

Bill Sheldon, an irrigator in the Nesson Valley in Williams County, addressed the State Water Commission, and requested favorable consideration of the funding request.

Since the implementation of the North Dakota Irrigation Caucus's Strategic Plan is consistent with the irrigation goal of the 1999 State Water Management Plan, which is "..... to encourage the development of all viable irrigation," and since the Strategic Plan is timely in

view of the increased interest in irrigation in the state, it was the recommendation of the State Engineer that the State Water Commission support the request for \$40,000 to the North Dakota Irrigation Caucus for the implementation of the Irrigation Strategic Plan.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve the expenditure of \$40,000 from the Contract Fund for the years 2000 and 2001 to the North Dakota Irrigation Caucus for the implementation of the Irrigation Strategic Plan. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**GARRISON DIVERSION PROJECT -
APPROVAL OF CONTINUATION
OF CONTRACT WITH WILL &
CARLSON, WITH COST SHARE
UP TO \$50,000 FROM CONTRACT
FUND, FOR JULY 1, 1999 TO
JUNE 30, 2001
(SWC Project No. 237-03)**

Secretary Sprynczynatyk presented a request from the Garrison Diversion Conservancy District to continue participation in support of the Will & Carlson contract in the amount of \$50,000.

The Dakota Water Resources Act is requiring a major effort in Washington to obtain Congressional approval. Will & Carlson is assisting to provide services for the state in Washington, DC for the Garrison Diversion Project, Devils Lake, and the Dakota Water Resources Act.

It was the recommendation of the State Engineer that the State Water Commission approve up to \$50,000 from the Contract Fund to continue the Will & Carlson contract for the period July 1, 1999 to June 30, 2001. These funds will be used to pay 50 percent of the incurred cost up to \$100,000, with the Garrison Diversion Conservancy District paying the remainder.

It was moved by Commissioner Thompson and seconded by Commissioner Hanson that the State Water Commission approve continuation of the Will & Carlson contract for the period July 1, 1999 through June 30, 2001, up to \$50,000 from the Contract Fund. This motion is contingent upon the availability of funds.

These funds will be used to pay 50 percent of the incurred cost up to \$100,000, with the Garrison Diversion Conservancy District paying the remainder.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion carried.

**APPROVAL OF EXTENSION OF
DEVILS LAKE BASIN MANAGER
CONTRACT, AND FUNDING OF
\$23,000 FROM JANUARY 1, 2000
TO DECEMBER 31, 2000
(SWC Project No. 416-01)**

In 1998 and 1999, the State Water Commission participated with the Devils Lake Basin Joint Board in cost sharing for a full-time Devils Lake Basin Manager and office for the board. Wayne Simon was hired into the position in 1998 and an office has

been maintained in the Ramsey County Courthouse. The Joint Board formally requested continued financial participation for a 12-month period, effective January 1, 2000.

The cost share arrangement requested is 40 percent provided by the State Water Commission for one year, not to exceed \$23,000. The Commission would pay the Joint Board for the actual expenses based on quarterly expense reports approved by the Commission. The remaining funds would be provided by the Devils Lake Basin Joint Board.

It was the recommendation of the State Engineer that the State Water Commission approve 40 percent funding, not to exceed \$23,000 from the Contract Fund, for the Devils Lake Basin Manager.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve extending the contract for the Devils Lake Basin Manager from January 1, 2000 to December 31, 2000, with a 40 percent cost share, not to exceed \$23,000 from the Contract Fund. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**APPROVAL OF EXTENSION OF
DEVILS LAKE OUTLET AWARENESS
PROJECT MANAGER'S CONTRACT,
AND FUNDING OF \$15,000
FROM JANUARY 1, 2000
TO DECEMBER 31, 2000
(SWC Project No. 416-01)**

Success in implementing a Devils Lake emergency outlet requires that potentially-affected parties completely understand the project and its potential impacts. In 1999, the Garrison Diversion Conservancy District, the Devils Lake Basin Joint Water Resource Board, and the Forward

Devils Lake Corporation cost shared with the State Water Commission to fund a full-time position for the purpose of dispersing information about the proposed emergency outlet. Joe Belford was hired into this position and has met with many interest groups such as civic, wildlife, and agricultural organizations in North Dakota, Minnesota, and Manitoba.

A request was presented by the Devils Lake Joint Water Resource Board for the Commission's consideration to continue funding for the Devils Lake Outlet Awareness Project Manager's position through 2000, with a 33 percent cost share, not to exceed \$15,000 from the Contract Fund. All other parties of the previous agreement have indicated their intentions to continue this effort through 2000.

The terms of the proposed contribution agreement are as follows:

The State Water Commission	\$15,000	(33 percent)
Garrison Diversion Conservancy District	\$15,000	(33 percent)
Devils Lake Joint Board	\$10,000	(22 percent,
	plus up to \$5,000 in-kind service)	
Forward Devils Lake Corporation	\$ 5,000	(12 percent)

It was the recommendation of the State Engineer that the State Water Commission approve extending the contract for the Devils Lake Outlet Awareness Project Manager's position from January 1, 2000 to December 31, 2000, with a 33 percent cost share, not to exceed \$15,000 from the Contract Fund, as described in the above arrangement, and contingent upon the availability of funds.

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission approve extending the contract for the Devils Lake Outlet Awareness Project Manager's position, with a 33 percent cost share, not to exceed \$15,000 from the Contract Fund, from January 1, 2000 to December 31, 2000. This motion is contingent upon the availability of funds.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
CONTRACT AND CONSTRUCTION
STATUS; AND PROJECT UPDATE
(SWC Project No. 1736)**

James Lennington, Project Manager for the Southwest Pipeline Project, provided the following contract, construction and project status report.

Contract 2-6B - Burt Service Area, Main Transmission Pipeline: The contract consists of the installation of 46.5 miles of pipeline between Mott and Carson, including service to the cities of New Leipzig, Elgin and Carson, of which approximately 14 miles have been installed. The contract completion date is January 14, 2001, with service to New Leipzig by September 15, 2000, service to Elgin by October 15, 2000, and service to Carson by November 30, 2000.

Contract 5-6, Burt Tank: There has been no activity since the contract was awarded. The contractor is expected to begin construction on the tank in the spring of 2000, with the contract completion date of September 2, 2000.

Contract 5-14 - Hebron Reservoir; The contract foundation work has been completed. The contractor is expected to begin erection of the glass-fused bolted steel reservoir in the spring of 2000, with the contract completion date scheduled for August 26, 2000.

Contract 7-3B/7-5B - Southeast Jung Lake and South Hebron Pocket Service Areas: Bid opening is scheduled for December 15, 1999. Current cost estimates indicated that these areas may not meet the State Water Commission's feasibility criteria, therefore, following the bid opening, a final determination of feasibility will be made and a recommendation presented for the Commission's consideration.

Contract 7-4/7-3A - Bucyrus and Three Pockets Service Areas Rural Distribution System: The contract, which included areas added by change order, is complete. The final inspection was held, and final payment on this contract is anticipated in December, 1999.

Contract 7-5A - Hebron Service Area Rural Distribution System: The contract is complete. The final inspection of this contract and contract 23H, the Hebron Service Area, Main Transmission Pipeline, was conducted in November, 1999.

Under the Transfer of Operations Agreement, the Southwest Water Authority is required to prepare a budget by December 15 of each year and submit it to the Secretary of the State Water Commission. The budget is deemed approved unless the Secretary of the Commission notifies the Authority of its disapproval by February 15. A draft 2000 Southwest Water Authority Operations Budget was considered by the Authority at its meeting on December 6, 1999, and was presented to the State Water Commission at this meeting.

The Southwest Water Authority and the city of Dickinson have discussed the possible transfer of management and operations of the Dickinson water treatment plant to the Authority. Mr. Lennington said several public meetings on the issue have been held and the feedback has been mostly positive. A draft agreement has been prepared by the Authority and is being considered by the city. The Commission is a party to the draft agreement because of its obligations under the present treatment agreement with the city and its relationship with the Authority. The agreement will be presented to the Commission for consideration at a later meeting.

Mr. Lennington reported the electric wheeling agreement between the State Water Commission and Montana-Dakota Utilities Company was amended to include the Dickinson water treatment plant as an additional Southwest Pipeline Project facility to receive electric power under the agreement.

An application requesting funding for the 2000 construction year has been submitted to USDA, Rural Development. The application is for \$2,400,000 in federal assistance, consisting of \$400,000 in a loan (revenue bond) and \$2,000,000 in a grant. The state's portion totals \$1,870,000, consisting of \$1,000,000 in revenue bonds, possibly through the state's revolving loan fund, and \$870,000 in state grant funds provided under Senate Bill 2188. Mr. Lennington stated that the total funding anticipated for the 2000 construction year is \$4,270,000. The next contract scheduled for construction is contract 7-6A, the Burt Service Area Rural Distribution System, serving approximately 131 rural customers.

Secretary Sprynczynatyk informed the Commission members of an investigation being conducted relative to inappropriate reporting of turbidity results by the city of Dickinson water treatment plant operators. He said the Southwest Water Authority was routinely performing water testing and had not evidenced any significant problems. Therefore, he said, it appears from the preliminary results of the investigation that the alleged inappropriate reporting actions taken by the operators have not compromised the health and safety of the drinking water consumers. The North Dakota Department of Health will continue its investigation and recommend an appropriate disciplinary action.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL TO ACCEPT NEW
HRADEC TANK INSURANCE CLAIM
(SWC Project No. 1736)**

On August 15, 1999, a severe wind storm in the Dickinson area damaged the New Hradec reservoir. The glass fused-bolted steel reservoir is 93 feet tall with a diameter of 25 feet, giving it

a capacity of approximately 340,000 gallons. The reservoir was recently replaced under warranty by the manufacturer because of the "frost spalling" problem in which air bubbles in the interior glass coating burst during freeze-thaw cycles and caused pieces of the interior glass coating to fall off or spall. The reservoir had 39 feet of water in it, because of an upcoming inspection of the interior coating, when the August 15 storm occurred. The reservoir was designed to withstand a 100 mph wind load according to the American Water Works Association standards for bolted steel reservoirs. According to the manufacturer, the upper portion of the reservoir was capable of withstanding a uniform wind load of 166 mph. The maximum wind velocities recorded at the area airports were 70 mph during the storm. The reservoir is insured with the North Dakota Fire and Tornado Insurance Fund for \$187,000. The manufacturer investigated the causes of the failure, modifications to avoid its recurrence, and the cost of repairing the reservoir.

The tank was built in 1994 for an estimated construction cost of approximately \$150,000. An estimate of \$200,942 to replace the tank, with panels and other measures to bring the design up to 180 mph, has been received from the contractor which originally built the tank, Engineering America, Inc., of White Bear Lake, Minnesota.

James Lennington said that when the tank was built, there were approximately 185 rural customers or service units signed up for service in the New Hradec service area served from the tank. The cities of New Hradec and Manning account for 37 of these service units. There were also approximately 65 rural residents who were considered to be potential future customers. The design of the system included capacity for half of the potential users. After construction of the rural distribution lines, the number of rural customers who actually installed their connection to the system and began receiving water was substantially less. To date, there are about 125 rural users paying for service, of which 105 are actually receiving water. The reduced number of rural users compared to the design number has led to an operational problem with the New Hradec tank in which the water is not used quickly enough and can stagnate. This has caused the Southwest Water Authority to operate the tank in a reduced capacity. Under the present usage levels, Mr. Lennington explained that all of the users in the service area can be served from the Davis Butte tank near Dickinson. He said that at the present usage levels, it is not necessary to replace the New Hradec tank.

At its meeting on November 1, 1999, the Southwest Water Authority voted to recommend to the State Water Commission that the New Hradec tank not be replaced at this time. The North Dakota Insurance Commission has agreed to a total settlement for the insured value of \$187,000. Mr. Lennington explained that if the Commission agrees with the Authority's recommendation, then the funds will be deposited in the Office of Management and Budget's Insurance Recovery Fund, which was established so that insurance proceeds could be spent by state agencies without modification of their existing budget authority. The proceeds could potentially be used for construction needs other than repair or replacement of the tank, which would require approval of the Emergency Commission.

Engineering America has estimated the salvage value of the tank's steel panels at \$23,283, and estimated the cost to dismantle the tank at \$26,637. They have offered to dismantle the tank for the salvage value of the steel panels. The Southwest Water Authority's action recommended acceptance of this offer.

It was the recommendation of the State Engineer that the New Hradec tank not be repaired at this time; the total agreed to settlement for the insured value of \$187,000 from the North Dakota Fire and Tornado Insurance Fund be accepted; and that the Commission accept Engineering America's offer to dismantle the tank for the salvage value at no cost to the Commission or to the Authority.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission:

- 1) not repair the New Hradec tank at this time;***
- 2) accept the total agreed to settlement for the insured value of \$187,000 from the North Dakota Fire and Tornado Insurance Fund. These funds will be deposited in the Office of Management and Budget's Insurance Recovery Fund until such time as the tank is replaced. Approval by the Emergency Commission is required to use the insurance proceeds for construction needs other than for repair or replacement of the tank; and***
- 3) that the State Water Commission approve the acceptance of Engineering America's offer to dismantle the New Hradec tank for the salvage value at no cost to the State Water Commission or to the Southwest Water Authority.***

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

The Commission members voiced questions relating to inflation costs of replacing the New Hradec tank in the future and the accrual of interest on the insurance settlement. Secretary Sprynczynatyk responded that he would contact the Office of Management and Budget and provide this information to the Commission.

**SOUTHWEST PIPELINE PROJECT -
EXECUTION OF USDA, RURAL
DEVELOPMENT DOCUMENTS
FOR MOTT-ELGIN, PHASE 1,
1999 FUNDING
(SWC Project No. 1736)**

On June 9, 1999, the State Water Commission was informed the USDA Rural Development was developing a financing package for the Mott-Elgin phase of the Southwest Pipeline Project. The initial application to USDA, Rural Development for

assistance to Mott-Elgin was \$3.6 million. The project has since been refined and the total financing package at this time is \$13 million. Of this amount, the state's share is \$6 million. The \$4.5 million in bonds issued under the authority given to the State Water Commission by Senate Bill 2188 would provide the majority of the state's share, while the remaining \$1.5 million could come from revenue bonds issued under the existing authority in North Dakota Century Code 61-02 and 61-24.3 using the existing Southwest Pipeline Project's General Bond Resolution. Revenue bonds totalling \$10.33 million have been issued under the existing authority, which has a limit of \$15 million.

The State Water Commission passed a motion on June 9, 1999 to proceed with the development of a financial package providing for \$4.5 million in state funding under the authority provided by Senate Bill 2188.

The funding plan developed by USDA, Rural Development was in conjunction with a preliminary construction schedule for the Mott-Elgin phase. USDA, Rural Development funding is subject to yearly approval and the availability of funds. At its meeting on July 1, 1999, the State Water Commission approved the execution of documents that allowed for the development of the financial package for the first year of the Mott-Elgin phase.

On September 13, 1999, the State Water Commission approved the award of contract 2-6B, the Burt Service Area Main Transmission Pipeline, and contract 5-14, the Hebron reservoir. On October 27, 1999, the Commission approved the award of contract 5-6, for the Burt Tank.

Mr. Lennington said no federal funds have been obligated with the award of these contracts. The obligation of federal funds will be required in order to proceed with the remaining facilities scheduled for construction or award in 1999, the Southeast Jung Lake and South Hebron Pocket Areas. He said the grant portion and the \$1,000,000 USDA, Rural Development loan must be spent before any of the grant money can be spent.

The following USDA, Rural Development documents were presented for the State Water Commission's consideration:

- 1) Bond Issuance Authorization Resolution
- 2) 1998 Series A Bond Resolution
- 3) Right-Of-Way Certificate, Form FmHA 442-21
- 4) 1999 Series A Resolution Concerning Operation and Maintenance and Reserving Funds for Replacement

Mr. Lennington explained the Bond Issuance Authorization Resolution is a wrap-around document which, if adopted, will provide for the following:

- 1) Authorize the 1998 Series A Bond Resolution
- 2) Authorize the Right-Of-Way Certificate, Form FmHA 442-21
- 3) Approve the execution, delivery, and sale of the 1998 Series A bonds
- 4) Accept and approve the acts of officers and proceedings with respect to the general and series resolutions
- 5) Authorize the issuance of bonds pursuant to the general and series resolutions
- 6) Describe the method of executing the bonds
- 7) Authorize investment agreements between the Commission and the Trustee

The 1999 Series A Resolution Concerning Operation and Maintenance and Reserving Funds for Replacement acknowledges that if the project reserve fund drops below \$54,450, the Commission will act to replenish the fund to at least that amount. Mr. Lennington explained that similar resolutions were adopted by the Commission for previous USDA, Rural Development loans. The current balance in the project reserve fund is in excess of \$1,900,000.

It was the recommendation of the State Engineer that in order to receive USDA, Rural Development funding, the State Water Commission authorize the execution of the USDA, Rural Development documents. He said the documents have been satisfactorily reviewed by the State Water Commission's Assistant Attorney General and Bond Counsel.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission authorize the execution of the USDA, Rural Development documents presented and recommended by the State Engineer in order to satisfy the requirements for the obligation of funds for the Mott-Elgin, Phase I, 1999 funding. SEE APPENDIX "F"

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF FUNDING FOR
PRELIMINARY ENGINEERING
STUDIES FOR BOWMAN-SCRANTON
PHASE
(SWC Project No. 1736)**

According to the phased development for the Southwest Pipeline Project, the Bowman-Scranton phase is the next scheduled phase of development after the Mott-Elgin phase. In past years, funding for the project was such that it allowed the

engineering studies to be funded well in advance of actual construction, which allowed having the plans "on the shelf, ready to go" when construction funding was secured.

James Lennington explained that the funding situation has changed in this respect with the use of the revenue bonding program and USDA, Rural Development funding. With USDA, Rural Development funding, preliminary studies are eligible for reimbursement, but only after the application for funding for a given area has been approved. Funding for the preliminary engineering of the Bucyrus and Three Pockets phase and the Mott-Elgin phase was available in advance of the USDA, Rural Development approval. However, Mr. Lennington explained that the current financial projections do not indicate the availability of funding for the necessary studies for Bowman-Scranton at this time.

The Southwest Water Authority is aware of this situation and has offered to fund a portion of the preliminary engineering work, with an understanding that they would be eligible for reimbursement by the State Water Commission when, and if, funds for this phase become available. Mr. Lennington said if funding is secured by the Commission, this reimbursement would likely occur during the preparation of the final design for serving the area.

In June, 1998, the city of Bowman had an election to decide their participation in the project. By a vote of 593 to 184, the city voted not to receive sole source service from the Southwest Pipeline Project. Mr. Lennington said that although the voting question was limited only to sole source service delivery, the results of the election indicated that the residents of Bowman, at this point in time, did not want to receive water from the project. Mr. Lennington said it is not certain what the effect of Bowman's decision will have on the feasibility of rural water service in the area, but it is certain that it will make it more expensive.

The quality of Bowman's ground water supply, while not as good as the Southwest Pipeline Project water, is better than that of many of the private supplies in the area. An alternative to bringing in water from the project may be to develop a small rural system using Bowman's supply as the source. The idea of providing ground water to project customers has met with some skepticism on the Authority's board of directors, however, Mr. Lennington said the Authority recognizes this may be the most feasible option and it would improve water supplies for most rural residents.

Mr. Lennington explained that an important aspect of the concept of providing Bowman water to rural residents is that it would allow the replacement of the water supply in the future if Bowman would reconsider its participation in the project. A pipeline could then be constructed to connect the rural system around the city with existing project facilities, while providing capacity for the city as well. He said constructing a pipeline into the area to serve Missouri River water to rural residents only would not provide capacity for Bowman should they reconsider participation.

Preliminary engineering work to ascertain the potential for Bowman to supply water for a rural distribution system will be required before the Authority can begin its final signup campaign. The potential customer will need to be informed that two water supplies are being considered (Bowman's or Missouri River water) and gage the acceptability of both. Once the final signup is completed, a preliminary distribution system can be designed, which will allow a determination of feasibility. He said accepting the Authority's offer of funding will allow the signup campaign to begin sooner and will lead to the timely development of plans for the project's development in the Bowman-Scranton area.

It was the recommendation of the State Engineer that the State Water Commission accept the Southwest Water Authority's offer of funding preliminary engineering studies for the BowmanScranton phase, not to exceed \$100,000. The funding of the preliminary engineering studies by the Authority will be considered for reimbursement, contingent upon the availability of funds, when the final design plans are developed for the Bowman-Scranton phase.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission accept the Southwest Water Authority's offer of funding preliminary engineering studies for the Bowman-Scranton phase of the Southwest Pipeline Project, not to exceed \$100,000.

The funding of the preliminary engineering studies by the Southwest Water Authority shall be considered for reimbursement, contingent upon the availability of funds, when the final design plans are developed for the Bowman-Scranton phase.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.

Because of previously scheduled commitments, Governor Schafer left the meeting. The gavel was turned over to Vice Chairman, Commissioner Jack Olin.

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-02)**

Secretary Sprynczynatyk reported the current level of Devils Lake is 1446.19. At this elevation, Devils Lake covers approximately 120,000 acres and holds 2.3 million acre-feet of water. As a result of the recent dry weather, approximately 100,000 acre-feet of water have been removed from the lake due to evaporation. This evaporation has lowered the lake approximately 0.8 feet since reaching its all time recorded daily high of 1447.1 this past summer.

The dry weather has also reduced top soil moisture and aided in reducing the levels of wetlands throughout the basin. Depending upon winter precipitation, this may significantly reduce the runoff next spring.

**DEVILS LAKE
EMERGENCY OUTLET
(SWC Project No. 416-01)**

Secretary Sprynczynatyk reported on the federal, state and local efforts being pursued to develop an emergency outlet from Devils Lake to the Sheyenne River. A memorandum prepared by the State Water Commission staff, which is attached hereto as **APPENDIX "G"**, provides technical information relating to the alternatives being considered.

GARRISON DIVERSION PROJECT - PROJECT UPDATE (SWC Project No. 237) - The Dakota Water Resources Act of 1999 (S. 623) was heard before the Subcommittee on Water and Power of the U.S. Senate Committee on Energy and Natural Resources on May 27, 1999 in Washington, DC. The companion bill (H.R. 2918) was heard before the U.S. House of Representatives Committee on Resources, Subcommittee on Water and Power, on September 30, 1999.

Warren Jamison, Manager of the Garrison Diversion Conservancy District, summarized the concerns that have been expressed by the environmental groups, the Canadian government, and the states of Minnesota and Missouri relating to the Dakota Water Resources Act. Mr. Jamison explained the efforts that are being pursued to resolve the differences including a summit which is being planned in March, 2000 with the appropriate parties.

The Garrison Diversion Conservancy District staff and others continue to address the comments and remarks from the Administration during the hearings and prepare the necessary steps for reintroduction in Congress in 2000 and early passage of the bill.

GARRISON DIVERSION PROJECT - MR&I WATER SUPPLY PROGRAM (SWC Project No. 237-03) - Jeffrey Mattern, Coordinator for the MR&I Water Supply program, provided the following program status report:

All Seasons Rural Water System 4: The project will provide water to 24 rural users and the city of Bisbee, and will involve a reservoir/pump station, pipelines, and in-line booster stations. The construction contracts were awarded to Ronald Peterson Construction for the pipeline and to Wanzek Construction for the reservoir.

The next phase will expand the current system in western Towner county, with the addition of 139 rural users and the community of Rock Lake. This phase would add pipelines, expand the well field, increase the water treatment plant capacity, increase the reservoir capacity, and add a booster station. The estimated cost is \$4 million.

All Seasons Rural Water System 5 (Pierce County): The proposed rural water system would serve 210 rural users in northern Pierce county and would obtain bulk water from the city of Rugby. The engineer is working on the feasibility study. The estimated total project cost is \$5.3 million.

Langdon Rural Water Users - Munich Expansion: The Langdon Rural Water Users received MR&I grant funding towards the feasibility study for the Munich service area; the feasibility study is complete. The project would

expand the existing rural water system by 350 users from the city of Langdon to service the community of Munich and the surrounding rural areas. The project would be developed to ensure the expansion matched with All Seasons Water Users to the west. The estimated project cost is \$9.6 million and would serve 350 users.

Northwest Area Water Supply, Phase I (Rugby Component): The water treatment plant is operational.

Northwest Area Water Supply, Phase II (Minot Component): The project is being reviewed for compliance with the National Environmental Policy Act and the Boundary Waters Treaty of 1909.

Ramsey County Rural Water: The feasibility study of the proposed rural water expansion into Eddy and Foster counties is complete. The preferred alternative is to provide water from the existing Ramsey water treatment plant to the rural users, with the city of Sheyenne served from the city of New Rockford. The estimated total cost is \$9.3 million, with a 65 percent grant being \$6 million. The project would serve 560 water users including service to the communities of Glenfield, Grace City, McHenry, Sheyenne, and 333 rural users. A review is being made of the service area involving the Stutsman Rural Water District in Foster County.

Ransom-Sargent Rural Water: The Fingal/Cogswell Phase is nearly complete. The cities of Fingal and Cogswell are receiving water from the project.

The next project phase includes adding rural users in the core service around the city of Lisbon, and the final phase involves a water treatment plant expansion in Lisbon, a new well field, and a raw water transmission pipeline. The total estimated project cost is \$20 million, and would serve 750 rural users and the communities of Cogswell, Elliott, Fingal and Marion.

Southwest Pipeline Project: Potential funding for the Mott-Elgin phase is being discussed with the USDA, Rural Development. The statewide water development legislation is being reviewed for project funding.

Mr. Mattern reported the Agassiz Rural Water Users petitioned the State Engineer to convert from a non-profit corporation to a water district in order to obtain tax-exempt financing to allow for a lower interest rate on loans made by a system. The State Engineer issued an order establishing the Agassiz Rural Water District, effective January 1, 2000.

A petition was received in the Office of the State Engineer from the North Valley Rural Water Users to convert from a non-profit corporation to a water district. The State Engineer issued an order establishing the North Valley Water District, effective January 1, 2000.

**GARRISON DIVERSION PROJECT -
MR&I COMMITTEES UPDATE;
RECOMMENDATION OF ALLOCATION
OF FUNDS FOR FISCAL YEAR 2000
(SWC Project No. 237-03)**

The MR&I committees of the State Water Commission and the Garrison Diversion Conservancy District met on December 3, 1999. The Fiscal Year 2000 Garrison Diversion Unit

appropriation provides a MR&I allocation of \$10.28 million. The committees reviewed project requests for funding and presented a recommended allocation breakdown of the Fiscal Year 2000 funds for the State Water Commission's consideration.

The Ransom-Sargent Water Users board requested MR&I grant funding for a year 2000 phase for the pipeline distribution system. The project would require MR&I funding of \$3 million in 2000. The total estimated project cost is \$20 million and would serve 750 rural users and the communities of Cogswell, Elliott, Fingal, and Marion. The minimum monthly users cost is estimated to be \$57.00, and is based on the 750 signup and a 65 percent grant of \$13 million. Ransom-Sargent wants to decrease the monthly minimum user cost to approximately \$45.00. To keep the monthly user cost down, the Ransom-Sargent Water System requested consideration of additional MR&I funding of \$1.3 million, with the total MR&I funding to be \$14.3. The MR&I committees recommended a total funding allocation of \$14.3 million, with Fiscal Year 2000 funding of \$3 million.

The All Seasons Water Users board requested MR&I funding for System 5 (Pierce County). Bartlett & West Engineers is working on the feasibility study. The service area is in Pierce county and the plan is to obtain bulk water from the city of Rugby. The new rural water system could serve 210 rural users and the city of Willow City. The total estimated project costs could be \$5.3 million. The estimated cost for completing the feasibility study is \$55,000, with a 65 percent grant being \$35,750. MR&I funding of \$13,000 was previously approved. The MR&I committees recommended an additional \$22,750 of MR&I funding in Fiscal Year 2000.

The Stutsman Rural Water District board requested MR&I funding for a feasibility study of the service area in northern Foster county and southern Eddy county. The service area will be reviewed for water coming from the Ramsey Rural Utilities, the Stutsman Water District, and the city of Carrington, or a combination. Ramsey has completed a feasibility study on serving the area, of which a portion overlaps the existing Stutsman water system. The engineer will use the Ramsey information in reviewing the alternatives for serving the overlapping area. The water system could serve 300 rural users. The estimated cost for completing this feasibility study is \$50,000. Stutsman has already expended \$40,000 in previous studies, which is considered part of the available match for further feasibility study. The MR&I committees recommended an allocation of \$50,000 for Fiscal Year 2000.

**GARRISON DIVERSION PROJECT -
 APPROVAL OF FISCAL YEAR 2000
 MR&I WATER SUPPLY PROGRAM
 BUDGET
 (SWC Project No. 237-03)**

Secretary Sprynczynatyk presented the following allocation breakdown for the proposed funding budget for the Fiscal Year 2000 MR&I Water Supply program for the Commission's consideration. The Garrison

Diversion Conservancy District executive committee approved the proposed MR&I funding budget for Fiscal Year 2000 at its meeting on December 3, 1999:

Project	Activity	MR&I Grant
All Seasons System IV	D&C *	\$ 2,600,000
All Seasons System V (Pierce)	D&C *	3,500,000
Ransom-Sargent Rural Water	D&C *	3,000,000
Stutsman Rural Water District	F **	50,000
All Seasons System V (Pierce)	F **	22,750
Other Projects		807,250
Administration		300,000
Total		\$ 10,280,000

- * D&C - Design and Construction
- ** F - Feasibility Study

It was the recommendation of the State Engineer that the State Water Commission approve the proposed \$10.28 million Fiscal Year 2000 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions.

The Commission members expressed concerns of precedent setting by approving increased funding above the 65 percent cost share for the Ransom-Sargent Rural Water project. Secretary Sprynczynatyk said the MR&I committees discussed this project at considerable length. It was evident that at the 65 percent cost share level, this would not be a feasible system based on the monthly water rate and the overall cost of construction. He said the recommended allocation for the project is actually a \$400,000 reduction from previous allocations, but it does result in an increase over the 65 percent cost share from the MR&I program. Secretary Sprynczynatyk said it is important to remember that the objective of the MR&I program is to provide affordable water to the people of North Dakota and, when projects are considered in the future for MR&I funding, it may be necessary to make adjustments to meet that objective.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve the recommendation of the State Engineer of the proposed \$10.28 million Fiscal Year 2000 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Swenson, Thompson, and Vice Chairman Olin voted aye. There were no nay votes. The Vice Chairman announced the motion unanimously carried.

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

James Lennington, Project Manager for the Northwest Area Water Supply Project, reported the United States Section of the Garrison Consultative

Group met in Denver, Colorado, on August 11, 1999. At that meeting, representatives of the Department of Interior, the Environmental Protection Agency, and the State Department agreed to conduct a biota transfer risk analysis for the Northwest Area Water Supply Project. The Bureau of Reclamation has agreed to provide funding for the analysis. A scope of work calling for completion of the risk analysis within 12 weeks was prepared by Montgomery Watson as a subcontractor to Houston Engineering, the engineer for the project. The scope of work calls for two meetings of representatives of the state and federal agencies.

Mr. Lennington provided a summary of the first meeting of the group held on November 16, 1999, which was to develop the analysis approach and determine needs for additional data. The consultants will develop the risk analysis statistical model and prepare a draft report of the findings. The second meeting is tentatively scheduled for the last week of January, 2000, to review the results of the analysis and determine the nature of the final report.

The draft plans and specifications for the first phase of construction on the Minot segment of the main transmission pipeline were forwarded to the Garrison Joint Technical Committee on May 27, 1999 as discussed in the NAWS project approval process developed by the Garrison Joint Technical Committee in 1997. The final plans and specifications were received from the project engineer in September, 1999 and submitted to the North Dakota Department of Health and the Bureau of Reclamation for review and comment. Preparation of the final plans and specifications will allow for bidding as soon as the project is approved as specified in the 1986 Garrison Reformulation Act. According to the 1986 Garrison Reformulation Act, construction may

begin after the project has received clearance from the United States section of the Garrison Consultative Group assuring that the Administrator of the Environmental Protection Agency and the Secretaries of State and Interior have determined that the project will meet the requirements of the Boundary Waters Treaty of 1909.

The first phase of construction will involve approximately 7.4 miles of pipeline from the Minot water treatment plant to a pressure reducing valve located along U.S. Highway 83. The estimated cost of this first segment is approximately \$5.5 million.

Mr. Lennington stated construction is nearly complete on the expansion and upgrade of the NAWS, Phase I, Rugby water treatment plant. The contractor, Swanberg Construction, Valley City, ND, has constructed the addition to the water treatment plant, and the rehabilitation of existing portions of the plant. In October, 1999, the city began making quarterly capital repayments on the project revenue bonds, which are submitted to the Commission's Trustee, Norwest Bank. The first interest payment on the bonds is due in February, 2000.

**SAFE DRINKING WATER ACT -
APPROVAL OF PROJECT
PRIORITY LIST IN FY 2000
INTENDED USE PLAN,
DATED NOVEMBER 16, 1999
(SWC File AS/HEA)**

The Drinking Water State Revolving Loan Fund was authorized by Congress in 1996 under the Safe Drinking Water Act with the intention of assisting public water systems in complying with the Act. Funding in North Dakota for public water

systems is in the form of a loan program administered by the Environmental Protection Agency through the North Dakota Department of Health. North Dakota Century Code chapter 61-28.1, Safe Drinking Water Act, gives the Department the powers and duties to administer and enforce the Safe Drinking Water program, and to administer the program.

Section 1452(b) of the Safe Drinking Water Act requires each state to annually prepare an Intended Use Plan. The plan is to describe how the state intends to use the funds to meet the program objectives and further the goal of protecting public health. A public review period is required prior to submitting the annual plan to the Environmental Protection Agency as part of the capitalization grant agreement. The North Dakota Department of Health held public hearings on the draft Intended Use Plan on October 7, 1999, with the comment period ending on October 22, 1999.

The State Water Commission's role in the program is defined in subsections 3 and 4 of section 61-28.1-12. Subsection 3 states that the Department shall administer and disburse funds with the approval

of the State Water Commission. Subsection 4 states that the Department shall establish assistance priorities and expend grant funds pursuant to the priority list for the Drinking Water Treatment Revolving Loan Fund, after consulting with and obtaining the approval of the State Water Commission.

Wayne Kern, North Dakota Department of Health, presented the Fiscal Year 2000 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, dated November 16, 1999, for the State Water Commission's consideration. The Intended Use Plan is attached hereto as **APPENDIX "H"**. The comprehensive project priority list includes 50 projects, with a cumulative total project cost of \$153.4 million. The expected available funds for loans is \$38,856,507 for fiscal years 1997 through 2000.

It was the recommendation of the State Engineer that the State Water Commission approve the project priority list for Fiscal Year 2000 as listed in the Intended Use Plan, dated November 16, 1999, and to authorize the Department to administer and disburse Fiscal Years 1997 through 2000 program funds pursuant to the Fiscal Year 2000 Intended Use Plan.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve the project priority list for Fiscal Year 2000 as listed in the Intended Use Plan for the North Dakota Drinking Water State Revolving Loan Fund, dated November 16, 1999; and to authorize the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2000 Drinking Water State Revolving Loan Fund program funds pursuant to the Fiscal Year 2000 Intended Use Plan.

Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Swenson, Thompson, and Vice Chairman Olin voted aye. There were no nay votes. The Vice Chairman announced the motion unanimously carried.

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

In 1994, the U. S. Army Corps of Engineers circulated a draft Environmental Impact Statement (EIS), which identified a preferred alternative for the future operation of the Missouri River mainstem reservoir system. As required by the National Environmental Policy Act, the draft EIS was subject to a full public review. In response to the public comments, the Corps agreed to conduct additional technical studies, reinstate the alternative analysis, and prepare a revised draft EIS. The Corps agreed that the revised draft EIS would present a preferred alternative for public review and comment.

Current efforts of the Missouri River Basin Association and other interest groups have shown considerable progress in regard for the potential for consensus building in the basin. To maximize the potential for consensus building regarding the operation of the reservoir system, the Corps of Engineers elected to prepare and circulate a preliminary revised draft EIS, which did not present a preferred alternative, but presented data on eight alternatives that represent the range of interests in the basin. At its August 13, 1998 meeting, the Commission members were provided the "Summary of the Preliminary Revised Draft Environmental Impact Statement Master Water Control Manual Missouri River", dated August, 1998.

The Missouri River Basin Association met on August 30-31, 1999 in Denver, Colorado. At that meeting, the Association unanimously consented to draft compromise recommendations for a new management plan for the Missouri River. The draft recommendations were submitted to the Corps of Engineers on August 31, 1999, which is in the final stages of revising its operating manual for the Missouri River. The draft recommendations include acquiring and developing additional fish and wildlife habitat along the river system, adjusting flows between the upstream reservoirs to benefit the endangered pallid sturgeon, and retaining more water in the reservoir system during droughts.

At the State Water Commission meeting on September 13, 1999, Secretary Sprynczynatyk commented that this is a significant achievement for the basin. The Association has overcome some longstanding differences and acted in the interests of the basin as a whole. Getting the states to agree on a management plan is, in itself, a historic event considering the basin's history of conflict and litigation. Although the Missouri River Basin Indian tribes are a part of the Association, they did not vote on the plan that was forwarded to the Corps of Engineers because of their concerns relating to tribal cultural and economic resources. The Association will continue its consultations with the tribes on these issues.

The Missouri River Basin Association met on November 19, 1999 in Minneapolis to refine the draft compromise recommendations. The final compromise recommendations were forwarded to the Corps of Engineers on November 19, 1999. The State of Missouri did not support all of the recommendations, but indicated its support for the process and continued participation in the Missouri River Basin Association. A memorandum prepared by the Commission staff and the final compromise recommendations forwarded to the Corps of Engineers are attached hereto as **APPENDIX "I"**.

Secretary Sprynczynatyk said the Association recognizes the need to recover the threatened and endangered species in the basin and to prevent future listings of such species. To oversee the recovery of these species, the draft plan includes the formation of a Missouri River

Recovery Committee, which will provide the opportunity for involvement of representatives of all affected parties. The Recovery Committee will recommend advantageous flow adjustments to the Corps of Engineers each year within the parameters established by the water management criteria to allow adaptive management of the Missouri River within the guidelines established by the Master Manual.

**1999 STATE WATER
MANAGEMENT PLAN
(SWC Project No. 322)**

A major component of the 1999 State Water Management Plan was the identification of various statewide water management projects and

programs, estimated costs, and progress. During the 1999 Legislative Assembly, Senate Bill 2188 was passed into law to codify the Plan and fund the state's share of the water development needs. Also passed was House Bill 1475 to develop the Water Development Trust Fund, which will receive 45 percent of the North Dakota tobacco settlement revenues. These funds are in addition to existing revenue sources.

LeRoy Klapprodt, Director of the State Water Commission's Planning and Education Division, said as a part of the overall water development package, the Legislature further required that the State Water Commission develop a comprehensive statewide water development program with priorities based upon expected funds available from the Water Development Trust Fund. Over the next few months, the Commission staff will be updating information about proposed large-scale and smaller, water board scale projects. He said the ultimate goal of this process is to help focus and prioritize cost share funding requests made to the State Water Commission and to address the Legislative requirements of Senate Bill 2188.

Letters and information sheets were sent to all project sponsors identified in the 1999 State Water Management planning process requesting the sponsors to provide updated, detailed information regarding their projects. New projects may also be submitted. Receiving this information is critical to know which projects and associated costs are to be expected in the future for cost share consideration by the Commission. The proposed planning process was considered, and supported by the North Dakota Water Coalition in October, 1999.

Mr. Klapprodt said it is anticipated that the information from the project sponsors will be received in January, 2000, and an analysis of the information will be compiled in February or March, 2000. The final product will be used in developing the State Water Commission's 20012003 biennium budget.

**GARRISON DIVERSION PROJECT -
HYDRO-POWER FOR IRRIGATION
IN NORTH DAKOTA
(SWC Project 237)**

At the September 13, 1999 State Water Commission meeting, Commissioner Thompson explained the efforts that are underway to secure Pick-Sloan project pumping power for irrigation in North Dakota.

Commissioner Thompson explained a bill draft that could be considered in Congress that would provide project pumping power for any irrigation district in North Dakota, and also a bill draft that would be specific to the Eastern Dakota Irrigation District. The bill drafts that were developed by the Bureau of Reclamation, the congressional staff and others are attached to these minutes as **APPENDIX "J"**.

Michael Dwyer, Executive Director of the North Dakota Water Users Association, said although the North Dakota Irrigation Caucus supports the allocation of securing hydro-power for irrigation development in North Dakota, it is important to secure the support from the electric interests as well. A meeting is scheduled on January 20, 2000 with the North Dakota Association of Rural Electric Cooperatives and the North Dakota Irrigation Caucus to identify the common objectives for rural North Dakota, and to determine if a proposal can be developed that could be supported by both the Irrigation Caucus and the RECs.

**STATE WATER COMMISSION
AND OFFICE OF THE STATE
ENGINEER BIENNIAL REPORT
FOR JULY 1, 1997 TO JUNE 30, 1999**

The North Dakota State Water Commission and the Office of the State Engineer biennial report for the period July 1, 1997 to June 30, 1999 was distributed.

There being no further business to come before the State Water Commission, the Vice Chairman adjourned the meeting at 12:00 noon.

/S/ Edward T. Schafer _____
Edward T. Schafer
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk _____
David A. Sprynczynatyk
State Engineer, and
Chief Engineer-Secretary