

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

April 10, 2000

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on April 10, 2000. Governor-Chairman, Edward T. Schafer, called the meeting to order at 1:30 PM, and requested State Engineer, and Chief Engineer, 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
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

MEMBER ABSENT:

Florenz Bjornson, Member from West Fargo

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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 DECEMBER 10, 1999 STATE
WATER COMMISSION MEETING -
APPROVED**

The minutes of the December 10, 1999 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner DeWitz, and unanimously carried, that the minutes of the December 10, 1999 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF MINUTES OF
FEBRUARY 9, 2000 STATE WATER
COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the February 9, 2000 State Water Commission telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner DeWitz, and unanimously carried, that the minutes of the February 9, 2000 State Water Commission telephone conference call meeting be approved as prepared.

**CONSIDERATION OF MINUTES OF
MARCH 8, 2000 STATE WATER
COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the March 8, 2000 State Water Commission telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner DeWitz, and unanimously carried, that the minutes of the March 8, 2000 State Water Commission telephone conference call meeting be approved as presented.

**FINANCIAL STATEMENT -
AGENCY PROGRAM BUDGET
EXPENDITURES; AND APPROVAL
OF REQUEST TO EMERGENCY
COMMISSION FOR ADDITIONAL
MILLION OF SPENDING
AUTHORITY FROM RESOURCES
TRUST FUND
(SWC FILE ACT/BUD/99-01 & ACT/RES)**

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures for the period ending February 29, 2000, reflecting 33 percent of the 1999-2001 biennium. **SEE \$1 APPENDIX "A"**

The State Water Commission's Resources Trust Fund authority for the 1999-2001 biennium is \$13,847,104, which has an unobligated balance of \$993,653 for general projects. Requests for cost share assistance totalling \$590,714 will be considered by the State Water Commission on this date which, if approved, will leave a balance of \$402,939. Secretary Sprynczynatyk said there are approximately 20 projects in various stages of development which could total about \$1 million from the Contract Fund over the next year. 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.

Secretary Sprynczynatyk reported that because of higher oil prices, deposits into the Resources Trust Fund from July 1, 1999 to March 15, 2000 have exceeded the December, 1998 forecast by approximately 49 percent. He said, if this trend continues, oil extraction revenue could total approximately \$7.7 million for the biennium.

Secretary Sprynczynatyk stated the beginning balance for the Resources Trust Fund on July 1, 1999 was \$133,000. Because of the increased oil prices and interest rates, the Resources Trust Fund has approximately \$1 million in excess of the State Water Commission's budget estimate. If this trend continues, he said the Resources Trust Fund could receive approximately \$2.7 million in excess of the agency's current spending authorization for the 1999-2001 biennium.

Section 6 of the State Water Commission's appropriation bill states: "If the Resources Trust Fund 1999-2001 revenues are in excess of \$11,547,104, any excess is hereby appropriated, subject to Emergency Commission approval." It was the recommendation of the State Engineer that because deposits into the Resources Trust Fund from July 1, 1999 to March 15, 2000 have exceeded the agency's budget estimates by \$1 million, the State Water Commission seek a request to the Emergency Commission for an additional \$1 million of spending authority from the Resources Trust Fund to provide cost share assistance for water development projects.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission seek a request to the Emergency Commission for an additional \$1 million of spending authority from the Resources Trust Fund to provide cost share assistance for water development projects.

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

**NORTH DAKOTA WATER
DEVELOPMENT TRUST
FUND BOND PROGRAM
(SWC Project No. 1907-02)**

On March 23, 2000, the bond sale relating to the North Dakota Water Development Trust Fund Program was completed. The sale provided funds needed during the 1999-2001 biennium for the following projects:

Grand Forks Flood Damage Reduction Project	\$22.0 Million
Southwest Pipeline Project	4.5 Million
Grand Forks or other projects	1.0 Million
Total	\$27.5 Million

Secretary Sprynczynatyk stated the par value of the bonds sold was \$32,095,000. The \$4.6 million cost above the project funds includes \$2.7 million for a debt reserve fund, \$1.6 million in capitalized interest, and other costs for underwriters fees, bond insurance, costs of insurance, and line of credit interest. The true interest rate (average) for the bonds was 5.724 percent. The debt service schedule is provided in **APPENDIX "C"** attached hereto. The August, 2000 and February 2001 payments will be paid from the capitalized interest, and the first payment from the North Dakota Water Development Trust Fund will be in August, 2001.

The \$4.5 million for the Southwest Pipeline Project is expected to be expended in the Mott-Elgin phase of the project by August, 2000. It is anticipated the city of Grand Forks will request approximately \$7.5 million by April 10, 2000, and the remaining funds are expected to be requested on a regular basis until December, 2001. As a result, additional funds for the Grand Forks project will be required in 2002.

The State Water Commission has executed an agreement with Evensen and Dodge, Inc. for requesting proposals for investments of the debt reserve fund money and the unspent portion of the project funds.

**APPROVAL OF REQUEST FROM
NORTH CASS WATER RESOURCE
DISTRICT FOR ADDITIONAL
COST SHARE IN CASS COUNTY
DRAIN NO. 13 RECONSTRUCTION
(SWC Project No. 1069)**

A request from the North Cass Water Resource District was presented for the Commission's consideration for an additional cost share on the reconstruction of Cass County Drain No. 13.

Todd Sando, Director of the State Water Commission's Water Development Division, presented the project. The project consists of reconstructing the lower five miles of the drain, excluding the outlet. This is an assessment drain, which did not receive approval from the

landowners for assessing the reconstruction costs, therefore, the District is using maintenance funds as they become available to do the project. The engineer's original cost estimate for the project was \$1,250,000, of which \$1,084,623 was considered eligible for 35 percent cost share, in the amount of \$379,618.

On December 21, 1998, the State Water Commission passed a motion approving 35 percent cost share in the amount of \$150,000 from the Contract Fund, and deferred action on the remaining cost share request of \$229,618.

The revised engineer's estimate of the project's costs is \$1,060,000, of which \$921,675 is considered eligible for cost share. The request before the State Water Commission is to cost share in the amount of \$172,586. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during 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 \$136,000 from the Contract Fund in the 1999-2001 biennium, for the Cass County Drain No. 13 reconstruction project, and defer consideration of the remaining cost share request (\$36,586) until the 2001-2003 biennium.

Michael Buringrud of the North Cass Water Resource District provided technical information relative to the reconstruction project, and expressed appreciation to the Commission for its support. Mr. Buringrud explained that the project did not receive support from the landowners for assessing the reconstruction costs primarily because of the financial capability of the landowners.

It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed an additional \$136,000 from the Contract Fund in the 1999-2001 biennium, for Cass County Drain No. 13. 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 (\$36,586) is to be deferred for consideration during the 2001-2003 biennium.

Commissioners 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
MAPLE RIVER WATER RESOURCE
DISTRICT FOR COST SHARE IN
CASS COUNTY DRAIN NO. 14
RECONSTRUCTION PROJECT
(SWC Project No. 1070)**

A request from the Maple River Water Resource District was presented for the Commission's consideration for cost share on the reconstruction of Cass County Drain No. 14.

Todd Sando presented the project, which involves the reconstruction of 4.5 miles of Cass County Drain No. 14 in Cass County. The portion of the drain to be enhanced is located in Sections 20, 29 and 32, Township 139 North, Range 50 West, and in Sections 5, 7 and 18, Township 138 North, Range 50 West.

The engineer's cost estimate for this portion of the drain reconstruction is \$800,000, of which \$720,000 is considered eligible for a 35 percent cost share. The request before the State Water Commission is to cost share in the amount of \$252,000. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during the 1999-2001 biennium.

The Maple River Water Resource District attempted to establish an assessment drain to reconstruct the entire drain at one time, however, the vote did not receive support because of the landowners' financial capability. The District decided to proceed with a portion of the project using available drain funds and future maintenance funds, with the intent of completing the project as funds become available.

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 \$136,000 from the Contract Fund in the 1999-2001 biennium, for the Cass County Drain No. 14 reconstruction project, and defer consideration of the remaining cost share request (\$116,000) until the 2001-2003 biennium.

Jurgen Suhr, Maple River Water Resource District, provided technical information relative to the project. He addressed the efforts to establish an assessment district, and outlined the plans for completion of the project.

It was moved by Commissioner Hanson and seconded by Commissioner Johnson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for Cass County Drain No. 14. The remainder of the cost share request (\$116,000) is to be deferred for consideration during the 2001-2003 biennium. This motion is contingent upon the availability of funds.

Commissioners 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
SOUTHEAST CASS WATER
RESOURCE DISTRICT FOR
COST SHARE IN CASS COUNTY
DRAIN NO. 40 RECONSTRUCTION
(SWC Project No. 1090)**

A request from the Southeast Cass Water Resource District was presented for the Commission's consideration for cost share on the Cass County Drain No. 40 reconstruction project.

Todd Sando presented the project, which is a part of a long-range plan for the drainage system, and involves realigning the natural watercourse and deepening and widening the channel. The project will proceed from Interstate Highway 29 to Cass County Highway 31. This drain is also the outlet channel for Cass County Drain No. 45.

The engineer's cost estimate for this portion of the drain reconstruction is \$820,000, of which \$677,500 is considered eligible for a 35 percent cost share. The request before the State Water Commission is to cost share in the amount of \$237,125. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during the 1999-2001 biennium.

Representatives of the Southeast Cass Water Resource District provided technical information relative to the project, and requested the Commission's favorable consideration of the cost share request.

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 \$136,000 from the Contract Fund in the 1999-2001 biennium, for the Cass County Drain No. 40 reconstruction project, and defer consideration of the remaining cost share request (\$101,125) until the 2001-2003 biennium.

It was moved by Commissioner Hanson and seconded by Commissioner Hillesland that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for Cass County Drain No. 40. The remainder of the cost share request (\$101,125) is to be deferred for consideration during the 2001-2003 biennium. This motion is contingent upon the availability of funds.

Commissioners 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 RICHLAND
COUNTY DRAIN NO. 14
(SWC Project No. 1331)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost share on the Richland County Drain No. 14 reconstruction project.

Todd Sando presented the project, which consists of two miles of the drain, reconstructing the channel to 4:1 side slopes to prevent future damage. The project is located in Section 35, Township 136 North, Range 51 West, Barrie Township, and in Section 2, Township 135 North, Range 51 West, Viking Township. The State Engineer executed drain permit No. 2921 on November 1, 1999.

The total estimated cost for the drain reconstruction is \$367,380, which has been partially funded by the Federal Emergency Management Agency (FEMA). The non-federal portion is for 0.8 of a mile of the project at a cost of \$194,788, of which \$181,041 is considered eligible for cost share. Under the State Water Commission's policy and guidelines for cost share in drainage projects, 35 percent of the eligible costs qualify for cost share. The request before the State Water Commission is to cost share in the amount of \$63,364.

Representatives of the Richland County Water Resource District provided technical information relative to the project, and requested the Commission's favorable consideration of the cost share request.

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 \$63,364 from the Contract Fund in the 1999-2001 biennium, for the Richland County Drain No. 14 reconstruction project.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$63,364 from the Contract Fund in the 1999-2001 biennium, for Richland County Drain No. 14. This motion is contingent upon the availability of funds.

Commissioners 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
SOUTHEAST CASS WATER
RESOURCE DISTRICT FOR COST
SHARE FOR DIGITAL AERIAL
SURVEY FOR FLOODPLAIN
MAPPING FOR RED RIVER AREA
SOUTH OF FARGO, PHASE II
(SWC Project No. 1751)**

A request from the Southeast Cass Water Resource District was presented for the Commission's consideration for additional cost share associated with obtaining digital aerial survey data for floodplain mapping for the Red River area south of Fargo. The Federal Emergency Management Agency contracted with Houston

Engineering, Inc. to do a flood insurance restudy of the area, however, the restudy does not include new survey or aerial work in the overbank areas necessary to complete the hydraulic modeling and floodplain mapping portions of the flood insurance restudy.

On June 9, 1999, the State Water Commission passed a motion approving a 35 percent cost share of the eligible costs, not to exceed \$45,150 from the Contract Fund, for Phase I for costs associated with obtaining digital aerial survey data for floodplain mapping the Red River area south of Fargo. Phase I involved the collection of LIDAR data for a 138-square mile area and final processing of that data for a 42-square mile area.

Todd Sando presented the request for Phase II that will involve the final processing of the data previously collected for the remaining 96 square miles, expand the Wild Rice River study in North Dakota and the Wolverton Creek study in Minnesota, and provide a detailed Sheyenne/Wild Rice River breakout analysis, in addition to Red River hydraulics.

The county, city and local entities on both sides of the river indicated support for completion of the additional study, which will provide an accurate assessment of the Wild Rice River hydrology, provide better tools to properly manage the floodplain and potential development, and assist in the preparation for future flood events.

The project cost estimate for Phase II is \$183,000, of which the State of Minnesota has agreed to provide a cost share of \$42,000. The request before the State Water Commission is to provide a 35 percent cost share of the eligible items in the amount of \$49,350.

It was the recommendation of the State Engineer that the State Water Commission approve a 35 percent cost share of the eligible costs, not to exceed \$49,350 from the Contract Fund, for costs associated with obtaining digital aerial survey data for floodplain mapping the Red River area south of Fargo, Phase II, contingent upon the availability of funds.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve a 35 percent cost share of the eligible costs, not to exceed \$49,350 from the Contract Fund in the 1999-2001 biennium, for costs associated with obtaining digital aerial survey data for floodplain mapping the Red River area south of Fargo, Phase II. This motion is contingent upon the availability of funds.

This action increases the State Water Commission's cost share contribution to \$94,500.

Commissioners 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 COST SHARE IN MONTANA EIS TO OBTAIN A "BUFFER ZONE" FOR NORTH DAKOTA CLOUD MODIFICATION PROJECT (SWC FILES ACT/RES &AS/SWC/ARB)

provided on a cost share basis from the state's general fund through the Atmospheric Resource Board (ARB).

The North Dakota Cloud Modification Project is an operational summer-time cloud seeding program for the dual purposes of hail suppression and rainfall stimulation. Counties presently pay about 80 percent of the operational costs, and the remainder is

Bruce Boe, Director of the State Water Commission's Atmospheric Resource Board, presented the request. Because the effects of seeding clouds are not immediately realized, it is necessary to treat potential hail clouds upwind before they move over the target areas. How far upwind depends upon the cloud speed which, in general, is on the order of 10 to 15 miles. Therefore, he said it is desirable to have "buffer zones" upwind of all project target areas to maximize benefits.

Mr. Boe said that for years, the Atmospheric Resource Board was licensed to operate up to 30 miles into Montana for such purposes. In the drought of the late 1980s, objections were raised by some Montanans to the use of this "buffer zone", blaming the drought on the cloud seeding. In 1989, those persons were successful in convincing the Montana Board of Natural Resources and Conservation (MBNRC) to deny the Board's permits for a "buffer zone". Upon the advice of legal counsel, the Board challenged the findings of the MBNRC, and the U.S. District Court in Helena, Montana, reversed the decision after a review of the case, citing a lack of any credible evidence of an adverse effect. The permits were then issued.

In the following Montana legislative session, the Montana law was then changed requiring that before any future cloud seeding can be conducted anywhere in the state, an environmental impact study (EIS) must be completed. The cost of such an EIS was then estimated at \$125,000, far beyond what the participating counties or the ARB could afford. Mr. Boe said that although the ARB has always requested funding for the EIS in its budget request, it has never been funded.

In the last few years, Mr. Boe said it has become increasingly evident that the lack of the Montana "buffer zone" is detrimental to the program. The project counties of Bowman, McKenzie and Williams share borders with Montana. Concerns about lost efficacy, due to the lack of a "buffer zone", has resulted in recent votes during general elections in two of these counties. McKenzie county voters retained the program by a 63-37 percent margin, but continuation of the program was rejected in Slope county by 8 votes. Portions of eastern Slope county are presently organizing through private funding to rejoin Bowman county for the 2000 program.

Mr. Boe said that in the course of the county meetings this past fall and winter, options for conducting the requisite environmental work were considered. The five whole counties presently engaged in the program have agreed to fund the work and contribute \$5,000 each to the effort, presently estimated to cost \$140,000. The ARB has agreed to contribute \$20,000, and the request before the State Water Commission is for a 50 percent cost share in the amount of \$70,000.

It was the recommendation of the State Engineer that the State Water Commission approve a 50 percent cost share, not to exceed \$70,000 from the Contract Fund, for a Montana Environmental Impact Statement to obtain a "buffer zone" for the North Dakota Cloud Modification Project, contingent upon the availability of funds.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve cost share of 50 percent, not to exceed \$70,000 from the Contract Fund in the 1999-2001 biennium, for a Montana Environmental Impact Statement to obtain a "buffer zone" for the North Dakota Cloud Modification Project. This motion is contingent upon the availability of funds.

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

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

Secretary Sprynczynatyk reported Devils Lake has remained stable the last few months, which is normal over the winter, and the current elevation

is 1446.25. At this elevation, Devils Lake covers approximately 120,000 acres and holds 2.3 million acre-feet of water.

On March 10, 2000, the National Weather Service issued the spring flood outlook for Devils Lake. The outlook states no snow exists within the basin and soil moisture is below normal due to below normal precipitation and above normal temperatures last fall. Secretary Sprynczynatyk said based on normal precipitation and evaporation rates through August, 1999, the outlook calls for Devils Lake to reach a maximum daily elevation of approximately 1446.5. He said the outlook estimates Devils Lake could reach elevation 1448 this summer if the basin receives above normal precipitation through August.

Secretary Sprynczynatyk reported on a meeting held March 16, 2000 with Leon Osborne, Climatologist with the University of North Dakota, representatives from the U.S. Geological Survey, and the State Water Commission staff to discuss climatological trends and impacts affecting the level of Devils Lake. Professor Osborne stated a wet cycle appears to have started in 1977 and noted that several of the wettest winters on record have been since that time. He said it is likely the wet cycle will continue for at least 10 years, and the dry weather the Devils Lake basin has experienced the last few months is normal since, in wet periods, smaller more pronounced dry periods may develop. These cycles superimpose themselves into one another resulting in short dry periods during a longer wet cycle.

Secretary Sprynczynatyk reported on the findings of the USGS Devils Lake outlet simulation model for assessing the probability of future lake elevations for Devils Lake. In the 1980s, a significant

increase in fall and winter precipitation was evident. To account for this apparent climatic shift, the USGS updated their lake level probability model using the 1980-1999 climatology rather than the 1950-1999 period of record. The updated model suggests a higher probability that Devils Lake will continue to rise and places the probability of a natural spill to the Sheyenne River at just under 2 percent in the next 15 years.

The State Water Commission is cooperating with the U.S. Geological Survey and the University of North Dakota in developing a fact sheet summarizing the climate shift, the resulting change in hydrology, and the increased risk of higher lake levels. It is anticipated the fact sheet should be completed this spring for distribution to the public.

**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 "D"**, provides technical information relating to the alternatives being considered.

On April 3, 2000, Governor Schafer, Secretary Sprynczynatyk and other state representatives held a meeting in Gimli, Manitoba with Premier Gary Doer and Canadian representatives to discuss the Devils Lake project and to address the Canadian concerns.

**DEVILS LAKE AVAILABLE
STORAGE ACREAGE PROGRAM -
APPROVAL OF REALLOCATION
OF 1999 CARRYOVER FUNDS TO
IMPLEMENT LONG-TERM ASAP
PROGRAM IN COOPERATION
WITH DEVILS LAKE BASIN
JOINT WATER RESOURCE BOARD
(SWC Project No. 1882-01)**

On March 8, 2000, the State Water Commission approved the reallocation of the 1999 carryover Devils Lake Available Storage Acreage Program funds of approximately \$120,000 to expand the combined State Water Commission and the North Dakota Wetlands Trust water storage programs, and to increase the participant payment rates to \$40.00 per acre for all acreage under contract.

Secretary Sprynczynatyk informed the Commission members that the North Dakota Wetlands Trust, at its meeting held March 29-31, 2000, did not approve expanding the payment level of the joint program and voted to discontinue the ASAP/EIP program. The Trust has allocated its remaining budget dollars to other projects, although the Trust will continue to make payments on the four existing contracts for the duration of the contract life, but the Trust is not in a position to pursue new contracts.

As a result of the North Dakota Wetlands Trust's decision, it was the recommendation of the State Engineer that the State Water Commission reallocate the carryover ASAP funds from 1999 into a long-term ASAP program in cooperation with the Devils Lake Basin Joint Water Resource Board. By partnering with the Board, the program would be able to offer 10-year contracts with annual payments. The long-term ASAP program would have the same qualification criteria as the traditional ASAP program. To maximize benefits from the remaining ASAP funding, competitive bids would be accepted to maximize the volume of water stored. The maximum participant payment rate would be \$40.00 per acre for all acreage under contract. With the \$120,000 of carryover funding, the State Water Commission could contract for a minimum of 300 acres of water storage, and additional acreage may be possible depending on the bid prices.

Commissioner Johnson requested that as an alternative to an agreement with the Devils Lake Basin Joint Water Resource Board, the State Water Commission explore the concept of a long-term ASAP program in cooperation with the North Dakota Water Bank program.

It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve the reallocation of 1999 carryover Available Storage Acreage Program funds of approximately \$120,000 to implement a long-term ASAP program in cooperation with the Devils Lake Basin Joint Water Resource Board, and to explore a similar concept with the North Dakota Water Bank program, which will provide 10-year ASAP contracts with a maximum participant payment rate of \$40.00 per acre for all acreage under contract.

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

(**Note:** As directed by the Commission's motion, the staffs of the State Water Commission and the State Department of Agriculture considered the use of the North Dakota Water Bank program as an alternative to an agreement with the Devils Lake Basin Joint Water Resource Board. A memorandum was prepared by the State Engineer, dated April 26, 2000, to Governor Schafer and the State Water Commission members, outlining the North Dakota Water Bank program alternative, and the State Engineer's decision to pursue an agreement with the Devils Lake Basin Joint Water Resource Board. The referenced memorandum is attached hereto as **APPENDIX "E"**.)

**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.

Secretary Sprynczynatyk summarized the concerns expressed by the environmental groups, the Canadian government, and the states of Minnesota and Missouri relating to the Dakota Water Resources Act. The efforts that are being pursued to resolve the differences, including a summit scheduled for May 15, 2000 with the appropriate parties, were discussed.

On February 29, 2000, Secretary Sprynczynatyk and Warren Jamison met with the Director of the Missouri Department of Natural Resources in Jefferson City, Missouri to discuss the Dakota Water Resources Act and water related issues.

Secretary Sprynczynatyk made reference to a letter received from the Great Lakes Commission, dated January 21, 2000 expressing concerns of opposition to the Dakota Water Resources Act. On March 23, 2000, Secretary Sprynczynatyk made a presentation before the Great Lakes Commission and, on May 8-9, 2000, he will meet with staffs of several of the eight Great Lakes Basin's congressional delegations.

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 project engineer has completed the System 5 feasibility study. The new rural water system would serve 263 rural users and the city of Willow City. The estimated project cost is \$6.1 million. The rural monthly minimum would be \$48.50, with \$4.50 per 1,000 gallons. The Bureau of Reclamation is working on the environmental assessment.

Plans for a transmission pipeline from the city of Rugby's well field in the Pleasant Lake aquifer have been delayed because a hydrologic analysis of the aquifer showed that the impacts of additional development in the well field would be detrimental to senior water rights in the area. The city of Rugby and the All Seasons Water Users are coordinating their efforts to locate an area in the aquifer where impacts of development would be acceptable. All Seasons proposes to develop a rural water system in Pierce county using water supplied by the Rugby water treatment plant.

Benson Rural Water Users: The Benson Rural Water Users board of directors voted to dissolve the rural water district and is working with the surrounding water systems relative to serving the future water needs in the Benson area. The board received the final feasibility engineering costs of \$52,560.40, and has requested funding in the amount of \$26,000 from MR&I Water Development and Research account (previously referred to as the MR&I interest account). The Garrison Diversion Conservancy District board of directors approved the request at its meeting on March 14, 2000.

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 area 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. The total MR&I funding approved is \$14.3 million.

Southwest Pipeline Project: USDA, Rural Development funding for the Mott-Elgin phase is being finalized. The Southwest Water Authority is reviewing the May, 1994, Specific Authorization 38 - Preliminary Design for the Rural Water Distribution System. The report would be updated and requires funding.

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

On December 10, 1999, the State Water Commission passed a motion approving the proposed \$10.28 million Fiscal Year 2000 MR&I Water Supply program budget, contingent upon the availability of federal funds and subject to future revisions.

Secretary Sprynczynatyk stated the Benson Rural Water Users board of directors voted to dissolve the rural water district and is working with the surrounding water systems relative to serving the future water needs in the Benson area. The board received the final feasibility engineering costs of \$52,560.40, and has requested funding in the amount of \$26,000 from the MR&I Water Development and Research account. The Garrison Diversion Conservancy District board of directors approved the request at its meeting on March 14, 2000.

Secretary Sprynczynatyk presented the following breakdown for the revised proposed funding budget for the Fiscal Year 2000 MR&I Water Supply program for the Commission's consideration:

Project	Activity	MR&I Grant
All Seasons System IV	D&C *	\$ 2,600,000
All Seasons System V (Pierce)	D&C *	3,522,750
Ransom-Sargent Rural Water	D&C *	3,000,000
Stutsman Rural Water District	F **	50,000
Other Projects		1,332,250
Administration		50,000
Total		\$ 10,555,000

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

It was the recommendation of the State Engineer that the State Water Commission approve the revised proposed \$10.55 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 revised proposed budget includes the request from the Benson Rural Water Users in the amount of \$26,000 from the MR&I Water Development and Research account. The Garrison Diversion Conservancy District board of directors approved the revised proposed MR&I funding budget for Fiscal Year 2000 at its meeting on April 7, 2000.

It was moved by Commissioner Swenson and seconded by Commissioner DeWitz that the State Water Commission approve the recommendation of the State Engineer of the revised proposed \$10.55 million Fiscal Year 2000 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions. This motion includes \$26,000 from the MR&I Water Development and Research account for the Benson Rural Water Users.

Commissioners 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 MR&I WATER
DEVELOPMENT AND RESEARCH
ACCOUNT FUNDS FOR PRELIMINARY
STUDY OF EASTERN NORTH DAKOTA
WATER DISTRIBUTION PIPELINE
(SWC Project No. 237-03)**

A request was presented for the Commission's consideration for the expenditure of \$40,000 from the MR&I Water Development and Research account funds for a "Preliminary Study of an Eastern North Dakota Water Distribution Pipeline".

Pursuant to Section 2 of the Agreement of Engineering Services, dated January 1, 1998, by and between the Garrison Diversion Conservancy District and Houston Engineering, Inc., Specific Work Order No. 8 allowed for the study. The study objectives included the practicality of an eastern North Dakota water distribution pipeline to convey Missouri River water to the major cities and rural water systems in North Dakota.

The study identified issues associated with the distribution of Missouri River water to major cities and rural water systems in North Dakota via a pipeline proposed to begin at the eastern end of the New Rockford canal. The analysis assumed the water has been adequately treated to satisfy the conditions of the Boundary Waters Treaty of 1909 with Canada as part of the Garrison Unit project completion proposed under the Dakota Water Resources Act.

Using existing information, a review of treatment plants for the major cities and rural water systems was made to determine modifications that would be required to treat Missouri River water from the New Rockford canal. Consideration was given to additional treatment at the source that may reduce modifications for the individual treatment plants. The study was completed in March, 2000. The final report will contain a summary of the issues associated with construction of the pipeline, and recommendations for additional in-depth feasibility studies.

It was the recommendation of the State Engineer that the State Water Commission approve MR&I Water Development and Research account funding, not to exceed \$40,000, for the "Preliminary Study of an Eastern North Dakota Water Distribution Pipeline". As is the current practice, the State Water Commission and the Garrison Diversion Conservancy District must approve expenditures from the MR&I Water Development and Research account. The District's board of directors approved the request at its January 7, 2000 meeting.

It was moved by Commissioner Hanson and seconded by Commissioner Thompson that the State Water Commission approve funding for the "Preliminary Study of an Eastern North Dakota Water Distribution Pipeline", in an amount not to exceed \$40,000 from the Garrison MR&I Water Development and Research account.

Commissioners 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 contractor, Northern Improvement Company, discontinued construction activity for the winter season on December 12, 1999. Construction for the summer construction season is anticipated to begin the week of April 17, 2000. Approximately 13.3 miles of pipeline have been installed out of a total of 45.9 miles. The contract has the following intermediate completion dates: service to New Leipzig by September 15, 2000; service to Elgin by October 15, 2000; and service to Carson by November 30, 2000. The final completion date for the contract is January 14, 2001.

Contract 5-6, Burt Tank: The contractor, Engineering America, Inc., of White Bear Lake, Minnesota, began excavation of the foundation for the 400,000 gallon glass-fused bolted steel tank on March 22, 2000, with the intent to begin erecting the steel tank panels in April, 2000. The tank will be 48 feet tall with a diameter of 38 feet. The completion date for the contract is September 2, 2000.

Contract 5-14 - Hebron Reservoir: The contractor, Engineering America, Inc., of White Bear Lake, Minnesota, completed the foundation of the 500,000 gallon glass-fused bolted steel reservoir last fall. The contractor will begin erecting the steel tank panels in April, 2000. The tank will be 43 feet tall with a diameter of 45 feet. The completion date for the contract is August 26, 2000.

Contract 7-3B/7-5B - Southeast Jung Lake and South Hebron Pocket Service Areas: This contract was awarded by the State Water Commission on February 29, 2000 to Northern Improvement Company. Construction for

the summer construction season is anticipated to begin the week of April 17, 2000. The contract has an intermediate completion date of August 1, 2000 for the 22 hookups in the South Hebron pocket, and a substantial completion date of September 1, 2000 for the 40 hookups in the Southeast Jung Lake pocket. The final completion date for the contract is October 16, 2000.

Contract 7-6A - Burt Service Area, Rural Distribution System: Bids for contract 7-6A were opened on March 15, 2000. Only one bid was received, from Northern Improvement Company. There was one alternate bid schedule, substituting an underground variable frequency drive booster pump station for an underground pneumatic booster pump station. The engineer's estimate was \$3,756,287.50 for the base bid and \$3,746,287.50 for the alternate bid. The bid received was \$3,715,111 for the base bid and \$3,705,111 for the alternate bid. Pipe prices in this bid were substantially higher than for the last rural water contract awarded due to a combination of higher poly-vinyl chloride (PVC) resin costs and higher fuel costs.

The 2000 funding package, which will allow the award of this contract, is not yet in place. The single bid received will be analyzed, and a recommendation will be presented to the State Water Commission for consideration at a future meeting.

On March 8, 2000, the State Water Commission approved the Southwest Pipeline Project Water Treatment Agreement for the Assignment of Management, Operations, and Maintenance Responsibilities for the Dickinson Water Treatment Plant from the City of Dickinson to the Southwest Water Authority, effective April 1, 2000.

Mr. Lennington reported the management, operations, and maintenance functions of the Dickinson water treatment plant were transferred from the city of Dickinson to the Southwest Water Authority on April 1, 2000. An inspection of the water treatment facility conducted before the transfer revealed several areas required improvement including the velocities in the influent piping carrying the raw water into the plant, turbidity meters required by new regulations under the Safe Drinking Water Act, and carbon dioxide storage.

**SOUTHWEST PIPELINE PROJECT -
PROJECT FEASIBILITY CRITERIA
FOR RURAL WATER DELIVERY
(SWC Project No. 1736)**

On February 9, 2000, the State Water Commission approved the revisiting of the feasibility criteria for rural water delivery for the Southwest Pipeline Project by the Commission's

MR&I subcommittee. As the Southwest Pipeline Project moves forward into the more remote, sparsely populated areas, it is becoming more difficult and

expensive to provide rural water service to the users. The feasibility criteria were first approved by the State Water Commission on July 2, 1993, and it is appropriate to revisit them periodically to ensure the criteria are still suitable for use and to assist in making wise decisions relative to the future allocation of funds for the project.

The Commission's MR&I subcommittee met jointly on February 22, 2000 with the Southwest Water Authority's construction committee. Also present at the meeting were Loren Myran, Chairman of the Authority; Pinkie Evans-Curry, the Authority's CEO/Manager; Joe Bichler, Bartlett & West Engineers/Boyle Engineering Corporation; and staff members of the Commission and the Authority.

James Lennington reported the committees determined that the existing criteria are still appropriate for use and do not require modification by the State Water Commission. The committees agreed the pasture taps would be counted as one-half of a hookup and counted separately in determining the sign-up percentage. Mr. Lennington said the number of pasture taps would not amount to more than a few percent of the total signups and would not make a large difference in meeting the criteria, but could be considered by the State Water Commission if the sign-up percentage is just under the required 50 percent.

Commissioner Swenson suggested the following change under I. C. 5 of the criteria guidelines:

5. Pasture taps will be counted separately and ~~included~~ considered in the determination of sign-up percentage.

The Southwest Pipeline Project Guidelines for Determining Feasibility for a Given Service Area, dated February 22, 2000, is attached hereto as **APPENDIX "F"**.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF RESOLUTION
AUTHORIZING SUBMISSION
OF APPLICATION FOR FUNDING
THROUGH DRINKING WATER
STATE REVOLVING LOAN FUND
(SWC Project No. 1736)
(SWC Resolution No. 2000-4-487)**

The Drinking Water State Revolving Loan Fund (DWSRLF) 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 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 DWSRLF program, after consulting with and obtaining the approval of the State Water Commission.

On December 10, 1999, the State Water Commission approved the project priority list for Fiscal Year 2000 as listed in the Intended Use Plan for the DWSRLF program, dated November 16, 1999; and authorized the North Dakota Department of Health to administer and disburse Fiscal Years 1997 through 2000 DWSRLF program funds pursuant to the Fiscal Year 2000 Intended Use Plan.

James Lennington informed the State Water Commission that in 1998 a questionnaire to rank projects for potential financial assistance through the DWSRLF program was initially completed for the Mott-Elgin phase of the Southwest Pipeline Project. The 1999 Intended Use Plan ranked the Southwest Pipeline Project as 23rd. Additional detailed information concerning water quality was provided in the 1999 questionnaire, and was presented to the State Water Commission at its December 10, 1999 meeting. The 2000 Intended Use Plan ranked the Southwest Pipeline Project as 5th.

An application for a \$1.5 million loan, through the DWSRLF program, was submitted in February, 2000, which requires an authorizing resolution by the State Water Commission. Mr. Lennington explained the loan interest rate for the Southwest Pipeline Project, through the DWSRLF program, is 2.5 percent with an annual loan fee of 0.5 percent for administration. The term of the loan is 20 years. The loan will be in the form of bonds issued through the Southwest Pipeline Project General Resolution and will be designated as 2000 Series A. The first \$1 million in funding, through the DWSRLF program, will be used as part of the state's share of the 2000 Mott-Elgin funding package.

It was the recommendation of the State Engineer that the State Water Commission approve the draft resolution authorizing submission of an application for funding for the Southwest Pipeline Project through the DWSRLF program.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve Resolution No. 2000-4-487, Authorizing the Submission of an Application for Funding for the Southwest Pipeline Project, through the Drinking Water State Revolving Loan Fund program. SEE APPENDIX "G"

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

In response to Governor Schafer's concerns for specific clarification relative to the funding sources for the Southwest Pipeline Project, Secretary Sprynczynatyk explained the following sources of funds that have been available to the project. (Note: The following table was revised from the table distributed at the meeting to show funding through 2000):

**SOUTHWEST PIPELINE PROJECT
Funding Sources (through 2000)
(In Millions \$)**

State Funding:

Resources Trust Fund (including \$3.4 in user fees)	\$ 32.3
Water Development Trust Fund	4.5
	\$ 36.8

Grants:

GDU MR&I	\$ 69.6
USDA	5.7
	\$ 75.3

State Bonds Repaid By Users:

Public Revenue Bonds	\$ 6.8
USDA	4.9
DWSRLF Program	1.0
	\$ 12.7

Total Funding \$124.8

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF USDA, RURAL
DEVELOPMENT DOCUMENTS
FOR MOTT-ELGIN, PHASE II,
2000 FUNDING
(SWC Project No. 1736)**

James Lennington explained the 2000 funding package for Mott-Elgin, Phase II, of the Southwest Pipeline Project totalling \$4.27 million, which includes \$2 million in a grant and \$400,000 in bonds through the USDA, Rural Development. The state's share

of the 2000 funding package consists of \$870,000 in a grant to the project through the funding made available by Senate Bill 2188 during the 1999 Legislative session, and \$1 million in a loan through the Drinking Water State Revolving Loan Fund program. Mr. Lennington said the state grant of \$870,000 completes the grant of \$4.5 million authorized for the project under Senate Bill 2188. Completion of the 2000 funding package will allow the State Water Commission to award Southwest Pipeline Project contract 7-6A for the Burt Service Area, Rural Distribution System, serving about 152 rural service connections and 13 pasture taps.

The application for the 2000 funding year has been approved by USDA, Rural Development, and the conditions of funding have been developed for the Commission's consideration. The Commission's approval of the funding conditions is certified by approval of a "Letter of Intent to Meet Conditions". Upon the Commission's certification of its intent to meet the USDA conditions, and its formal request that funds be obligated through a "Request for Obligation of Funds", the interest rate on the bonds issued under this series (2000 Series B) is set and "locked" into place. Mr. Lennington said if the interest rate rises in the interim period between the request that the funds be obligated and the closing on the bonds, the interest rate on the bonds remains unchanged. If the interest rate declines in this interim period, then the rate on the bonds declines accordingly.

Mr. Lennington explained the actual commitment by the State Water Commission to repay the bonds does not occur until the Commission approves the sale of the bonds and they are closed. He said, to date, there has been no action by the Commission on the 2000 funding through USDA and no commitment for repayment.

The projected construction schedule and the estimates of cost for the Mott-Elgin phases were provided to the Commission, which is attached hereto as **APPENDIX "H"**.

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

- 1) Letter of Conditions for a Rural Utilities Service loan of \$400,000, and Rural Utilities Service grant of \$2,000,000, a North Dakota state grant of \$870,000, and a North Dakota state loan of \$1,000,000 through the

Drinking Water State Revolving Loan Fund program. The proposed interest rate on the Rural Utilities Service loan is 5 1/8 percent, for 40 years, with two deferred principal payments.

- 2) Resolution Authorizing Execution of Letter of Intent to Meet Conditions
- 3) RD 1942-46, Letter of Intent to Meet Conditions
- 4) RUS Bulletin 1780-27, Loan Resolution (Public Bodies)
- 5) RD 400-1, Equal Opportunity Agreement
- 6) RD 400-4, Assurance Agreement
- 7) Resolution Authorizing Execution of Request for Obligation of Funds
- 8) RD 1940-1, Request for Obligation of Funds (\$400,000 loan; \$500,000 grant)
- 9) RD 1940-1, Request for Obligation of Funds (\$1,500,000 grant)
- 10) Resolution Authorizing Execution of Grant Agreement

It was the recommendation of the State Engineer that in order to receive USDA, Rural Development funding for 2000, 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 Hanson 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 II, 2000 funding. SEE APPENDIX "I"

Commissioners 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 REIMBURSEMENT
FROM RESERVE FUND FOR REPLACEMENT AND EXTRAORDINARY
MAINTENANCE FOR REPLACEMENT
FOR REPAIRS ON DICKINSON
RAW WATER RESERVOIR
(SWC Project No. 1736)**

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

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

At its meeting on June 19, 1996, the State Water Commission adopted a criterion based on the cost of the event. The Southwest Water Authority calculates the maintenance, or replacement cost of an event and, based upon the State Engineer's review, if the eligible items exceed \$10,000, the Commission will authorize the maintenance or replacement. Lost water and vehicle replacement are not considered eligible for reimbursement, nor is staff time considered eligible, although an exception was made in 1998 for overtime.

James Lennington presented a request from the Southwest Water Authority for the Commission's consideration of reimbursement from the reserve fund for replacement and extraordinary maintenance for the costs of repairing the "ventlon" fabric seal on the Dickinson raw water reservoir. This seal prevents insects and foreign material from entering the reservoir as the aluminum geodesic dome roof contracts and expands at a different rate than the concrete structure. Rather than replacing the seal, the Authority installed aluminum flashing to protect the existing seal at a lower cost. This option was originally suggested by the roof manufacturer and was approved by the North Dakota Department of Health. The repair was completed in February, 2000. The budgeted amount was \$37,000, and the actual cost for replacement was \$13,042.

It was the recommendation of the State Engineer that the State Water Commission approve the reimbursement of \$13,042 from the reserve fund for replacement and extraordinary maintenance to the Southwest Water Authority for repairs on the Dickinson raw water treatment reservoir.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve the reimbursement of \$13,042 from the reserve fund for replacement and extraordinary maintenance to the Southwest Water Authority for repairs on the Dickinson raw water reservoir.

Commissioners 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 AWARD OF CONTRACT
FOR INFLUENT PIPING AT
DICKINSON WATER TREATMENT
PLANT TO PKG CONTRACTING, INC.
(SWC Project No. 1736)**

An inspection of the Dickinson water treatment plant facility was conducted before the transfer of management and operations and maintenance responsibilities from the city of Dickinson to the Southwest Water Authority which revealed several areas requiring improvement. Velocities in the influent piping carrying the raw water into the plant are excessive and require immediate attention. The velocities are causing excessive vibration and noise and quite possibly are eroding the pipe walls. This piping was installed as part of the capacity upgrade to the water treatment plant in 1994, and the piping is undersized. The cost for replacing the undersized piping and appurtenances is expected to be less than \$100,000. The piping should be replaced before the peak consumption period begins this spring, which is usually at the end of May.

James Lennington explained that state law requires competitive bidding for public contracts over \$100,000. For contracts under this amount, price quotes can be requested from several contractors and a contract awarded to the one with the most favorable quote. Four contractors were identified, based upon past experience and reputation, as being qualified to perform the needed work. Quotes were received on April 7, 2000 from the following contractors: Magney Construction, Inc., Excelsior, Minnesota - \$99,300; George E. Haggart, Inc., Fargo, ND - \$96,825; and PKG Contracting, Inc., Fargo, ND - \$92,000.

It was the recommendation of the State Engineer that the State Water Commission approve the award of a contract to PKG Contracting, Inc., Fargo, ND, in the amount of \$92,000, for the influent piping at the Dickinson water treatment plant, pending the legal review of the contract documents.

It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission award a contract to PKG Contracting, Inc., Fargo, ND, in the amount of \$92,000, for the influent piping at the Dickinson water treatment plant, pending the legal review of the contract documents.

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

The first meeting of the group was held on November 16-17, 1999 to develop the analysis approach and determine needs for additional data. The consultants developed the risk analysis statistical model and prepared a draft report of the findings. The second meeting is tentatively scheduled for April 25-26, 2000 in Bismarck to review the results of the analysis and to determine the nature of the final report. The North Dakota Game and Fish Department and the North Dakota Department of Health are participating in the analysis.

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 on December 21, 1999, for review and comment. The North Dakota Department of Health has approved the plans and specifications and approval by the Bureau of Reclamation is anticipated soon. 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 the 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.

Work 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. A final payment request on the contract is expected within the next few weeks. In October, 1999, the city began making quarterly capital repayments on the project revenue bonds.

Plans for a transmission pipeline from the city of Rugby's well field in the Pleasant Lake aquifer have been delayed because a hydrologic analysis of the aquifer showed that the impacts of additional development in the well field would be detrimental to senior water rights in the area. The city of Rugby and the All Seasons Water Users are coordinating their efforts to locate an area in the aquifer where impacts of development would be acceptable. All Seasons proposes to develop a rural water system in Pierce County using water supplied by the Rugby water treatment plant.

**2000 SPRING FLOOD OUTLOOK
(SWC Project No. 1431-08)**

Secretary Sprynczynatyk reported the unusually mild winter has resulted in little risk of flooding throughout North

Dakota. Very little snow remains in the state and only small amounts of ice remains on the major rivers, however, base flows in the rivers are above normal due to the wet soil conditions resulting from the wet cycle that has been ongoing since 1993, the early snow melt, and the record February precipitation. Minor flooding occurred along Apple Creek in Burleigh County in late February as a result of the record precipitation.

The National Weather Service flood outlook calls for all of the rivers to remain below flood stage, barring any unusually large precipitation events.

Secretary Sprynczynatyk said no additional flooding is expected to be caused by Devils Lake. The flood outlook calls for Devils Lake to peak at 1446.5 assuming normal, 30-year average precipitation, however, Devils Lake will not recede to a safe level. Unlike a river that falls each year after the flood, he said Devils Lake will enter next winter at near record levels resulting in the continuing high risk of flooding.

**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 included 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.

On January 13, 2000, the Corps of Engineers released a fact sheet that summarized key points of the Northwestern Division preferred alternative for the Missouri River Master Water Control Manual. The fact sheet is attached hereto as **APPENDIX "J"**. The full text of the Revised Draft Environmental Impact Statement (RDEIS) is scheduled for publication in April, 2000. A public comment period on the RDEIS will extend through the spring and summer of this year and will include a series of workshops hosted by the Corps and formal hearings to allow people to submit oral or written testimony. The Corps continues to compile and analyze data including computer simulations to determine how any changes to the Master Manual would affect the people and the environment of the Missouri River basin. The Northwestern Division's preferred alternative is one result of those studies. The Corps' schedule for the Master Manual revision is as follows:

Preliminary Revised Draft EIS (PRDEIS)	August, 1998
PRDEIS Tribal and Public Coordination Period	January, 1999
Revised Draft EIS (RDEIS)	March, 2000
RDEIS Tribal and Public Comment Period	September, 2000
Final EIS	June, 2001
Washington Level Review	December, 2001
Record of Decision	February, 2002
Revise Master Manual	February, 2002
Develop Annual Operating Plan	December, 2002
Implement Selected Plan	March, 2003

Secretary Sprynczynatyk stated one of the Missouri River Basin Association's recommendations focused on habitat restoration, which is essential for the recovery of threatened and endangered species and to prevent future listings of threatened and endangered species. Formal consultation between the U.S. Fish and Wildlife Service and the Corps of Engineers under the Endangered Species Act, Section 7, commenced on April 1, 2000. Under Section 7(a)(2), the Corps is required to consult with the Fish and Wildlife Service to insure that any action it carries out "is not likely to jeopardize the continued existence of any listed species or results in the destruction or adverse modification of critical habitat." Upon the conclusion of this consultation, the Fish and Wildlife Service will issue its biological opinion by July 1, 2000. Secretary Sprynczynatyk stated the consultation between the Corps and the Service could affect the Master Manual revision schedule listed above.

Secretary Sprynczynatyk made reference to comments received from the American Rivers, dated February 23, 2000, wherein it accused the Corps of Engineers as misrepresenting the positions of American Rivers in its briefing document for Missouri River dam management.

**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.

Secretary Sprynczynatyk said in order to maintain the 1999 State Water Management Plan and to meet the requirements of Senate Bill 2188, a Water Development Biennial Report is being developed. The first component of the report will be an updated list of water projects that local sponsors have identified as needs for the 2001-2003 biennium. Information about the potential projects has been gathered and entered into a database. The database now contains \$438 million dollars of projects for the 2001-2003 biennium. He said under the State Water Commission's cost share policies, the state's share would total \$101 million.

The second component of the report will describe a means of funding these projects. Potential uses of the new Water Development Trust Fund will be discussed along with traditional sources. The great difference between projects needs and available funding is forcing the consideration of a prioritization process to rank projects for defining cost share decisions.

Secretary Sprynczynatyk said much of the final report will focus on the prioritization process. The North Dakota Water Coalition established a committee specifically to discuss and help refine the process. The first meeting of the committee was held on April 10, 2000. After receiving staff approval, the prioritization process will be presented to the State Water Commission for consideration.

The prioritization process will be applied to the projects identified as needs. The result will be a list of prioritized projects whose costs closely match the projected funding available for the 2001-2003 biennium. Secretary Sprynczynatyk said this list will be used to develop the State Water Commission's 2001-2003 budget request to the Legislature.

Recommendations and future policy revision needs will finalize the report. Items to be considered include a revised State Water Commission cost share policy and continued support from the tobacco settlement.

**COST SHARE ASSISTANCE IN
FARMSTEAD RING DIKES PROJECTS
(SWC Project Nos. 1271, 1280, 1312, 1705)**

On December 10, 1999, the State Water Commission passed a motion to cost share in 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.

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.

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 at the State Water Commission meeting on December 10, 1999, 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.

Secretary Sprynczynatyk said several letters have been received requesting the Commission's consideration to increase its cost share assistance from 25 percent to 50 percent of the eligible costs in the farmstead ring dike project.

It was the consensus of the Commission members that the State Engineer continue discussions with the Red River Joint Water Resource Board and the local water resource boards in an effort to increase the cost share percentage for rural farmstead ring dikes. The State Engineer was also directed to provide for the Commission's consideration at its next meeting an economic analysis of the funding capability of the Joint Board and the local water resource boards, and to revisit the farmstead ring dike design criteria required for state cost share assistance.

**NORTH DAKOTA IRRIGATION
CAUCUS - INTRODUCTION OF
CONRAD KALBERER, FIELD
REPRESENTATIVE
(SWC Project AOC/IRR)**

On December 10, 1999, the State Water Commission passed a motion approving the expenditure of \$40,000 from the Contract Fund for the years 2000 and 2001 to the North Dakota Irrigation Caucus for the implemen-

tation of the Irrigation Strategic Plan. The Plan included a proposed Irrigation Caucus coordinator to address the irrigation issues to successfully expand irrigation and build and diversify the economy.

Conrad Kalberer, field representative for the North Dakota Irrigation Caucus, was introduced. Mr. Kalberer said the mission of the North Dakota Irrigation Caucus is to strengthen and expand irrigation to build and diversify the economy. He said the tasks necessary to accomplish this mission are endless, but there is significant support and energy for irrigation across the state. The work of the North Dakota Irrigation Caucus will focus on four areas: economic development/irrigation districts; hydropower; individual irrigation development; and research.

There being no further business to come before the State Water Commission, Governor Schafer adjourned the meeting at 4:00 PM.

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

SEAL

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