MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

December 6, 1982

The North Dakota State Water Commission held a meeting at the Holiday Inn, Bismarck, North Dakota, on December 6, 1982. Governor-Chairman, Allen I. Olson, called the meeting to order at 1:10 p.m., and requested Secretary, Vernon Fahy, to present the agenda.

MEMBERS PRESENT:
Allen I. Olson, Governor-Chairman
Florenz Bjornson, Member from West Fargo
Ray Hutton, Member from Oslo, Minnesota
Garvin Jacobson, Member from Alexander
Alvin Kramer, Member from Minot
Henry Schank, Member from Dickinson
Bernie Vculek, Member from Crete
Kent Jones, Commissioner, Department of Agriculture, Bismarck
Vernon Fahy, State Engineer and Secretary, North Dakota State Water Commission, Bismarck
Guy Larson, Member from Bismarck

OTHERS PRESENT:
State Water Commission Staff Members
Approximately 40 persons interested in agenda items

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

The proceedings of the meeting were recorded to assist in compilation of the minutes.

CONSIDERATION OF MINUTES OF NOVEMBER 8, 1982 MEETING - APPROVED

The minutes of the November 8, 1982 meeting were approved by the following motion:

It was moved by Commissioner Schank, seconded by Commissioner Kramer, and unanimously carried, that the minutes of November 8, 1982 be approved as presented.

UPDATE ON SOUTHWEST PIPELINE PROJECT (SWC Project No. 1736)

Robert Dorothy, Project Manager for the Southwest Pipeline Project, reported that on November 9, 1982, the State Water Commission updated the Legislative Council on the Southwest Pipeline Project, and on November 15, 1982, a meeting was held with area legislators in Dickinson to discuss the project. Mr. Dorothy recalled that at the November 8 Commission meeting, he had informed the members that water service contracts had been mailed to 24 cities and that the date of December 15, 1982 had been established for the cities to either return the executed contracts or to indicate that they were not interested in contracting for water. As of December 6, 1982, executed contracts have been received from Dickinson, Scranton and Bowman. Mr. Dorothy reported that refusals for contracting for water have been received from the cities of Killdeer and Glen Ullin.

Mr. Dorothy indicated that the Summary Report for the Southwest Pipeline Project is now at the printer and should be completed by December 7, 1982.

Mr. Dorothy suggested that the Commission should take the following action at this meeting: 1) approve the Final Report; and 2) authorize the State Engineer to execute the water service contracts on behalf of the State Water Commission.

Michael Dwyer, Special Assistant Attorney General for the Southwest Pipeline Project, distributed draft legislation for implementation of the Southwest Pipeline Project. Mr. Dwyer reminded the Commission members that December 15, 1982 is the deadline for introducing agency legislation and, therefore, if the Commission decided to introduce any legislation as an agency bill, it must be adopted at this meeting.

BILL DRAFT FOR THE AUTHORIZATION OF THE SOUTHWEST PIPELINE PROJECT

Draft legislation (designated as Bill Draft One) to provide for authorization of the Southwest Pipeline Project was considered by the Commission. Mr. Dwyer again explained to the Commission the provisions of the proposed legislation which delegate to the State Water Commission the decision-making authority over certain components of the project.

Governor Olson informed the Commission that he would be recommending in the Governor's Executive budget an appropriation of $6 million for the final design, right-of-way, and other tasks leading up to the construction of the Southwest Pipeline Project.

Mr. Dwyer explained that the appropriation section in Bill Draft One would, therefore, be deleted since the appropriation request of $6 million would be a bill introduced by the Committee on Appropriations or the Office of Management and Budget.

It was moved by Commissioner Jones, seconded by Commissioner Jacobson, and unanimously carried, that the State Water Commission approve Bill Draft One which provides for the authorization of the Southwest Pipeline Project.

It was moved by Commissioner Schank, seconded by Commissioner Kramer, and unanimously carried, that the State Engineer be directed to introduce Bill Draft One as a State Water Commission agency bill.

BILL DRAFT PROVIDING FOR THE FINANCING OF THE SOUTHWEST PIPELINE PROJECT

The Commission members reviewed Bill Draft Two and discussed alternative methods of financing the construction of the Southwest Pipeline Project.

Mr. Jim Bullock, Financial Consultant for the Project, explained alternative methods of financing that have been developed for the Project. He said that if a bond issue is to be utilized for financing the Project, a special authorization would be required. Water revenues from the Project will not be adequate to pay off a bond issue for the Project regardless of how it is structured and, thus, state revenues from some source must be committed to help retire bonds. Mr. Bullock indicated that the Resources Trust Fund, as it presently exists, does not receive enough revenue to retire a bond issue for construction of this Project. He then discussed options that would increase the percentage allocation of the oil extraction tax that goes into the Resources Trust Fund. Presently, the oil extraction tax is allocated 60% for education, 30% for general fund, and 10% for resources trust fund. He indicated that it is proposed in Bill Draft Two that any increase in the Resources Trust Fund would be taken from the general fund allocation.

Mr. Bullock stated that a ten-year bond issue is the Financial Consultant's recommendtion for financing the Southwest Pipeline Project. Mr. Bullock also

stated that if the Resources Trust Fund is to provide the necessary funds for repayment of bonds issued for construction of the Southwest Pipeline project, it would be necessary to increase the percentage allocation of the oil extraction tax that goes into the Resources Trust Fund from 10% to 25%, decreasing the allocation to the General Fund from 30% to 15%. Mr. Bullock indicated that this recommendation is based on current interest rates.

Mr. Bullock also discussed options for the effective date of the change in allocation of the oil extraction tax to the Resources Trust Fund. He explained that the Financial Consultant does not have a specific recommendation relative to the effective date.

Commission members expressed their concern about making a specific recommendation to the Legislature relative to financing the Southwest Pipeline Project, and indicated that the State Water Commission should not introduce legislation recommending the specific method of providing funds for financing the Southwest Pipeline Project. It was suggested that the options that have been developed for financing the project, along with the professional advice and recommendations of the Financial Consultant, should be submitted to the 1983 Legislature.

It was moved by Commissioner Jones, seconded by Commissioner Larson, and unanimously carried, that the State Water Commission submit to the 1983 Legislature all of the various alternatives that have been developed for the Southwest Pipeline Project, including the recommendations of the Financial Consultant for the Project.

DRAFT LEGISLATION RELATIVE TO DEFINING THE TERM "WATER SUPPLY FACILITIES" IN THE RESOURCES TRUST FUND

At the last session of the Legislature, a presentation was made by the State Water Commission requesting that money be made available to conduct a study of the delivery of water to southwest North Dakota. Senate Bill 2338 authorized the study and appropriated funds for the study. Secretary Fahy explained his position based on legislative intent and history, that the Resources Trust Fund is intended only for the development of a water supply source. As the Southwest Pipeline Project study progressed, Secretary Fahy stated that the

decision was made to include secondary mains in order to get the water closer to the points of use. The State Water Commission did approve an alternative to be included in the study to include secondary mains.

Secretary Fahy indicated that cooperatives in the southwest area and other rural water systems have expressed their concern that the definition of "water supply facilities" in the Resources Trust Fund should be expanded to include "water-supply-distribution system". If the definition was expanded to include a distribution system, it would provide a program for obtaining future financial assistance for rural water systems. He stated that his remarks were directed toward the uncertainty of the legislative intent in the language of Senate Bill 2338 and not as an argument against expanding the definition.

Murray Sagsveen presented a statement, attached hereto as APPENDIX "A", on behalf of the West River Water Supply District, the Southwest Water Cooperative, the Stark-Billings-Dunn Rural Water Association, and the Golden Valley Rural Water Association. The statement addressed legislative proposals which the State Water Commission is considering.

Mr. F. J. Waxler, Executive Director of the North Dakota Rural Water Systems Association, indicated that at their recent annual meeting resolutions were adopted approving the Southwest Pipeline Project as designed, with the recommendation that the inclusion definition of "water supply facilities" be expanded to the development of a water source and distribution system. Mr. Waxler also stated that the Association supports the concept that Resources Trust Fund moneys be utilized for rural water distribution system, but stressed the importance that if this concept is approved by the Legislature, the State Water Commission must establish rules and regulations for priority of uses to be considered for financial assistance from the Resources Trust Fund.

Michael Dwyer explained that if the term "water supply facilities" was defined by the Legislature to include the development of a water source and distribution to ultimate users, water development and distribution projects would be eligible to make application for financial assistance from the Resources Trust Fund. Under Bill Draft Three, criteria would be developed by the State Water Commission for reviewing applications for financial assistance from the Trust Fund, and the Commission would then make a recommendation to the Legislative Assembly for appropriation of such funds from the Resources Trust Fund for a project.

Commissioner Kramer expressed concern that the matter of financially assisting rural water systems is really not within the purview of the State Water Commission's responsibilities. Becoming involved in this matter at this time would be setting a state-wide policy that the Commission has not been involved with in the past. He felt the matter of state-wide rural water access to the Resources Trust Fund is solely a matter for the Legislature's consideration, and that the Commission should concentrate at this time on financing the Southwest Pipeline Project.

Murray Sagsveen commented that the purpose of the State Water Commission is to assist and expedite the development of water resources in the State, and he stated this becomes especially crucial at a time when the traditional funding sources, such as for rural water development, are cut off or curtailed. He explained that the expanded definition of "water supply facilities" would authorize the State Engineer and the State Water Commission to expand their purview of the types of water projects that they will be studying.

Mr. Herb Urlacher, Chairman of the 12-county West River Joint Board, indicated the general feeling of the Board is that the definition of "water supply facilities" must be broad enough to serve the people in assisting and solving their water problems.

It was moved by Commissioner Larson and seconded by Commissioner Bjornson that the State Water Commission recommend to the 1983 Legislature that the term "water supply facilities" referred to in the Resources Trust Fund be defined to include both development of a water source and distribution to users.

In discussion of the motion, Secretary Fahy inquired whether or not the definition to include distribution to users includes participation in municipal distribution systems? He stated that he feels the State Water Commission should not become involved in determining whether or not a municipal system should be qualified. Municipalities have had a long and good record of financing municipal systems and have wide acceptance of special assessment programs for construction of systems and revenue sharing that can be used to cover an entities' total share for the public interest.

Mr. Dwyer replied to Secretary Fahy's inquiry that the definition of "water supply facilities" in Bill Draft Three does not preclude municipal water systems and applies to all distribution systems for all uses.

It was suggested by Governor Olson, and was the consensus of the Commission members, that although the motion recommends that the Legislature define the term "water supply facilities" to include both development of a water source and distribution to users, the Commission does not wish this to be interpreted to include what is commonly understood to be municipal water systems except where they may be a rural water system. It was the consensus of the members that the State Engineer be directed to include these concerns in a transmittal letter to accompany the Commission's recommendation to the Legislature.

The Governor requested a question on this motion; and all members voted aye. Motion carried.

DRAFT LEGISLATION RELATIVE TO STATE WATER COMMISSION STATUTES

Michael Dwyer presented draft legislation (designated as Bill Draft Four) to make technical amendments to State Water Commission statutes. These amendments are technical in nature, and are for the purpose of ensuring that the authorities and current statutory provisions of Chapter 61-02 are updated for the Southwest Pipeline Project and other projects.

It was moved by Commissioner Kramer, seconded by Commissioner Vculek, and unanimously carried, that the State Water Commission introduce Bill Draft Four as an agency bill amending the State Water Commission statutes to ensure that Chapter 61-02 is updated for the Southwest Pipeline Project and other projects.

DRAFT LEGISLATION AUTHORIZING WATER USE FEES

A brief discussion ensued relative to alternatives that would authorize water marketing fees for industrial use.

It was moved by Commissioner Kramer, seconded by Commissioner Schank, and unanimously carried, that the State Water Commission postpone action on this matter; and that a study resolution be

introduced through the Legislative Council requesting an interim study be conducted as to the feasibility of imposing water marketing fees.

CONSIDERATION OF APPROVAL OF ENGINEERING AND FINANCIAL CONSULTANTS FINAL REPORT ON SOUTHWEST PIPELINE PROJECT (SWC Project No. 1736)

It was moved by Commissioner Schank, seconded by Commissioner Jones, and unanimously carried, that the State Water Commission approve the Engineering Preliminary Design Draft Final Report For The Southwest Pipeline Project.

CONSIDERATION OF AUTHORIZING STATE ENGINEER TO EXECUTE WATER SERVICE CONTRACTS RELATIVE TO SOUTHWEST PIPELINE PROJECT (SWC Project No. 1736)

The Commission members briefly discussed the water service contracts, and it was agreed that the State Engineer be directed to execute the water service contracts on behalf of the State Water Commission.

It was moved by Commissioner Kramer, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission authorize the State Engineer to execute the water service contracts for the Southwest Pipeline Project.

FURTHER DISCUSSION ON LEGISLATIVE CONSIDERATION OF THE STATE WATER COMPREHENSIVE PLAN UPDATE (SWC Project No. 322)

Secretary Fahy presented a draft resolution for the Commission's consideration relating to the 1983 State Water Comprehensive Plan update. Secretary Fahy explained that if the Commission adopts the resolution, they would officially adopt the 1983 North Dakota State Water Plan. The resolution also directs the Governor to send copies of the resolution and copies of the Plan Report to the Speaker of the North Dakota House of Representatives and the President of the North Dakota Senate.

It was moved by Commissioner Kramer, seconded by Commissioner Jones, and unanimously carried, that the State Water Commission adopt the 1983 North Dakota State Water Plan, and direct the Governor to send copies of the Plan Report and the Resolution to the Speaker of the North Dakota House of Representatives and to the President of the North Dakota Senate. Resolution No. 82-12-415, Adopting The 1983 State Water Plan, is hereby approved and attached as APPENDIX "B".

APPEARANCE OF FORT BERTHOLD TRIBAL REPRESENTATIVES TO DISCUSS INTAKE STRUCTURE LOCATION FOR SOUTHWEST PIPELINE PROJECT (SWC Project No. 1736)

Michael Dwyer stated that at the April meeting of the Commission, the staff and the consultants working on the Southwest Pipeline Project were directed to pursue negotiations with the Three Affiliated Tribes on the possibility of locating the intake structure for the Southwest Pipeline Project on the Fort Berthold Reservation; and to develop a proposed agreement for locating the intake structure on the Reservation and submit the agreement to the Three Affiliated Tribes for their consideration.

Mr. Dwyer indicated that an outline of a proposed agreement was sent to the Three Affiliated Tribes in July, 1982 setting forth the basic conditions which would have to be agreed to by the Tribes in order for the State Water Commission to consider locating the intake structure for the Southwest Pipeline Project on the Fort Berthold Indian Reservation. Several meetings with representatives of the Tribes have been held to discuss those conditions and other aspects of a proposed agreement on this matter. Mr. Dwyer indicated that the negotiations have consisted of two parts: 1) the basic conditions whereby the Tribes must agree not to exercise any authority, jurisdiction, or control over the Southwest Pipeline Project. This would include all areas, such as water, taxes, access, etc. Mr. Dwyer indicated that at this point, the Tribes have indicated that it is willing to go along with these basic conditions; and 2) benefits or compensation - locating the intake structure on the Indian Reservation would result in a cost savings to the State of approximately $6 million for providing service to the portion of the West River area to be served by the Southwest Pipeline Project. Mr. Dwyer indicated that the Tribes were at the State Water Commission meeting to discuss the second part of the negotiations.

The following testimony was presented by Ms. Alyce Spotted Bear, Chairman of the Three Affiliated Tribes of the Fort Berthold Indian Reservation:

"Governor Olson, members of the State Water Commission. I am Alyce Spotted Bear, Chairman of the Three Affiliated Tribes Business Council of the Fort Berthold Indian Reservation. It is my pleasure to appear before you today to testify on the important matter of the proposed Southwest Pipeline Project. There are important choices before both the Three Affiliated Tribes and the State of North Dakota. As Chairman of the Tribal Council, I have made the choice to offer this Commission an opportunity to work with me and the other members of the Tribal Council to reach reasonable agreements in several areas, including both water rights negotiations and the Southwest Pipeline Project. Fair agreements on these subjects, I believe, would benefit both present and future generations of State and Tribal citizens.

The specific reason why I am here today is because this Commission must soon decide some fundamental matters that relate to the Southwest Pipeline Project. These decisions include the location of the project's intake structure and other related matters. Important economic facts that will be fully discussed by our consultants indicate that the best site for the project's facilities and a short segment of main pipe would be on the Fort Berthold Indian Reservation. However, some members of this Commission have expressed concern that the State's title and regulatory authority over the pipeline would be questioned by the Tribe if some of the pipeline's facilities were located on the Reservation. My understanding is that the lawyers for the State Water Commission and the lawyers for the Tribe have reached agreement on the basic elements of a Tribal-State contract on these points.

Through this proposed agreement, the Tribe would agree not to challenge the State's title to the pipeline project or regulate it in any way. Further, the Department of the Interior, through a letter that you have before you, would assure the State's title to, and regulatory control over, the project for its life.

Now I would like to turn our presentation over to our Tribal attorney and our consultants to describe the benefits to both the Tribe and the State of siting the project's facilities on the Reservation."

Ms. Spotted Bear made reference in her testimony to correspondence from the Department of the Interior wherein the Deputy Assistant Secretary states: "....If the State chooses to locate a segment of the proposed

pipeline on the reservation, we can assure you that the easement and related documents will fully protect the State's title to and regulatory authority over the pipeline. Additionally, the Federal Government, as designee, will protect both parties' interests in the pipeline for its lifetime. Should such an agreement be reached, we believe that siting a portion of the pipeline on the Reservation will result in considerable savings to the project. ...." The letter from the Department of the Interior is hereby attached as APPENDIX "C".

Mr. Raymond Cross, Lawyer for the Three Affiliated Tribes, introduced the following Tribal representatives: Ron Billstein of HKM Associates, Engineering Consultant for the Three Affiliated Tribes, Billings, Montana; Tom Luebben, Attorney for the Three Affiliated Tribes, Albuquerque, New Mexico; Ken Fredricks, Bureau of Indian Affairs Counsel, Washington, D.C.; and Lloyd Blackwell, Economic Consultant, Three Affiliated Tribes, Grand Forks, ND.

Mr. Ron Billstein discussed with the Commission members some of the engineering aspects and the economic benefits that have been quantified relative to siting the Southwest Pipeline Project intake structure on the Fort Berthold Indian Reservation versus the Renner Bay alternative. A synopsis statement of Mr. Billstein's discussion is attached hereto as APPENDIX "D".

Mr. Ken Fredricks referred to the letter from the Department of the Interior and indicated that the Department would support the Tribe in their negotiations, but would not be a party to it.

Dr. Lloyd Blackwell briefly discussed the proosal and referred to it as a classic example of economics due to site rental - economic rent.

Governor Olson responded to the Tribe's presentation expressing appreciation for their appearance. He stated that on December 8, representatives will be meeting with the Secretary of the Interior to discuss the prospects of establishing a rational approach trying to resolve the mutual interests that Indian and non-Indian interests have. He said that he is excited about their proposal and is an excellent way to look at this because there are economic interests involved and the benefits should be shared. He emphasized the fact that there must be an iron-clad agreement that would protect all who use the water, referring to the Southwest Pipeline Project.

Secretary Fahy commented that he and members of his staff have met several times with Tribal representatives and are familiar with their proposal.

Governor Olson concluded by stating that the Tribal proposal will be submitted to the Legislature as an alternative to the Southwest Pipeline Project.

DISCUSSION OF CONTINUING NEGOTIATIONS RELATIVE TO QUANTIFICATION OF INDIAN WATER RIGHTS

Mr. Joe Cichy, Assistant Attorney General for the State Water Commission, recalled that at the November, 1981 Commission meeting, the members were briefed on negotiations between the State and the Tribal representatives relative to the quantification of Indian water rights. At this meeting, the Commission passed a motion that this issue be pursued with the Tribes. Mr. Cichy indicated that a series of meetings have been held with the Tribes, and thinks the Tribes have a sincere interest in negotiating their water rights.

Mr. Cichy explained the approach for negotiations that has been recommended, and that is to establish two teams: a legal team and a technical team. The legal team would address the various issues relative to the Tribes reserved water rights and would address the parameters within which the technical team would operate. These parameters would be set by the Governor, the Attorney General, and the State Engineer.

Secretary Fahy commented that this would be a study of general quantification of the Indian water rights to determine the total State's water needs including the Tribal needs. He recommended that the Commission consider authorizing the approval to continue negotiations in this matter.

The Tribal representatives present at the meeting responded that it is acceptable to them to proceed. The Tribe has notified the Department of the Interior that they wish to proceed with negotiations with the State and have requested federal funding to assist in the technical studies that will be required to engage in such discussions.

Mr. Cichy indicated that a letter has been prepared to send to the Assistant Secretary of the Bureau of Indian Affairs indicating North Dakota's interest to likewise proceed in negotiations with the Tribes for the quantification of their water rights. Mr. Cichy stated that transmittal of the letter under the signature of the Attorney General and the State Engineer is being withheld pending Commission action.

It was moved by Commissioner Schank, seconded by Commissioner Jacobson, and unanimously carried, that the State Water Commission

authorize its Chairman and the State Engineer to proceed with the negotiations of a general quantification of Indian water rights.

CONSIDERATION OF RESOLUTION OF APPRECIATION TO MICHAEL A. DWYER (Resolution No. 82-12-416)

It was moved by Commissioner Jacobson, seconded by Commissioner Hutton, and unanimously carried, that the State Water Commission approve Resolution No. 82-12-416, Appreciation to Michael A. Dwyer. Resolution is attached hereto as APPENDIX "E".

CONSIDERATION OF REQUEST TO ENLARGE MEMBERSHIP OF INTERNATIONAL SOURIS RIVER BOARD OF CONTROL

Secretary Fahy presented information concerning Canada's request for expanding the membership of the International Souris River Board of Control to six representatives - three from the United States and three from Canada. Secretary Fahy stated that at the present time, the Board is composed of two members - one representing the United States and one representing Canada. Secretary Fahy is currently representing the United States.

Since the Souris River Board of Control is a sub-committee of the International Joint Commission, the new members would be appointed by that Commission provided that the Governor has no objection to the persons selected. The Governor indicated that he would view favorably the appointment of Gene Christianson, Executive Officer, State Health Department, and Grady Moore, District Chief, U.S. Geological Survey, as additional members representing United States interests on the Souris Board. All members of the Water Commission were in agreement with Governor Olson on this matter. The State Engineer was directed to submit the names of Christianson and Moore to the appropriate State Department official.

It was moved by Commissioner Kramer, seconded by Commissioner Bjornson, and unanimously carried, that the meeting adjourn at 4:00 p.m.

December 6, 1982

Allen I. Olson
Governor-Chairman

ATTEST:

Vernon Fahy
State Engineer and Secretary

December 6, 1982

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission

DATE December 6, 1982 PLACE Bismarck, N Dak.

PROJECT NO.

Your Name	Your Address	Who do you Represent? (Or Occupation)
Roselen Sand	State Water Commission	
MATT MASON	NEWTOWN	THREE TRIBES
Cary Backstrom	State Water Commission	
[illegible]	Bismarck	SWC
Corey Helgeson	BISMARK	GOVERNOR'S OFFICE
John Graham	Bismarck	ANG - Great Plains
Gene A Davison	Haynes N.D.	Southwest Water Engg.
A.J. Waller	Harwood, N.D.	N.D. Rural Water Systems Assn
Mark Johnson	Bismarck	Houston Engineering Inc.
Emil K. Moe	Beach	Pollen Valley Resource Dist
Joseph A. Lambert	Belfield N. Dk.	SBD Rural Water Assn.
DAVID A SPRYNCZYNATYK	Bismarck	SWC
Leonard Mary	Fairfield	SBD Rural Water assoc.
Leon Mayer	TAYLOR	" " " "
Frank Karsky Jr	Dickinson	" " " "

SWC Form No. 83

(500/6-80)

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

_____ PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Kent Flanagan	Bismarck, N.D.	The Associated Press
Fletcher 24 Polina	Bismarck	Basin Electric Power Cooperative
Lillie Mallon	Mandaree	Three Affiliated Tribes
Skip Wolff	OMAHA	Chiles, Heider + Co. Inc
JON ARNASON	WEST FARGO, N.D.	OHNSTAD LAW FIRM
Bruce F McCollom	Bismarck ND	Bartlett + West / Boyle Engineering
Jim Bullock	OMAHA	Chiles Heider + Co. INC
Charles E. Mumma	Bismarck	USDA-So. 1 Cons service
Ronald Hodge	Bismarck	Special Atty-General
EUGENE POPE	WAHPETON	INTERSTATE ENG'R'G INC.
RANDY POPE	JAMESTOWN	INTERSTATE ENGRG INC.
RONALD FRENCH	GRAND FORKS	KBM ENGINEERING
LEN Cernohous	BISMARCK	US Fish & Wildlife Service
Linda Weispfenning	Bismarck	State Water Commission
Gene Krentz	"	"

SWC Form No. 83

(500/6-80)

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

_____ PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Laurie McMerry	Bismarck	ND Dept. of Ag.
Ron Billstein	Billings	HKM Associates Three Affiliated Tribes
Raymond Cross	New Town	Three Tribes / Lawyer
Tom Luebben	805 Tijeras N.W. Albuquerque, N.M.	Three Tribes / Attorney
Skip Bye	KXMB-TV Bismarck	
Floyd Blackwell	Grand Forks	Economic consultant Three Tribes
Larry Knudtson	Bismarck	SWC
LeRoy Klapprodt	Bismarck	SWC
Lynn Rose	Bismarck	NDWMB/SWC
Alyce Spotted Bear	Wash Town	Three Affiliated Tribes
CHRISTOPHER DUANE	NEW TOWN	TAT / IN-HOUSE COUNSEL
Gail Hand	Grand Forks	G. F. Herald

SWC Form No. 83

(500/6-80)

APPENDIX "A"

STATEMENT CONCERNING SOUTHWEST PIPELINE PROJECT

December 6, 1982

This statement will provide the views of the West River Water Supply District, the Southwest Water Cooperative, the Stark Billings Dunn Rural Water Association and the Golden Valley Rural Water Association concerning the legislative proposals before the State Water Commission.

This coaltion supports the authorization of the Southwest Pipeline Project and the appropriation of $6 million for final design, acquisition of right-of-way, and other items necessary to begin construction of the project. Accordingly, they support the present version of Bill Draft One.

The coalition also supports modification of the allocation formula in N.D.C.C. 57-51.1-07 to divert additional revenues into the special trust fund (with a proportional decrease in the revenues into the general fund). It is recommended that the allocation for the special trust fund be increased so that adequate revenues are available to finance the Southwest Pipeline Project and related water distribution facilities, rural water systems in other areas of the state, and other necessary water management projects. It is also recommended that this formula amendment be effective at the earliest possible date, but no later than July 1, 1985. Accordingly, the coalition supports the present version of Bill Draft Two with the options to accomplish the recommendations in this paragraph.

The coalition also supports the concept that special trust fund moneys be utilized for rural water distribution systems. Therefore, it is recommended that the State Water Commission adopt the policy that the phrase "water supply facilities" in N.D.C.C. 57-51.1-07(2)(a) includes rural water distribution systems. In the alternative, it is requested that the State Water Commission support legislation which would expressly define "water supply facilities" to include rural water distribution systems (e.g., option 2 of Bill Draft Three).

The coalition believes that the State Water Commission and the Legislative Assembly must view wholesale water systems and rural water systems as an integrated unit: one system cannot survive without the other. Therefore, it is appropriate to ensure that both systems have adequate financing at a time when conventional funding sources (Farm Home Administration and Community Water Facility Loans) are unavailable.

The coalition commends the State Water Commission for its support and efforts concerning the Southwest Pipeline Project. The coalition urges the Commission to continue its support for an adequately financed water supply and distribution system for Southwest North Dakota. The development of such an integrated unit will be a state investment which will contribute to the economic, social, and environmental stability of the entire West River area.

Robert Stranik, Chairman
West River Water Supply District

Gene Davison, Chairman
Southwest Water Cooperative

Loren Myran, Chairman
SBD Rural Water Association

Ernie Maus, Chairman
Golden Valley Rural Water Association

APPENDIX "B"

RESOLUTION NO. 82-12-415

Adopting The 1983 State Water Plan

WHEREAS, Section 61-01-26 of the North Dakota Century Code provides that "Accruing benefits from these (water and related land) resources can best be achieved for the people of the State through the development, execution, and periodic updating of comprehensive, coordinated and well-balanced short and long-term plans and programs for the conservation and development of such (water and related land) resources"; and

WHEREAS, Section 61-01-26 of the North Dakota Century Code also provides that "Adequate implementation of such plans and programs shall be provided by the State through cost-sharing and cooperative participation with appropriate Federal and State departments and political subdivisions within the limitations of budgetary requirements and administrative capabilities"; and

WHEREAS, there is a growing awareness by the citizens and officials of this State of the social and economic importance and need for water development throughout North Dakota for multiple purposes; and

WHEREAS, in 1980, the State Water Commission initiated a comprehensive, long-range planning effort designated to update previous plans for water resource development, management, and conservation in North Dakota, and which has culminated in the plan report entitled The 1983 North Dakota State Water Plan; and

WHEREAS, the 1983 North Dakota State Water Plan was developed with substantial emphasis on public involvement to ensure that the components of the 1983 State Water Plan are reflective of local interests and concerns; and

WHEREAS, the 1983 State Water Plan is a continuing plan which will regularly be revised and improved to accommodate and reflect new technical information, changes in public attitudes/policy, experience, and other future conditions which are not foreseeable at this time; and

WHEREAS, it is envisioned that the 1983 State Water Plan will be implemented primarily through authority vested in the State Water Commission as permitted by legislative funding authorization and the availability of local government financial resources; and

WHEREAS, it is intended that all future water resource development and management projects authorized by the State Water Commission and financed through legislative appropriation will be a component of the State Water Plan, with exemption granted only to emergency measures.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission, at its meeting held on this 6th day of December, 1982, in Bismarck, North Dakota, hereby adopts the 1983 North Dakota State Water Plan; and

BE IT FURTHER RESOLVED that Governor Allen I. Olson, as Chairman of the North Dakota State Water Commission, be directed to send this resolution and copies of the Plan Report to the Speaker of the North Dakota House of Representatives and to the President of the North Dakota Senate.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

Allen I. Olson
Governor-Chairman

SEAL

ATTEST:

Vernon Fahy
State Engineer and Secretary

APPENDIX "C"

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Mr. Vernon Fahy
State Engineer, State Water Commission
State of North Dakota
Capitol Building
Bismarck, North Dakota 58501

Dear Mr. Fahy:

The Three Affiliated Tribes Business Council has requested that we write to you concerning the Southwest Pipeline Project. We understand that this project will divert approximately 10,000 acre-feet of water annually from Lake Sakakawea to southwest North Dakota for a variety of purposes. The tribe has met with us and discussed the possibility of siting some of the pipeline facilities on the Fort Berthold Indian Reservation. If the state chooses to locate a segment of the proposed pipeline on the reservation, we can assure you that the easement and related documents will fully protect the state's title to and regulatory authority over the pipeline.

Additionally, the Federal Government, as designee, will protect both parties' interests in the pipeline for its lifetime. Should such an agreement be reached, we believe that siting a portion of the pipeline on the reservation will result in considerable savings to the project.

We stand ready to meet with state representatives to answer any questions they may have.

Sincerely,

Roy H. Sampsel

Deputy Assistant Secretary -
Indian Affairs (Policy)

APPENDIX "D"

SYNOPSIS STATEMENT

SITING OF SOUTHWEST PIPELINE PROJECT INTAKE ON FORT BERTHOLD RESERVATION

MAJOR BENEFITS TO STATE OF NORTH DAKOTA

1. Significant savings of approximately $6 million in construction costs (1982 dollars).
2. Major savings of about $4.5 million in inflation and financing costs (10 years, 10% interest).
3. Power savings to the users of $1.0 million (Present Value, 1982 dollars, 40 years, 10% inflation).
4. Additional savings from reduced operation and maintenance costs.
5. Attractive intake site. Potential for additional construction cost savings.
6. Under present plan more direct route to Dickinson (delete Beulah), more relative benefits.
7. Possible shortening of permit process by involvement of Tribe.
8. Under present plan, more direct route to alternate industrial use areas, more relative benefits.

MAJOR BENEFITS TO THREE AFFILIATED TRIBES

1. Compensation (1982 dollars) for siting on Reservation.
2. Better opportunity for construction related jobs.
3. Better opportunity for permanent jobs.
4. Pipelines sited in southern segment, opportunity for future use (preferred status).

MARGINAL BENEFITS TO THREE AFFILIATED TRIBES

1. Opportunity to supply community of Twin Buttes.
2. Potential for future rural pipeline system in southern segment.
3. Possible secondary benefits received on-Reservation from project employees.

RESOLUTION NO. 82-12-416 APPENDIX "E"

Michael A. Dwyer

WHEREAS, Michael A. Dwyer has resigned from the position of Director of Legal Services of the North Dakota State Water Commission to go into private practice; and

WHEREAS, Michael served in the position of Director of Legal Services from November, 1978 to July, 1982. During that time, he performed an outstanding job of promoting sound policies and recommending legal positions to protect the rights of North Dakota through its State Water Commission to manage, control, and utilize its water resources; and

WHEREAS, the excellent service provided by Michael has furthered the water resources policy of the State of North Dakota found in Section 61-01-26 of the North Dakota Century Code, which provides that the "public health, safety and general welfare, including without limitation, enhancement of opportunities for social and economic growth and expansion, of all of the people of the state, depend in large measure upon the optimum protection, management and wise utilization of all of the water and related land resources of the state of North Dakota." As a result, Michael's efforts as Director of Legal Services have not only greatly benefited the North Dakota State Water Commission and the North Dakota State Engineer but have also greatly benefited all of the people of the state of North Dakota; and

WHEREAS, Michael's aggressive and effective efforts in promoting and establishing Joint Water Resource Boards in North Dakota have helped to improve the management of the State's water resources; and

WHEREAS, Michael has dedicated considerable time and effort to the development of a viable plan for the implementation of the Southwest Pipeline project, which will greatly increase the quantity and quality of water supplies in the southwest portion of the State and thereby improve the social welfare and economic well being of the citizens of the state.

NOW, THEREFORE, BE IT RESOLVED, that the North Dakota State Water Commission and the North Dakota State Engineer assembled at Bismarck, North Dakota, this 6th day of December, 1982, express their thanks and appreciation for the valuable and dedicated contribution of Michael A. Dwyer in his service to the North Dakota State Water Commission and the North Dakota State Engineer and to the wise management and protection of the water resources of this state.

BE IT FURTHER RESOLVED, that the North Dakota State Water Commission and the North Dakota State Engineer convey to Michael A. Dwyer their best wishes in his future endeavors.

For the North Dakota State Water Commission:

SEAL

ALLEN I. OLSON, GOVERNOR-Chairman

ATTEST:

VERNON FAHY, STATE ENGINEER

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meting

DATE February 11, 1983 PLACE Killdeer, N Dak.

PROJECT NO.

Your Name	Your Address	Who do you Represent? (Or Occupation)
Dean Harens	Box 1003 Bismarck	Plumbers & Pipefitters Local 795 Favor ✓
J.L. Wald	P.O. X330, DICKINSON	DICKINSON AREA CHAMBER of COMMERCE
Jane L Bosch	1036C Smokey Hollow. Dickinson, N.D	Dickinson Bosch Abr Co (Chamber)
Robert Brown	Box 398	Killdeer, ND. Odl
Don Buckingham	877 Heart Dr.	Dickinson, N.D. (Chamber)
C.P. Parsons	617 Hillside Drive	Dickinson, N. D County Comm
Douglas G Candee	784 10th Ave W. CANDEE CONSTR CO	Dickinson, ND. We favor Permitting the Water
Robert J Kelly	KLTC	Reporter
Cynthia Coleman	KDIX	Reporter
Leo Seamester	Halliday, N.D. 58636	City of Halliday & Citizen for orderly development of our N. Resources
Cheryl Barth	Halliday, N. Dak. 58636	Farmer (no comment)
Irene Middlestadt	Halliday, N.D. 58636	Housewife (No Comment)
Allen R. Jamerson	Killdeer, N. Dak.	Secretary Dunn County Water Resource District.
Evelyn Hamilton	Gladstone N. D.	Concerned Citizen & Grain Farmer.
Rose Seckler	Gladstone N.D	Farmer & Mother of Young Farmer Not in favor

SWC Form No. 83

(500/6-80)

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

_____ PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)	For	Against
Irene Mjolhus	Dunn Center	In favor for Nokota		
Roger Mjolhus	Dunn Center	In favor for Nokota		
Martin Bergstadt	Halliday, N Dak	Halliday city Commission		
Anna Frei	Halliday, N. Dak	Farmer House Wife - Nokota Favor		
Lillian Bergstadt	Halliday N. Dak.	House wife + interested citizen		
Verne Howard	Dunn Center	House wife against		
Harold Howard	" "	Retired farmer "		
Ralph Howard	Dunn Center	farmer/Rancher against		
Pat Hoyard	Dunn Center	housewife against		
Dale D. Nadeau	Dunn Center	Pastor		X
Philip Frei	Halliday	Rancher		
Grant Lafaunce DAVID LAITH	Halliday	retired farmer		
David Leibig	Halliday	Halliday City Clerk		
James D. Vieux	Killdeer	Killdeer City Comm.		
Dick Bergstad	Bismarck	IBEW Local 714	Favor	
David Leibig	Bismarck	Teamsters 123	Favor	

SWC Form No. 83

(500/6-80)

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

_____ PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Dorothy M Jacobson	Alexander, N. Dak	visitor - wife of Water Commissioner
Fr Richard Gist	Halladay N.D.	Catholic Church.
Esther Brandt	Halliday, N. Dak	Cafe Operator
Killeen Sampson	Killdeer, N. Dak.	City of Killdeer, Contractor
Ray Brunnier	Halliday N. Dak.	Custom Painter
John Oakley	Halliday N.D.	Farmer in Halliday area I approve the mining of coal
Charles W Fine	Bismarck	EDC
Vic Herz	Halliday	Farmer & Ranch
Lemoe Greenfield	Dodge	Dunn County W.R.D.
Mrs Henry Regetz	Manning	Dunn Co.
Henry Regetz	Manning	Dunn County Farmer
Edgar Seeterlee	Killdeer N.D.	Dunn City Trustee
Lois Tuby	Dunn Center, ND	Dunn County Resident
Gary A Mulgrew	KILLDEER N. D.	M & O CONST. INC. OF N. DAK

SWC Form No. 83

(500/6-80)