

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

March 17, 1988

The North Dakota State Water Commission held a meeting on March 17, 1988, in the lower level conference room of the Old State Office Building, Bismarck, North Dakota. Governor-Chairman, George A. Sinner, called the meeting to order at 9:00 a.m., and requested Interim State Engineer-Secretary, David A. Sprynczynatyk, to call the roll and present the agenda.

MEMBERS PRESENT:

Governor George A. Sinner, Chairman
Lt. Governor Lloyd Omdahl
Richard Backes, Member from Glenburn
Joyce Byerly, Member from Watford City
Jacob Gust, Member from West Fargo
William Lardy, Member from Dickinson
Daniel Narlock, Member from Oslo, MN
Jerome Spaeth, Member from Bismarck
David Sprynczynatyk, Interim State Engineer-Secretary, North Dakota
State Water Commission, Bismarck

MEMBERS ABSENT:

Kent Jones, Commissioner, Department of Agriculture, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 20 persons interested in agenda items

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

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

CONSIDERATION OF MINUTES
OF DECEMBER 9, 1987 MEETING -
APPROVED

The minutes of the December 9,
1987 meeting were approved by the
following motion:

It was moved by Commissioner Gust, seconded
by Commissioner Lardy, and unanimously carried,
that the minutes of the December 9, 1987 meeting
be approved as circulated.

CONSIDERATION OF MINUTES
OF JANUARY 15, 1988 TELEPHONE
CONFERENCE CALL MEETING -
APPROVED, AS AMENDED

In considering the minutes of the
January 15, 1988 telephone confer-
ence call meeting, Commissioner
Narlock requested the following
language be inserted in the discus-
sion of Consideration of the Devils Lake Outlet Committee Final Recommenda-
tions Report:

Commissioner Narlock indicated he has some reservations relative
to Stump Lake which he would address at the next State Water
Commission meeting.

It was moved by Commissioner Narlock, seconded
by Commissioner Gust, and unanimously carried,
that the minutes of January 15, 1988 be amended
to include the language as stated above.

It was moved by Commissioner Narlock, seconded
by Commissioner Gust, and unanimously carried,
that the minutes of January 15, 1988 be approved,
as amended.

TEMPORARY SICK LEAVE ABSENCE
OF STATE ENGINEER, VERNON FAHY

Governor Sinner indicated State
Engineer, Vernon Fahy, is on temp-
orary sick leave for open heart
surgery and rehabilitation. The attached memorandum prepared by Rosellen
Sand, Assistant Attorney General, outlines some of the duties of the Office
of the State Engineer and the procedure as required by law for appointing a
temporary State Engineer. It was recommended that David A. Sprynczynatyk,
P.E., be appointed as Interim State Engineer during Vernon Fahy's temporary
sick leave absence.

It was moved by Commissioner Lardy, seconded
by Commissioner Gust, and unanimously carried,
that during the absence of the present State
Engineer, Vernon Fahy, for surgery and rehabili-
tation, David A. Sprynczynatyk, P.E., be appointed
State Engineer and shall have the power and authority
necessary to perform all the functions of the State
Engineer required by law.

Upon Vernon Fahy's return to work on a full-time
basis, David A. Sprynczynatyk shall be relieved
of the position of State Engineer and Mr. Fahy is
reappointed. SEE APPENDIX "A".

GARRISON DIVERSION PROJECT -
MR&I PROGRAM FISCAL YEAR
1989 BUDGET
(SWC Project No. 237-3)

Governor Sinner indicated the Pre-
sident's 1989 federal budget in-
cludes \$26.8 million for the Garr-
ison Diversion Project. Of this
amount, \$7.3 million has been ten-
tatively allocated to the MR&I program by the Bureau of Reclamation, which

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will be allocated to the various MR&I projects by the State Water Commission and the Garrison Diversion Conservancy District. The Governor expressed concern the tentative MR&I federal allocation will not be sufficient for the projects that could be ready to receive 1989 funding. The five-year plan for the MR&I program shows up to a \$12 million need for projects in 1989, which does not include the Southwest Pipeline Project.

Governor Sinner stated he and staff are currently negotiating with the Congressional Delegation in an effort to increase the 1989 MR&I program allocation and said that many difficult decisions will have to be made in prioritizing the available funds.

Commissioner Lardy expressed concern that the State Water Commission may have over-extended itself regarding the number of projects to be developed and said it may be necessary for the Commission to consider increasing the level of local participation on projects.

CONTINUED DISCUSSION RELATIVE
TO SHEYENNE RIVER FLOOD CONTROL
PROJECT AND CONSIDERATION OF
COST SHARING REQUEST FOR FIRST
PHASE OF PROJECT
(SWC Project No. 1344)

Daniel Twichell, Fred Selberg and Robert Broadshaug, representing the Southeast Cass Water Resource District; Joseph Harbeke and Wesley Beilke, Maple River Water Resource District; and, Jeff Volk, Moore Engineering, were in attendance to

present an update to the Commission members relative to the Sheyenne River Flood Control Project. They also discussed the features of three components of the project and requested the Commission's consideration for funding assistance in the eligible non-federal costs for the first phase of the project, which is the West Fargo-Riverside Diversion Project.

Through a series of maps and charts, Jeff Volk, Moore Engineering, reviewed flooding history in the Sheyenne River Valley and presented a status report to the Commission members on the total Sheyenne River Flood Control Project. Mr. Volk explained the features of three project components, which are considered the total Sheyenne River Flood Control Project: 1) levees and diversion at West Fargo-Riverside; 2) levees and diversion between Horace and West Fargo; and, 3) a detention dam on the Maple River.

The West Fargo-Riverside Diversion project is the first phase scheduled for construction. Mr. Volk explained the purpose of this diversion project is to provide 100-year protection for the West Fargo-Riverside area. Floodwaters would be diverted into the diversion channel at an upstream structure located on the Sheyenne River south of Interstate 94. The natural Sheyenne River channel within the project area would then be used for storage of interior drainage. During normal conditions low flows would continue through the natural channel.

The major components of the diversion project include: closure structures at the upstream and downstream end of the project area consisting of two 8-foot by 10-foot box culverts with a pump at the downstream closure structure; diversion inlet structure; diversion channel around West Fargo and Riverside; diversion

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outlet structure to Cass County Drain #21; bridges at County Road #17, Interstate 94 and 12th Avenue; and, tieback levees.

Mr. Volk indicated the estimated cost for the diversion project is \$21.4 million, with non-federal costs of \$8.1 million. The largest portions of the diversion project costs are land and relocation costs. Land acquisition for the levee construction and diversion will begin in 1988, with construction to start in 1989 and continue through 1991. Mr. Volk said according to the Corps of Engineers, West Fargo and Riverside suffer an average annual flood damage of \$19.7 million and the project has a benefit/cost ratio of 10:1. Mr. Volk also commented that the Southeast Cass Water Resource District has held public hearings for people in the assessed area and has received support and approval through the voting process. The project provides much needed flood control and has received strong local and federal support.

Daniel Twichell elaborated on the three project components of the Sheyenne River Flood Control Project and noted local Boards have done an excellent job of educating people relative to the project. He reiterated the strong local and federal support for the project.

On September 8, 1987, the State Water Commission recommended a formula, based on revenues of \$6.7 million for the 1987-1989 biennium, by which \$2.0 million was allocated from the Resources Trust Fund for the West Fargo-Riverside Diversion Project. David Sprynczynatyk presented a request received on December 8, 1987 from the Southeast Cass Water Resource Board for the Commission's consideration for funding assistance of the eligible non-federal costs for construction of the West Fargo-Riverside Diversion Project.

In discussion of the request for funding assistance of the eligible non-federal costs for the West Fargo-Riverside Diversion Project, Governor Sinner recommended because of the uncertainty of the 1989 federal Garrison Diversion MR&I funding allocation at this time, the Commission consider deferring action on projects until the Commission's next meeting.

The Commission members concurred with Governor Sinner's recommendation, but the Commission members stressed the importance of continuing negotiations with the Congressional delegation in efforts to increase the 1989 Garrison Diversion MR&I federal allocation.

The Commission members complimented the project representatives on what appears to be a good project and was well laid out and presented.

It was moved by Commissioner Backes, seconded by Commissioner Lardy, and unanimously carried, that the State Water Commission defer action on the request for funding assistance of the eligible non-federal costs for the West Fargo-Riverside Diversion Project until the Commission's next meeting.

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Governor Sinner leaves the meeting and the chair is assumed by Lt. Governor Lloyd Omdahl.

CONTINUED DISCUSSION RELATIVE TO REQUEST FROM CITY OF GRAND FORKS FOR COST SHARING IN NON-FEDERAL SHARE FROM RESOURCES TRUST FUND FOR GRAND FORKS RIVERSIDE PARK DAM (SWC Project No. 520-2)

David Sprynczynatyk reviewed the project status and prior Commission actions relating to the Grand Forks Riverside Park Dam project. The original dam was built in 1925 and during a major repair in 1978 it was determined that the dam could fail and a new dam was necessary.

Activities resulted in the 1984 preliminary engineering report, which has been used to produce a final design for a new dam, with construction scheduled to begin in the fall of 1988.

Mr. Sprynczynatyk indicated the project was discussed at the State Water Commission meetings of October 21 and December 9, 1987. The Commission, at its October 21 meeting, decided to defer action on the funding request until a later date. Since that time, the final design has been completed by the engineering staff and the required state and federal permit applications have been submitted and are estimated to be approved by May 1, 1988. The City of Grand Forks is presently in the process of obtaining land and easements for the dam.

The dam is proposed to be constructed by utilizing Garrison Diversion MR&I funds. Although complete MR&I funding has not been approved by the Garrison Diversion Conservancy District, the final request is anticipated to be presented at the District's next meeting. The total cost of the project is estimated to be \$2.555 million, not including land, with the required non-federal share of 25 percent being \$638,750. The City of Grand Forks requested a loan be made available from the Resources Trust Fund for the non-federal share. The loan would be over a 50-year period at approximately 6.5 percent interest. This reflects the policy agreed to by the State Water Commission and the Garrison Diversion Conservancy District in the development of the MR&I program. The exact interest rate would be based on FmHA guidelines at the time of execution of the agreement.

It was the recommendation of the State Engineer that the State Water Commission approve a loan from the Resources Trust Fund in the amount of \$638,750, for a period of 50 years, at the FmHA interest rate applicable at the time of executing the agreement. The State Engineer's recommendation also indicated the costs incurred on the project thus far, approximately \$100,000, be considered as a part of the loan for the non-federal share.

Frank Orthmeyer, Grand Forks City Engineer and Director of Public Works, further commented on the project.

Commissioner Byerly expressed her concern relative to the uncertainty for the 1989 federal funding for the Garrison Diversion MR&I program and said this is not an appropriate time for the State Water Commission to be considering loans from the

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Resources Trust Fund or any fund. She advised that the City of Grand Forks should explore other avenues of funding for their non-federal share of funding for this project.

Mr. Orthmeyer responded that the City of Grand Forks has not investigated the commercial market for loans for the non-federal share of the Grand Forks Riverside Park Dam project.

Mr. Sprynczynatyk stated that at the Commission's October 21, 1987 meeting, the Commission members expressed reservations relative to setting precedent of approving long-term loans from the Resources Trust Fund for water development projects at a subsidized rate of interest. The staff was directed at that meeting to provide the Commission members with a chronological report of the Resources Trust Fund prior to its December meeting. At the December 9, 1987 State Water Commission meeting the members discussed financing alternatives for assistance in the non-federal share of project costs under the Garrison Diversion MR&I program. The alternatives discussed by the Commission members were funding from the Resources Trust Fund and the State Water Commission Contract Fund that would assist entities to make repayment of the non-federal share if they were unable to provide their share at the beginning of a water supply project. The Commission reviewed a memorandum at its December 9, 1987 meeting regarding the use of the Contract Fund for loans to provide financial assistance for water supply projects. Mr. Sprynczynatyk indicated that it does appear sufficient loan authority is in place.

Commissioner Lardy inquired if staff has done any additional work on loan concerns previously expressed by the Commission members. Mr. Sprynczynatyk replied both the Office of Management and Budget and the Bank of North Dakota have been contacted regarding loan authority for water projects and both have advised the State Water Commission has authority to make loans.

The Commission members discussed the alternative of considering a grant from the Contract Fund for the Grand Forks Riverside Park Dam project. Mr. Sprynczynatyk indicated that the current policy of the State Water Commission could provide up to 50 percent financial assistance of the eligible non-federal costs for water supply projects.

It was moved by Commissioner Lardy and seconded by Commissioner Narlock that the State Water Commission direct the State Engineer and staff to prepare a draft loan agreement for the non-federal share of eligible costs from the Resources Trust Fund for the Grand Forks Riverside Park Dam project for the Commission's consideration at its next meeting.

In discussion of the motion, it was the consensus of the Commission members that staff work with the Grand Forks representatives in drafting the loan agreement.

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Commissioners Backes, Gust, Lardy, Narlock, Spaeth, and Lt. Governor Omdahl voted aye. Commissioner Byerly voted nay. Recorded vote was 6 ayes; 1 nay. The Chairman declared the motion carried.

It was moved by Commissioner Spaeth and seconded by Commissioner Byerly that the State Water Commission direct the State Engineer and staff to prepare a draft alternative proposal for the Commission's consideration at its next meeting that would provide a grant from the Contract Fund for up to 50 percent financial assistance in the eligible non-federal costs for the Grand Forks Riverside Park Dam project.

In discussion of the motion, it was the consensus of the Commission members that staff work with the Grand Forks representatives in drafting the Contract Fund grant proposal.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Spaeth, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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

Dale Frink, Manager of the Southwest Pipeline Project, stated Contract 2-3A is scheduled for bid opening on April 12, 1988, which

involves 10 miles of 30-inch pipeline located primarily in the Richardton-Taylor area. The bid estimate is approximately \$3.1 million.

Federal funds for 1988 totalling \$5.8 million have been approved for the Southwest Pipeline Project, of which \$2,255,000 have been received. Mr. Frink stated there are indications that another \$1-2 million of additional funds may be allocated in June, 1988. The \$5.8 million, along with appropriated State funds, is adequate for Contracts 2-2F and 2-3A.

Mr. Frink discussed 1989 federal funding, which includes \$26.8 million for the Garrison Project. Of this, \$7.3 million has been tentatively allocated to the Garrison MR&I program by the Bureau of Reclamation. The Garrison Diversion Conservancy District and the State Water Commission will allocate the \$7.3 million to the various MR&I projects, and Mr. Frink stated there are a number of significant projects that could be ready for funding in 1989. Congressional contacts have been made to increase the 1989 MR&I funding and Mr. Frink said many difficult decisions will have to be made in prioritizing available funds.

Mr. Frink stated the U.S. Bureau of Reclamation audited the Southwest Pipeline Project expenditures from July 1, 1977 to June 30, 1987 on February 24-26, 1988. The purpose of the audit

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was to verify the State expenditures eligible for the 25 percent cost share requirement of the MR&I program. Mr. Frink commented the audit went very well and essentially all State costs were determined eligible. At the end of June, 1987, \$21.2 million had been spent on the Southwest Pipeline Project, with \$15.9 million State funds and \$5.3 million federal funds.

In discussing the water treatment facilities for the Southwest Pipeline Project, Commissioner Lardy commented they will not be developed for several years due to decreased State and federal funding. He added the City of Dickinson has been advised its water treatment plant must be upgraded at an estimated cost of \$3 million. Commissioner Lardy stated the City will be spending a considerable amount of money on upgrading its water treatment plant, which will be used to the benefit of the pipeline project, and felt this must be taken into account when considering the water treatment facilities for the Southwest Pipeline Project.

Mr. Frink addressed the problem of trihalomethanes on water coming out of Lake Sakakawea and advised that Bartlett West/Boyle Engineering is developing recommendations through a monitoring program which will provide more insight on how to handle the matter.

GARRISON DIVERSION PROJECT -
MR&I PROGRAM FISCAL YEAR 1988
BUDGET ALLOCATION APPROVAL
(SWC Project No. 237-3)

David Sprynczynatyk indicated the present Fiscal Year 1988 federal funding for the Garrison Diversion MR&I program is \$8,545,000, which includes unspent funds totalling \$855,000 from FY 1987. Mr. Sprynczynatyk stated the following allocation of FY 1988 funds was recommended to the Garrison Diversion Conservancy District, and approved by its Executive Board on February 23, 1988, recognizing this is a budget allocation and not necessarily the approval of granting funds. Mr. Sprynczynatyk stated that separate actions granting funds will be required for each project, except the Southwest Pipeline Project which is underway.

It was the recommendation of the State Engineer that the State Water Commission approve the following breakdown for the allocation of Fiscal Year 1988 federal MR&I program funds:

Grand Forks Riverside Park Dam	\$ 375,000
Langdon Water Supply	1,325,000
McLean-Sheridan Water Supply	150,000
Northwest Area Water Supply Study	112,500
Miscellaneous Projects	780,000
Southwest Pipeline Project	5,802,500

Total Fiscal Year 1988 Allocation \$8,545,000

It was moved by Commissioner Narlock and seconded by Commissioner Lardy that the State Water Commission

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approve the above-listed breakdown for the allocation of Fiscal Year 1988 federal Garrison Diversion MR&I program funds.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Spaeth, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

GARRISON DIVERSION PROJECT -
CONSIDERATION OF REQUESTS FOR
MR&I PROGRAM FUNDING FOR
FEASIBILITY STUDIES,
DESIGN AND CONSTRUCTION
(SWC Project Nos. 237-11, 237-12,
237-14, 237-15, 237-16, 237-17,
and 237-13)

David Sprynczynatyk reported 71 communities have expressed an interest and have requested funding assistance through the Garrison Diversion MR&I program. Of the 71 requests, 35 communities have completed their preliminary engineering report, which is the first phase to be completed at the comm-

unities' expense prior to being considered for program funding for the feasibility study.

Randy Binegar, Garrison Diversion MR&I Program Manager, presented and discussed in detail six specific project applications that have requested Garrison Diversion MR&I program funds for the feasibility study phase of their project. In addition, the City of Kenmare requested MR&I funds for its feasibility, design and construction phases. Mr. Binegar explained that the dollar figure represents 75 percent of the costs for each project and the remaining 25 percent of the costs are the responsibility of the local sponsor. The total Garrison Diversion MR&I program funds requested totals \$117,185.

It was the recommendation of the State Engineer that the State Water Commission approve Garrison Diversion MR&I program funds for the following projects:

Abercrombie (Feasibility Study)	\$ 1,500
Agassiz (Feasibility Study)	15,000
Maddock (Feasibility Study)	4,500
North Valley (Feasibility Study)	11,250
Tolna (Feasibility Study)	5,625
Tri-County (Feasibility Study)	11,250
Kenmare (Feasibility Study, Design and Construction)	68,060
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Total Requests for MR&I Funding	\$117,185

Mr. Binegar indicated that the Garrison Diversion Conservancy District considered and approved all of the above requests for MR&I funding at their February 23, 1988 meeting.

James Skaret, North Central Consultant, and James Grueneich, Mayor of the City of Kenmare, elaborated on the City of Kenmare's request for MR&I funding for the feasibility study,

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design and project construction phases. Mayor Grueneich stated that the concrete cistern constructed in 1908 currently serves as a storage reservoir for Kenmare's water distribution system and has interim storage for refill of the overhead tank. The cistern has numerous problems due to its age. Deterioration of the existing structure has led to the inflow of surface water which contaminated the water supply. The State Health Department has required the city to superchlorinate the water supply until the cistern can be replaced. The Mayor indicated that the replacement of the cistern and its distribution pumps are the primary consideration of the proposed project due to the contamination problem with the existing cistern. Mayor Grueneich extended his appreciation to the Commission members for their consideration of the City of Kenmare's request for MR&I program funding.

It was moved by Commissioner Spaeth and seconded by Commissioner Byerly that the State Water Commission approve a total of \$117,185 of Garrison Diversion MR&I program funds for the following projects, contingent upon the availability of funds:

Abercrombie (Feasibility Study)	\$ 1,500
Agassiz (Feasibility Study)	15,000
Maddock (Feasibility Study)	4,500
North Valley (Feasibility Study)	11,250
Tolna (Feasibility Study)	5,625
Tri-County (Feasibility Study)	11,250
Kenmare (Feasibility Study, Design and Construction)	68,060
	<hr/>
Total Approved for Garrison Diversion MR&I Program Funds	\$117,185

In discussion of the motion, Commissioner Gust expressed his concern relative to the Water Commission and the Conservancy District approving funds for feasibility studies on projects that may not be built, which in turn will mean less funds for projects that are found to be significantly important. Commissioner Gust said that maybe we should be looking at alternatives in order to be more selective of projects requesting funds for feasibility studies, which could result in requiring a greater share of local participation in the non-federal share. This may eliminate some of the projects so that all of the money isn't spent on feasibility studies.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Spaeth, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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GARRISON DIVERSION PROJECT -
CONSIDERATION OF ADDITIONAL
MR&I PROGRAM FUNDS FOR
CULTURAL RESOURCE SURVEY
ASSOCIATED WITH LANGDON
RURAL WATER SUPPLY PROJECT
(SWC Project No. 237-6)

David Sprynczynatyk presented a request for the Commission's consideration for additional Garrison Diversion MR&I program funds for work relating to the cultural resource survey associated with the Langdon Rural Water Supply Project. The total cost of the survey is estimated at \$38,500, and the Langdon Rural Water Users has guaranteed payment of the 25 percent non-federal share of the cultural resource survey costs.

Ron French, KBM Engineering, indicated this survey is a federal requirement and explained the procedure that will be involved in the survey. He noted the survey must be completed in order that federal funds will be allocated for the project.

In discussing the request for additional funds for the cultural resource survey, some of the Commission members expressed their objection to approving Garrison Diversion MR&I program funds for the cultural resource survey for projects and strongly stressed that staff continue to work with the Bureau of Reclamation in an attempt to lift, or relax this requirement.

It was the recommendation of the State Engineer that the State Water Commission approve Garrison Diversion MR&I program funds not to exceed \$28,875 for the cultural resource survey associated with the Langdon Rural Water Supply Project.

It was moved by Commissioner Lardy and seconded by Commissioner Byerly that the State Water Commission approve Garrison Diversion MR&I program funds not to exceed \$28,875 to conduct the cultural resource survey for the Langdon Rural Water Supply Project, contingent upon the availability of funds.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Spaeth, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

UPDATE ON DEVILS LAKE
FLOOD CONTROL PROJECT
(SWC Project No. 1712)

At the January 15, 1988 State Water Commission meeting, the Commission members approved the Final Report of the Devils Lake Outlet Committee, chaired by Commissioner Backes, regarding the flood control project at Devils Lake, and requested the report be presented to Senator Burdick to be considered for authorization. Mr. Sprynczynatyk indicated the report has been presented to Senator Burdick but not introduced in the 1988 Water Bill legislation because the Corps of Engineers had not completed its report. As soon as the Corps completes its report the project will then be considered for inclusion in the 1988 Water Bill for authorization.

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Mr. Sprynczynatyk commented that there is some concern that the people in the Grand Forks and Fargo areas need assurance that there will not be any degradation of their water supply by developing the Devils Lake Flood Control Project. Several meetings have been held in the area relative to this concern and Mr. Sprynczynatyk indicated that additional meetings will be required.

Commissioner Narlock expressed reservations relative to the additional water in Stump Lake and inquired if there had been research done relative to the elevation height of the land to the northeast in Nelson County. He also expressed concern that he feels there will be objections to the project from environmentalists.

Commissioner Backes said the Corps of Engineers have researched the area referred to by Commissioner Narlock, and he said the problem that is of the most concern is the degradation of the water quality. Commissioner Backes pointed out the environmental representatives on the Committee appeared satisfied and accepted the recommendations in the final report.

Ben Varnson, Chairman of the Nelson County Water Resource Board, addressed Commissioner Narlock's concerns, commented on the recommendations, and concluded by saying Nelson County has accepted the recommendations in the Committee's Final Report.

Commissioner Spaeth leaves the meeting.

UPDATE ON INTER-BASIN WATER
TRANSFER STUDY PROGRAM
(BIOTA STUDY), AND CONSIDERATION
OF FUNDING FOR CALENDAR YEAR
1988 FOR RESEARCH PROGRAM
(SWC Project No. 1828)

Dakota", dated January, 1988. Dr. Leitch indicated the purpose of this report was to identify and categorize Canadian concerns and issues regarding the Garrison Diversion Unit relative to their nature and areas of potential research and to develop research proposals for those priority areas where research could help resolve concerns.

Dr. Jay Leitch, Associate Director of the Water Resources Research Institute at North Dakota State University, summarized the final report for the "Identification of Canadian Concerns Regarding the Garrison Diversion Unit in North

Dr. Leitch discussed three possible courses of action that resulted from this study: 1) resolve the biota transfer issues outside the scientific arena; 2) the project's sponsors, the State Water Commission and the Garrison Diversion Conservancy District, could select and fund some or all of the 11 proposed projects; and 3) the Water Resources Research Institute could serve as project manager and select, administer, synthesize, and integrate the studies.

Dr. Leitch stated that alternative No. 3 appears to be the most efficient, least subjective approach to answering questions about the technical/scientific issues surrounding the biota transfer. Instead of funding separate studies, the Water Resources Research Institute would act as the overall study manager, funding

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individual principal investigators to accomplish various relevant tasks leading towards a predetermined and well-defined goal. The Water Resources Research Institute would administer all funding, with the Associate Director directly responsible, as project manager, for maintaining and keeping the overall study on the most direct path to achieving its objectives. A technical advisory team consisting of three principal investigators, or scientists, one Canadian, one ecologic systems scientist, and one individual from the Governor's Oversight Committee would be established to review and oversee projects. Quarterly and annual progress reports would be provided to the State Water Commission and the Garrison Diversion Conservancy District and the Governor's Oversight Committee for review and feedback.

Commissioner Lardy suggested that unless there is some participation by the Canadians, regardless of the quality and extent of this study, it simply will not be accepted north of the border because whatever the results would be considered to be biased in favor of the American interests.

At the Commission's January 15, 1988 meeting, Commissioner Guy briefed the members on the status of this project and stated a request for funding the research program was presented to the Garrison Diversion Conservancy District Board of Directors for its consideration to pledge up to \$50,000 for calendar year 1988 and that the budget process for establishing priorities for appropriating money consider \$100,000 for the following calendar year for the research program. The request to pledge up to \$50,000 for calendar year 1988 was approved by the Garrison Diversion Conservancy District Board of Directors at its January 8, 1988 meeting. Commissioner Guy requested that in order to strength the Inter-Basin Biota Transfer Research Study that the State Water Commission should also consider pledging funds for calendar year 1988 and requested this item be placed on the Commission's agenda for discussion and consideration at its next meeting.

The State Water Commission considered and discussed a request for pledging up to \$50,000 for the Inter-Basin Biota Transfer Research Study for calendar year 1988. In discussing this request, it was the consensus of the Commission members that Canadian participation in this research program is very important and should be a part of the Technical Committee.

It was moved by Commissioner Backes and seconded by Commissioner Gust that the State Water Commission approve up to \$50,000 for calendar year 1988 for the Inter-Basin Biota Transfer Research Study, contingent upon the appointment of Canadian participation on the Technical Committee, and the availability of funds.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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UPDATE ON NORTHWEST AREA
WATER SUPPLY PROJECT
(SWC Project No. 237-4)

At the January 15, 1988 meeting, the Commission members directed the State Engineer and staff to negotiate a contract with Houston Engineering, in joint venture with James M. Montgomery and American Engineering, to conduct the Northwest Area Water Supply Study. Mr. Sprynczynatyk reported that a contract was successfully negotiated with the above-named firms for \$140,000 for a study of the nine-county northwest area of the state to address their needs as well as alternative ways to supply the water to the area. The Commission members expressed an interest that after a contract was negotiated the engineer make a presentation to the Commission members relative to their Plan of Study, goals and objectives.

Hank Trangsrud, Houston Engineering, made a detailed presentation, assisted by a series of charts and maps, of the study that will be undertaken in the northwest area of the state during the next several months. Mr. Trangsrud indicated that the study has begun, and is anticipated to be completed by December, 1988. Available information relative to ground water and surface water will be utilized and public involvement will be a major factor in the study. American Engineering will be working in the area of the needs survey and environmental assessments for the project, and the James M. Montgomery firm will be working in the water quality, water treatment, intake structure, pumping stations and pipeline areas.

Mr. Trangsrud indicated that a Citizens Advisory Committee of approximately 10 area members will be formed in the near future.

UPDATE ON SOURIS RIVER
FLOOD CONTROL PROJECT
(SWC Project No. 1408)

Souris River Flood Control Project. The memorandum is attached hereto as APPENDIX "B".

David Sprynczynatyk reviewed a memorandum, which was mailed to the Commission members March 3, 1988, that provided an update on the

SOURIS RIVER FLOOD
CONTROL PROJECT -
AMENDED AGREEMENT FOR
\$1 MILLION APPROPRIATED
BY 1987 LEGISLATURE FOR PROJECT
(SWC Project No. 1798)

Project. The State Water Commission and the Board presently have an agreement for \$905,000, which was entered into on January 9, 1987. To date, Mr. Sprynczynatyk said \$46,308 has been spent on the project.

David Sprynczynatyk presented a request from the Souris River Joint Water Resource Board, received January 27, 1988, to enter into an amended agreement for the \$1 million appropriated by the 1987 Legislature for the Souris River Basin

Mr. Sprynczynatyk indicated the amended agreement would allow for the transfer of funds from the State Water Commission to the Souris River Joint Board for Souris River Flood Control as eligible expenses are incurred by the Board. The agreement is written so that the Commission can transfer funds to the Board for 100

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percent of non-federal eligible cost items, not to exceed \$1,905,000. The funds cannot be used for acquiring rights, easements, property and other real estate interests for the project.

It was the recommendation of the State Engineer that the State Water Commission amend the original agreement for the Souris River Flood Control Project for an additional \$1 million, with the total State share not to exceed \$1,905,000.

It was moved by Commissioner Backes and seconded by Commissioner Byerly that the State Water Commission amend the original agreement, dated January 9, 1987, for the Souris River Flood Control Project for an additional \$1 million, with the total State share not to exceed \$1,905,000, and contingent upon the availability of funds.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

1988 WATER DEVELOPMENT
ACT (OMNIBUS BILL)
(SWC Project No. 576)

On March 16, 1988, David Sprynczynatyk testified on behalf of the State Water Commission and the North Dakota State Engineer before the Water Resources, Transportation and Public Works Subcommittee of the U.S. Senate Environment and Public Works Committee in Washington, D. C. in support of S. 2100, the 1988 Water Development Act. Mr. Sprynczynatyk noted that of particular interest to North Dakota is Section 302, which establishes a technical resource service for the Red River Basin in Minnesota and North Dakota. The bill would also provide up to \$500,000 per year to be appropriated for this service.

Mr. Sprynczynatyk also testified in support of the legislation, S. 2158, introduced by Senator Burdick to amend the authority of the Corps of Engineers with respect to bank stabilization and shoreline erosion along the Missouri River. The legislation would make the responsibility for streambank protection a part of the project purposes of the Missouri River Pick-Sloan Plan.

Mr. Sprynczynatyk commented that the Government Accounting Office recently released its evaluation of erosion problems on the upper Missouri River. It shows the erosion problem is ongoing and that North Dakota is losing an average of 71 acres per year including both agricultural land as well as valuable woodland. It also shows that the conditions along the Missouri River are different today than they were before the dams were built. The GAO evaluation is representative of the situation existing along the Missouri River and outlines the problems of the past and depicts the problems that exist today. Mr. Sprynczynatyk noted that the Department of Army has also concurred with this evaluation.

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Mr. Sprynczynatyk said his testimony included both support for the establishment of the Technical Resource Service for the Red River Basin and the proposed legislation for bank stabilization along the Missouri River, and if these proposals are passed into law, every effort will be made to adequately fund them.

CONSIDERATION OF AGENCY'S
FINANCIAL STATEMENT

tures and the Projects Authorized through February 29, 1988.

Matt Emerson, Assistant Secretary for the State Water Commission, reviewed the Program Budget Expenditures

NORTH DAKOTA GROUND-WATER
QUALITY SYMPOSIUM SCHEDULED
FOR MARCH 29-30, 1988
IN BISMARCK - APPROVAL FOR
REIMBURSEMENT OF SYMPOSIUM
EXPENSES FOR SWC MEMBERS

Commissioner Narlock expressed an interest in attending the North Dakota Ground-Water Quality Symposium scheduled for March 29-30, 1988, in Bismarck at the Kirkwood Motor Inn. He requested reimbursement for expenses to attend the Symposium.

It was moved by Commissioner Backes and seconded by Commissioner Lardy that the State Water Commission approve reimbursement of expenses for State Water Commission members to attend the North Dakota Ground-Water Quality Symposium on March 29-30, 1988.

In discussion of the motion, it was pointed out that although there are no specific guidelines for the reimbursement of expenses for the Commission members to attend meetings, it was the general consensus of the Commission members that when members feel their participation is required at a meeting in their general area or that is of state-wide interest, the State Engineer should be notified prior to attendance at the meeting and reimbursement of expenses should be requested. It was also mentioned that because of budgetary constraints some limits on expenditures may be necessary.

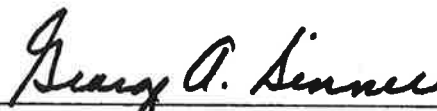
Commissioners Backes, Byerly, Gust, Lardy, Narlock, and Lt. Governor Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

SCHEDULED HEARINGS FOR
PROPOSED DRAINAGE RULES
(SWC Project No. 1053)

David Sprynczynatyk distributed copies of the proposed drainage rules on four Chapters of the North Dakota Century Code: Chapter 89-02-02, Rules for Drainage Under Chapter 61-32; Chapter 89-02-03, Wetlands Bank; Chapter 89-02-04, Drainage Complaint Appeals; and Chapter 89-02-05, Licenses for Emergency Drainage. The hearings are scheduled for March 29, 1988 at 10:00 in Bismarck, and on March 31, 1988 at 1:00 in Devils Lake.

March 17, 1988

It was moved by Commissioner Narlock, seconded by Commissioner Gust, and unanimously carried, that the State Water Commission meeting adjourn at 2:40 p.m.



George A. Stiner
Governor-Chairman

ATTEST:



David A. Spryczynski
Interim State Engineer-Secretary

March 17, 1988

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE March 12, 1988 PLACE Bismarck, N.D.

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Wesley Beckh	Buffalo, N.D.	Maple River W.R.B. Farmer
Joseph Harbke	Page, N.D.	" " " "
Robert P. Brubley	605 11 th Fargo	S/E Cass Water Mang
Ired Selberg	Hammond, ND	S/E Cass Water Mang
Dennis Trenchell	West Fargo ND	S/E Cass " "
Jeffrey Volk	West Fargo	S/E Cass
James McLaughlin	79-28 Ave NE Fargo	S/E Cass " "
Karen Kiel	1500 Capitol Ave. Bismarck, ND 58501	U.S. Fish & Wildlife Service
Bill Hanson	BIS -	ND&WC
Fletcher Poling	Bismarck	Basin Electric Power Cooperative
Ben Varnson	Lakota	Nelson Co - Upper Sullyment J. Board
Dale Frink		SWC
Randall Binegar	Bismarck	SWC
Ray Mount	Bismarck	North Dakota Rural Water Systems
PATRICK DENHE	FARGO	N-D. RURAL WATER.



North Dakota State Water Commission

APPENDIX "A"

GOVERNOR GEORGE A. SINNER
CHAIRMAN

MEMORANDUM

VERNON FAHY
SECRETARY & STATE ENGINEER

TO: State Water Commission
FROM: Rosellen M. Sand, Assistant Attorney General
RE: Vern Fahy's Absence; SWC Project #C7
DATE: March 17, 1988

The Office of the State Engineer has numerous duties prescribed by law. Generally during the State Engineer's absence many of them are performed by a division head, but those which by law must be performed by the State Engineer (e.g. signing water permits, issuing orders) have waited until Vern's return. Also, during other absences Vern has been in constant contact with the office to direct its work and respond to any items which required his personal attention.

Vern's present absence is much different than those of the past. First, he should not have to concern himself with matters at the office while he is on sick leave. Second, his time away from the office is indeterminate. While we anticipate and hope for a speedy and full recovery, his recuperation may take an unknown length of time.

Despite Vern's absence, "the State Engineer" will still have many duties to perform which cannot wait until Vern's return.

The State Engineer is appointed by the State Water Commission and must be a "technically qualified and experienced hydraulic engineer" and an "experienced irrigation engineer." N.D.C.C. § 61-03-01. Since Vern's absence will be temporary a search for a permanent replacement is unnecessary. To assure continuity Vern suggests that Dave Sprynczynatyk be appointed acting State Engineer in Vern's absence. If the Commission agrees with this suggestion the following motion would be appropriate:

During the absence of the present State Engineer, Vern Fahy, for surgery and rehabilitation, David A. Sprynczynatyk is appointed State Engineer. Mr. Sprynczynatyk shall have the power and authority necessary to perform all the functions of State Engineer required by law.

Upon Mr. Fahy's return to work on a full-time basis Mr. Sprynczynatyk is relieved of the position of State Engineer and Mr. Fahy is reappointed.

Rosellen M. Sand
Assistant Attorney General

RMS:rp



North Dakota State Water Commission

APPENDIX "B"

GOVERNOR GEORGE A. SINNER
CHAIRMAN

VERNON FAHY
SECRETARY & STATE ENGINEER

MEMO TO: Governor George A. Sinner
North Dakota State Water Commission Members
Vern Fahy, State Engineer

FROM: David A. Sprynczynatyk, Director, Engineering Division *Dave*

SUBJECT: SWC Project #1408 - Souris River Flood Control

DATE: March 3, 1988

Since my last report to you in December on the status of the Souris Flood Control Project, several events have taken place. In December, there were meetings in Washington between representatives of the various United States Federal and North Dakota agencies, and the Canadian Federal and Saskatchewan agencies regarding the project. The purpose of these meetings was for everyone to become familiar with the project and the procedures required on both sides of the International Border, and to outline the likely schedule for the development of the project. Since this project involves two provinces, a state, and two federal governments, the procedure is more complex than projects that have been developed in the past.

In early January, the United States Department of State designated the Department of Army as the official negotiator for the United States for this project. The Canadian Department of External Affairs is expected to designate a Canadian negotiator soon. Then the two negotiators will work out the terms of the bi-national agreement required for the project. The United States negotiator has forwarded a draft agreement to the Department of External Affairs, and it is expected that the Department of External Affairs will return its comments and a revised agreement soon. The bi-national agreement will likely include the detailed operating plan for the project in Saskatchewan. Since the United States negotiator was designated, a caucus of United States interests was held. I was able to attend that caucus and express the concerns we have.

We recently learned the Corps of Engineers decided to change the Local Cooperative Agreement (LCA) so that it only deals with the projects in Canada and not with the 4-foot raise of Lake Darling. As you know, in the event that the projects in Canada are not developed, then Lake Darling will be raised to provide limited flood control. By changing the LCA, the Souris River Joint Board should be able to execute the agreement. Previously, the joint board refused to execute the agreement, since in its opinion, it did not adequately address the road crossings that would be impacted by the 4-foot raise of Lake Darling. If the projects are not built in Canada, it will be necessary for another LCA to be executed before Lake Darling is modified.

The Corps of Engineers is completing the environmental review process required by law. A Draft Environmental Impact Statement has been circulated for comments, and the Corps is presently addressing those comments. Optimistically the environmental process could be completed in late July, but more realistically we do not expect the process to be completed until September or October. The environmental process will have to be completed before the bi-national agreement can be executed. Thus, the money that was allocated for fiscal year 1988 will not be able to be spent until the environmental process is done and the bi-national agreement is executed. That being the case, funds will have to be carried over into the next fiscal year, which may require Congressional urging of the Corps.

We recently learned the President's budget for fiscal year 1989 includes \$17.6 million for the Souris River Project. This is encouraging, and should allow the project to continue on its present schedule. This again is assuming the necessary agreements can be executed and funds that are available now can be carried over into the next fiscal year.

One of the recent issues regarding the project has been water quality. Concern has been expressed that releases from the Rafferty Dam and the Alameda Dam would be from the bottom of the reservoir, which typically is water of poor quality. Studies made by the Province of Saskatchewan indicate that there should not be a problem with water quality, but from our experience with similar projects in the United States, water quality problems do sometimes occur. Particularly, the water from the bottom of the reservoir often has a high ammonia content, which can be damaging to areas downstream.

The governing factor in addressing water quality is the 1909 Boundary Waters Treaty. In it, Article IV, deals with the protection of downstream interests and requires that the province and the state do everything possible to maintain water quality. In January, we received a letter from the Saskatchewan Souris Basin Development Authority stating that the province would do everything possible to protect water quality. Gene Christianson of the Health Department and Vern responded, indicating it may be necessary to discharge from a higher level in the reservoir, in the event that water quality problems do develop. We also suggested a joint province and state water quality monitoring effort to further ensure that problems are identified as quickly as possible. The idea of an ongoing consultative water quality mechanism with Saskatchewan, Manitoba and North Dakota was suggested. Gene and Vern also sent a similar letter to the Province of Manitoba stating we would do everything possible in North Dakota to protect downstream water quality interests. Copies of these letters are attached.

Various wildlife concerns have been raised regarding the Saskatchewan project. Specifically, Dale Henegar of the State Game and Fish Department has expressed concern about the potential loss of a fishery in Lake Darling. He feels that when Saskatchewan is able to retain its share of the Souris River, as provided by treaty, Lake Darling will experience lower levels than in the past, thus the potential for winter fish kill will increase. Studies have shown that there will be approximately a 30 percent increase in the condition that could potentially result in a fish kill. This would occur because of Saskatchewan's ability to retain its share of the water.

Other concerns have been raised by the North Dakota Wildlife Federation and the North Dakota Wildlife Society. Both organizations passed resolutions at annual meetings, asking for comprehensive studies on the proposed Rafferty Dam and Alameda Dam. The resolutions in essence ask for a moratorium on the project until studies can be completed. In January, at the request of the Saskatchewan Souris Basin Development Authority, a meeting was held in Bismarck with representatives of the wildlife groups and state and federal wildlife agencies in order to explain the project. Several issues were discussed and questions were asked of the Canadian officials as well as United States and North Dakota officials. On March 10, a follow-up meeting will be held in order to present more recent information and data. Hopefully by doing this, many of the concerns of the wildlife interests can be alleviated.

In mid-February, a meeting was held with all of the U.S. Federal and North Dakota agencies concerned with the project, except for the Environmental Protection Agency, which could not attend because of a blizzard in Denver. During that meeting, detailed hydrologic data was presented showing impacts of the project, the latest water quality data was discussed and the impact on fisheries was discussed. The water quantity data available now looks better than the data available a year ago, which is a reflection of better data and better modeling. The water quality and the fishery issues need to be addressed further.

In Saskatchewan, the Minister of Environment issued an order in mid-February allowing the project to proceed with several conditions. Those conditions relate to the fishery in the stream, the water quality downstream, and protection of interests in and around the proposed reservoirs. The order was a result of the recommendation made by the Board of Inquiry that held hearings throughout Saskatchewan last year. By issuing the order, the Saskatchewan Souris Basin Development Authority was able to proceed with the opening of bids for the cofferdam, to be constructed this spring. Although they have not formally announced the award of the contract for the cofferdam, they have begun land acquisition in the immediate vicinity of the dam. We expect that they will be able to begin the cofferdam by mid-March and complete it early this summer. At that time, it will be necessary for the Province of Saskatchewan to make a decision whether or not flood control will be included in the Rafferty Dam. It is likely that if the United States does not participate in the flood control cost of the projects, that the province will proceed with the projects for water supply only, which will not benefit the flood affected interests in the United States.

We recently learned that a new umbrella organization in Saskatchewan known as the "Stop the Construction of the Rafferty and Alameda Projects" (SCRAP), filed a lawsuit in the Queens Court to delay the project. In filing the lawsuit, SCRAP has claimed that not all of the environmental requirements were met by the Minister of Environment and the Souris Basin Development Authority. In discussing this with representatives from Saskatchewan, they do not believe that the filing of the lawsuit will delay the project, although they will have to argue the lawsuit in court.

Looking ahead, we expect to continue to work with the various interests to supply information on the project. We also expect to continue to be involved in the international negotiations through the Department of Army, and work closely with the Souris River Joint Board on the LCA. At present, it seems as though the most optimistic schedule would be for the completion of the environmental

process in the United States late this summer, followed by the execution of the international agreement. Then the construction of the downstream components of the project in the United States could begin, as well as the construction of the Rafferty Dam for water supply and flood control.

DAS:dm

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT North Dakota State Water Commission Meeting

DATE April 29, 1988 PLACE Bismarck, N.Dak

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Rosellen Sand	900 E. Boulevard	State Water Commission
Bruce F McCollom	2718 Gateway	BW/BEC Engineering
Alfred H. Thompson	^{Box 297} H.C. Pike #9, Bismarck N.D.	N.D. P.W.S.M.
Ronald Sandell	Ardoch N.D. Box 37	President NDRWSA
Alan M. Walter	Civic Center, Minot	CITY of MINOT
- Herbert Zilshner	Taylor, N.D.	West River Joint B.
HANK TRANGSBUD	Box 2054 FARGO ND	HOUSTON ENGINEERING
RONALD FRENCH	GRAND FORKS	KBM ENGINEERING
Fletcher Poling	Bismarck	Basin Electric Power Cooperative
RAY FANNING	Bismarck	KBYM-TV
Bob Dorothy	Bismarck	N.D. Water Users Assoc.
Charon Johnson	Carrington	G.D.C.D
Randall Binegar	Bismarck	State Water Commission
Howard Rodin	Oshtemo	Langdon Rural Water
Linder Johnson	Oshtemo	Langdon Rural Water

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Ken Foost	Langdon	Langdon Rural Water
Larry J. Thelen	RR 1 Box 34-C Bismarck, ND.	Burleigh Water Users Coop
Ray Mountz	R.R. 1 Box 249 Bismarck, N.D.	N. Dak. State Rural Water
Howard Soy	OIA 14th Floor State Capitol Bismarck, ND	Office of Intergovernmental Affairs
C. EMERSON MURRY	HC9, BOX 246 BISMAACK 58501	C.D.C.D.
Arden Haner	HCRI Box 64 Doughas 58735	Ward County WRB
Mike Dwyer	Bismarck ND	ND Water Users
Dan Welch	WEST EGON, ND	S.E. CASS WRD
Fred Helberg	Harwood ND	SE CASS W.R.D.
Robert Brodeur	Fargo ND.	S.E. Cass W.R.D.
David Soy	Bism	