

## **MINUTES**

### **North Dakota State Water Commission Devils Lake, North Dakota**

**February 23, 1996**

The North Dakota State Water Commission held a meeting at the University of North Dakota Lake Region Community College, Devils Lake, North Dakota, on February 23, 1996. Governor-Chairman, Edward T. Schafer, called the meeting to order at 1:45 PM, and requested State Engineer and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

#### **MEMBERS PRESENT:**

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

#### **MEMBER ABSENT:**

Judith DeWitz, Member from Tappen

#### **OTHERS PRESENT:**

State Water Commission staff members  
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

#### **CONSIDERATION OF AGENDA**

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

**CONSIDERATION OF MINUTES  
OF NOVEMBER 29, 1995, STATE  
WATER COMMISSION MEETING -  
APPROVED**

The minutes of the November 29, 1995, State Water Commission meeting were approved by the following motion:

*It was moved by Commissioner Ames, seconded by Commissioner Olin, and unanimously carried, that the minutes of the November 29, 1995, State Water Commission meeting be approved as prepared.*

**CONSIDERATION OF MINUTES  
OF JANUARY 12, 1996, STATE  
WATER COMMISSION TELEPHONE  
CONFERENCE CALL MEETING -  
APPROVED**

The minutes of the January 12, 1996, State Water Commission telephone conference call meeting were approved by the following motion:

*It was moved by Commissioner Ames, seconded by Commissioner Olin, and unanimously carried, that the minutes of the January 12, 1996, State Water Commission telephone conference call meeting be approved as prepared.*

**CONSIDERATION OF MINUTES  
OF FEBRUARY 15, 1996, STATE  
WATER COMMISSION TELEPHONE  
CONFERENCE CALL MEETING -  
APPROVED**

The minutes of the February 15, 1996, State Water Commission telephone conference call meeting were approved by the following motion:

*It was moved by Commissioner Ames, seconded by Commissioner Olin, and unanimously carried, that the minutes of the February 15, 1996, State Water Commission telephone conference call meeting be approved as prepared.*

**FINANCIAL STATEMENT -  
AGENCY OPERATIONS**

1996, and reflecting 29 percent of the 1995-1997 biennium.

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures, dated February 15, 1996, and reflecting 29 percent of the 1995-1997 biennium. **SEE APPENDIX "A".**

On March 20, 1996, the Office of Management and Budget will present the guidelines for preparation of the 1997-1999 biennium budget.



**FINANCIAL STATEMENT -  
RESOURCES TRUST FUND**

Dale Frink, State Water Commission's Water Development Division, reviewed and discussed the Contract Fund for the 1995-1997 biennium. *SEE APPENDIX "B".*

Mr. Frink stated that the unallocated balance of the Resources Trust Fund is \$769,688. The State Water Commission has deferred \$194,170 for three projects, and there are several other potential requests in various stages of development. Although revenues into the Resources Trust Fund are slightly ahead of projection, it was suggested that due to the fiscal condition of the Resources Trust Fund and the emergency situation at Devils Lake, that the State Water Commission continue to defer action on the three projects for at least the next six months and fund only those projects of high priority.

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

Secretary Sprynczynatyk provided the following contract and construction status report. He stated that construction activity has been at a minimum on all contracts due to the winter conditions:

**Contract2-3G - CathodicProtection; and Contract4-1A - Raw Water Line Upgrade:** The pre-construction work has been completed, including submittal review, bonding and pre-construction meetings.

**Contract2-5A/7-2A - Transmission Line to Belfieldand Belfield Rural Service Area:** This contract is essentially complete.

**Contract7-1B - DavisButte,Taylor,and New HradecRural Service Areas:** Construction of this segment of the pipeline is essentially complete, although the clean-up work is incomplete. A meeting with the contractor has been scheduled for February 29, 1996, to discuss the outstanding issues of the contract.

**Contract7-2 - New EnglandRural ServiceAreas:** The contractor, due to the additional work completed, had his completion date extended beyond December 8, 1995. Some pipe installation was accomplished prior to the winter conditions.

**SOUTHWEST PIPELINE PROJECT -  
SERVICE TO SOUTH DAKOTA  
(SWC Project No. 1736)**

Secretary Sprynczynatyk briefed the Commission members on discussions with South Dakota relative to the delivery of water from the Southwest Pipeline Project.

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF WATER SERVICE  
CONTRACT AMENDMENT FOR  
SOLE-SOURCE SERVICE FOR  
CITY OF REEDER  
(SWC Project No. 1736)**

Secretary Sprynczynatyk presented a request for the Commission's consideration from the city of Reeder for a sole-source amendment to its water service contract with the Southwest Pipeline Project. This amendment would waive the minimum water

purchase requirements of the contract if the city uses the project as its sole source of water. The project has the capacity to serve the city of Reeder on this basis, and Secretary Sprynczynatyk said the amendment would result in better service to the city and more convenient practices for the project.

It was the recommendation of the State Engineer that the State Water Commission approve a sole-source amendment to the city of Reeder's water service contract.

*It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve the sole-source amendment to the city of Reeder's water service contract. SEE APPENDIX "C".*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF MODIFICATIONS  
TO PHASED-DEVELOPMENT PLAN  
(SWC Project No. 1736)**

Secretary Sprynczynatyk stated that in an effort assist in development of the Southwest Pipeline Project, the project's phased-development plan is periodically reviewed by the

Southwest Water Authority and the State Water Commission. The plan currently calls for the development of the Jung Lake and Bucyrus service areas. He said following development of those services areas, it will be appropriate to review the status of the plan.

The Southwest Water Authority has recommended that the remaining service areas in the phased-development plan be grouped into larger zones, which would allow prioritization by zones. The recommended modification map is attached hereto as *APPENDIX "D"*. Secretary Sprynczynatyk said this approach would also aid in the review of the service areas boundaries for potential revision to account for current needs and interests. In conjunction with this grouping, the Southwest Water Authority plans to make a final canvassing of the area to eliminate undecided potential users. The results of this canvass will be used for design of the various service areas.

It was the recommendation of the State Engineer that the State Water Commission approve the modifications to the Southwest Pipeline Project phase-development plan as described above.

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve the modifications to the Southwest Pipeline Project phased-development plan as recommended by the State Engineer.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**SOUTHWEST PIPELINE PROJECT -**

At its April 26, 1995, meeting, the

**FUTURE PROJECT FUNDING  
(SWC Project No. 1736)**

Commission members passed a motion to file a pre-application with the Rural Economic and Community

Development Service (RECDS) for funding for the Southwest Pipeline Project, contingent upon legal advice, and to continue to explore this option for continued development of the project.

The Commission members were informed at its July 19, 1995, meeting that the RECDS had reviewed the information provided to them and determined that the State Water Commission was eligible to participate in the program and that the pre-application was being processed.

At the November 29, 1995, meeting of the State Water Commission, Ray Scheetz, Director of the RECDS presented a letter which stated the pre-application had been approved.



Secretary Sprynczynatyk briefed the Commission members on the application conference held January 26, 1996, with the RECDS and the State Water Commission staff. The purpose of the conference was to begin the process of preparing a formal application for funding for the Bucyrus service area. He said the application includes a number of different steps and documents. The process will require different agreements for engineering and legal services. He said it will also require the services of a bond counsel. These matters will be brought to the Commission as necessary.

Secretary Sprynczynatyk said the Bucyrus service area is currently scheduled for the 1997 construction schedule. He said it is hoped to have a funding package in place by that time, including new forms of funding such as RECDS. He stated that the RECDS has indicated there may not be any grant money available, only loan money in the form of a revenue bond.

**SOUTHWEST PIPELINE PROJECT - OPERATIONS AND MAINTENANCE (SWC Project No. 1736)** At its November 29, 1995, meeting, the Commission passed a motion to approve the execution of the Agreement to Transfer the Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority, effective January 1, 1996.

Secretary Sprynczynatyk briefed the Commission members on the transition of the operations and maintenance responsibilities for the Southwest Pipeline Project to the Southwest Water Authority. He said the transition process went well and, although the State Water Commission staff will continue its communications with the Authority, he is confident the Authority will carry out the project operations and maintenance responsibilities in an efficient and satisfactory manner.

**GARRISON DIVERSION PROJECT - PROJECT UPDATE (SWC Project No. 237)** Warren Jamison, Manager of the Garrison Diversion Conservancy District, provided a status report on the Garrison Diversion project.

Mr. Jamison briefed the Commission members on the proposed plan for the completion of the Garrison Diversion project, and explained the funding expenditures that are being considered. The plan objectives include:



- 1) To complete the principal water delivery system to provide reliable, high quality water to the Red River valley, the Devils Lake basin, and the Oakes Test Area; and
- 2) To put into place a water and power fund that allows for further MR&I development as well as economic development throughout the state.

Draft legislation was presented to the Congressional Delegation in Washington, DC, in October, 1995. Mr. Jamison stated that he and others continue to work with the Governor and the Congressional Delegation for the completion of an affordable water distribution system for Missouri River water in North Dakota.

Information was provided on the Oakes Test Area research and operations. Mr. Jamison said federal funding will allow the Bureau of Reclamation to complete the analysis of data collected under the ongoing program and will provide for its dissemination to interested parties and maintain the value of the research equipment and records. He said it will also provide for minimum continuity in the data records collection process while other partners and sources of funding are developed.

Mr. Jamison stated that a plan of action is needed to continue research and management of water deliveries to the Oakes Test Area. A great investment has been made and the farmers and citizens of North Dakota have had the opportunity to reap the benefits of many years of research and irrigation. Although the Bureau of Reclamation is looking for a non-federal entity to purchase the facility, Mr. Jamison said it is important for North Dakotans to come up with a plan that will ensure the Oakes Test Area remains in operation. As the state looks to increase the number of agri-processing plants, irrigation and wise water management become key components in attracting economic development.

The issue of the proposed sale of the power marketing administrations and the considerable impact to the state's public power consumers was addressed by Mr. Jamison. He said the Garrison Diversion Conservancy District is continuing to work with the power users and a broad-based group of interests, through the North Dakota Water Coalition, to identify the best way to assure that the state's water needs are met in the most cost effective way possible and that these valuable financial resources are not simply abandoned, but remain as intended in the State of North Dakota.

**GARRISON DIVERSION PROJECT -  
MR&I WATER SUPPLY PROGRAM  
(SWC Project No. 237-3)**

Secretary Sprynczynatyk provided an MR&I Water Supply program report:

**Burleigh Water Users:** The project design has been completed and construction is scheduled to begin in the spring of 1996.

**Dickey Rural Water Project:** The water treatment plant building is constructed and work is continuing on the interior components. The pipe for the water distribution system is being manufactured.

**Grand Forks Water Treatment:** The city is modifying the water treatment plant's existing clearwells by installing baffling to increase the contact time to meet the requirements of the Surface Water Treatment Rule.

**Langdon Water Treatment Project:** This project has been completed.

**Missouri West Rural Water Project:** The system design should be completed in 1996, with possible phased construction in the spring of 1997.

**Northwest Area Water Supply Project:** (See Northwest Area Water Supply project section in these minutes for complete status report.)

**Pierce County Rural Water Project:** The feasibility study is scheduled for mid-1996.

**Ransom-Sargent Rural Water Project:** The engineer is working on the feasibility study and has completed the well drilling test.

**Southwest Pipeline Project:** (See Southwest Pipeline Project section in these minutes for complete status report.)

Secretary Sprynczynatyk briefed the Commission members on concerns that have been received from the Benson, Stutsman, and Williams Rural Water Associations relative to MR&I funding. A meeting of the MR&I subcommittees of the State Water Commission and the Garrison Conservancy District has been scheduled on March 28, 1996, at which time the project sponsors will be given an opportunity to provide information.

**GARRISON DIVERSION PROJECT -  
MR&I FUNDING FOR FY 1996  
(SWC Project No. 237-3)**

The Garrison Diversion Unit federal appropriation for Fiscal Year 1996 includes \$8 million for the MR&I Water Supply program. Secretary

Sprynczynatyk stated there are \$2.607 million of unallocated Fiscal Year 1995 and reprogrammable funds available for the Fiscal Year 1996, for a total proposed federal appropriation for the MR&I program of \$10.607 million.

The State Engineer presented the projects which qualify for Fiscal Year 1996 funding, and recommended the following proposed Fiscal Year 1996 Garrison MR&I budget, contingent upon the availability of funding and subject to future revisions:

<u>Project</u>	<u>FY 1996 Proposed</u>
Northwest Area Water Supply (Rugby Phase)	\$ 1,600,000
Northwest Area Water Supply (Minot Phase)	1,000,000
Southwest Pipeline Project	4,807,000
Burleigh Water Users	2,740,000
Grand Forks Water Treatment	<u>460,000</u>
<b>Total</b>	<b>\$10,607,000</b>

*It was moved by Commissioner Olin and seconded by Commissioner Ames that the State Engineer's recommendation be approved for the proposed Fiscal Year 1996 Garrison MR&I Water Supply program budget. This motion is contingent upon the availability of funding and is subject to future revisions.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**GARRISON DIVERSION PROJECT -  
MR&I FUNDING FOR FY 1997  
(SWC Project No. 237-3)**

Warren Jamison provided information relative to the Garrison Diversion Unit need for \$26.2 million for Fiscal Year 1997. This request includes \$16 million for the MR&I Water Supply program.

Testimony will be presented before the House Subcommittee on Energy and Water Development in Washington, DC, on February 28, 1996.

**GARRISON DIVERSION PROJECT -  
APPROVAL OF EXPENDITURE  
OF \$38,600 FROM INTEREST  
ACCUMULATED TO MR&I  
WATER SUPPLY PROGRAM  
FOR INTERBASIN WATER  
TRANSFER STUDIES PROGRAM  
(SWC Project No. 1828)**

A request was presented for the Commission's consideration for the expenditure of \$38,600 from the MR&I Water Supply program interest to complete the current projects under the Interbasin Transfer Studies program (biota transfer).

Secretary Sprynczynatyk presented the request and stated the funds will be matched by federal money through the Bureau of Reclamation. On December 5, 1995, the board of directors of the Garrison Diversion Conservancy District approved the expenditure of funds.

It was the recommendation of the State Engineer that the State Water Commission approve the expenditure of \$38,600 from the interest accumulated to the MR&I program to complete the contracts for the current phase of the Interbasin Water Transfer Studies program.

*It was moved by Commissioner Thompson and seconded by Commissioner Hillesland that the State Water Commission approve the expenditure of \$38,600 from the interest accumulated to the MR&I Water Supply program to complete the research contracts under the Interbasin Water Transfer Studies program. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**DEVILS LAKE -  
HYDROLOGIC UPDATE  
(SWC Project No. 1712)**

Dale Frink reported that the National Weather Service released its spring flood forecast for Devils Lake on February 16, 1996. The current

forecast is for a peak lake elevation in 1996 between elevation 1437.5 and 1438.0. This represents a 2.5 to 3.0 foot increase above the current lake elevation. Mr. Frink stated this also represents a lake elevation approximately 1.5 to 2.0 feet above the 1995 peak elevation of 1435.8 feet, which is greater than normal runoff and will likely cause the lake to peak in late July or early August.

The State Water Commission staff conducted snow surveys on January 16 and 17, and February 20, 1996, to measure the moisture content of the snow in the basin. Mr. Frink stated that the average moisture content in the basin varied from a high of 2.6 inches in the northwest to around 1.5 inches in the east.

Mr. Frink stated that although it is still early in the season, a lot could happen causing a lower or a higher peak elevation than forecasted. There is little question, however, that additional damages will be experienced beyond last year. A three-foot rise in Devils Lake could cause approximately \$50 million in damage, which compares to \$35 million in damage experienced in the area since the summer of 1993.

As spring approaches, area residents, landowners, and state and local agencies will need timely, accurate projections to help them decide their best course of action. Mr. Frink said that the National Weather Service, the U.S. Geological Survey, the Corps of Engineers, the Division of Emergency Management, and the State Water Commission are directly involved with flood forecasting.

**DEVILS LAKE EMERGENCY  
RESPONSE PLAN -  
DEVILS LAKE - STUMP LAKE  
EMERGENCY OUTLET COMPONENT  
STATUS REPORT  
(SWC Project No. 1882)**

Todd Sando, State Water Commission's Water Development Division, provided a status report on the Devils Lake Emergency Response plan, which is a short-term emergency flood control measure to alleviate flood conditions around

Devils Lake in 1996 and 1997 while long-term flood reduction alternatives are being evaluated. The plan consists of two critical components: (1) pumping water from east Devils Lake to Stump Lake; and (2) upper basin water retention. He said these two components are believed to be the most practicable and least damaging options for reducing the risk of added flood damages around Devils Lake in the short-term.

The Stump Lake component of the plan consists of pumping approximately 87,000 acre-feet of water from east Devils Lake to Stump Lake, at a rate of approximately 250 cubic feet per second. Mr. Sando said this will provide 1.2 feet of relief for Devils Lake and will raise Stump Lake from its current elevation of 1401.3 to 1411.75. He said the operating plan for pumping water to Stump lake is such that pumping will only begin if the inflow forecast for Devils Lake is for above-normal runoff and Devils Lake is projected to rise to an elevation higher than 1435.8 during the period applied for in the Section 404 permit application.

The U.S. Army Corps of Engineers issued a Section 404 permit for the Devils Lake - Stump Lake emergency outlet. Mr. Sando indicated that although the permit contains several pages of conditions, the permit allows the project to move forward within acceptable constraints. The State Water Commission staff is also working with the U.S. Fish and Wildlife Service and the U.S. Bureau of Reclamation regarding the approval of special use permits.

At its November 29, 1995, meeting, the State Water Commission passed a motion approving the allocation of \$750,000 from the Contract Fund for the Devils Lake Emergency Response Plan, of which \$350,000 was obligated for pumps, initial land rights, and pipe materials.

On January 31, 1996, seven diesel-powered Gator pumps capable of pumping a total of 112,000 gallons per minute were ordered. The pumps will be delivered in May and should be operational by June 1, 1996.

At its February 15, 1996, meeting, the State Water Commission passed a motion approving the obligation of \$200,000 from the Contract Fund for the acquisition of mitigation lands for the Stump Lake component of the Devils Lake Emergency Response Plan. These funds were from the \$750,000 approved by the State Water Commission on November 29, 1995, for the Devils Lake Emergency Response Plan. Negotiations continue with the landowners to acquire land for mitigation, which is required by the Corps of Engineers Section 404 permit.

Mr. Sando said significant progress occurred in January and February with discussions between the State Water Commission staff and the affected landowners. All potentially affected landowners have been contacted and negotiations for flood easements are ongoing. To date, land rights have been obtained from 50 percent of the landowners, and, he said it is expected that an additional 15 percent of the land rights may be obtained voluntarily.

The staff is in the final stages of the engineering design for the connecting channel between east Devils Lake and Stump Lake, and, weather permitting, construction will begin in April, 1996. The Department of Transportation has begun the final design for the raise of Dutch Point Road and Highway 1.

Efforts are being explored for assistance from the National Guard for cattail removal in the channel to improve the flow efficiency and to minimize costs. Mr. Sando briefed the Commission members on other options that are being explored that may reduce the risk of additional flood damages around Devils Lake.

Commissioner Vogel reiterated the concerns and questions she had expressed at previous State Water Commission meetings relating to project funding and timing, Nelson County landowner concerns, and involvement of the State Water Commission in the overall project development.

**DEVILS LAKE EMERGENCY  
RESPONSE PLAN -  
UPPER BASIN WATER  
RETENTION PROGRAM  
STATUS REPORT  
(SWC Project No. 1882)**

LeRoy Klapprodt, State Water Commission's Planning and Education Division, stated that a very critical part of the Devils Lake Emergency Response Plan includes the upper basin water retention component. Upper basin storage will be obtained

from landowners willing to participate in a voluntary program. He said it is anticipated that available storage could provide one foot of relief to Devils Lake by storing the water in the upper portions of the basin instead of allowing it to flow to Devils Lake. The upper basin retention component is estimated to cost \$3.2 million and efforts are ongoing for implementation.

At its October 27, 1995, meeting, the State Water Commission approved a request from the Devils Lake Joint Water Resource Board allocating \$50,000 from the Contract Fund for the storage of water on CRP land in the Devils Lake basin. Mr. Klapprodt explained the program, which consists of storing approximately 3,000 acre-feet of water on CRP fields to prevent water from reaching Devils Lake in 1996. It was estimated that 200 structures would be required at a cost of \$150 per structure, or \$30,000 and 1,000 acres of land would be flooded at a lease cost of \$20 per acre, or \$20,000. The Natural Resources Conservation Service (NRCS) will administer the program and design the structures. The Devils Lake Joint Water Resource Board will make the payments to the farmers and the contractors as needed. The \$50,000 approved by the Commission includes \$30,000 for structures and \$20,000 for landowner payments.

Mr. Klapprodt reported 12 of the 35 applications received thus far for upper basin storage involve CRP lands. Two actual bids have been received to date to lease CRP land, ranging from \$20 to \$150 per acre.

On February 16, 1996, the State Engineer received a request from the Devils Lake Joint Water Resource Board requesting that the State Water Commission staff be allowed to negotiate the rate per acre for water storage on CRP lands, using a range of \$20 to \$50 per acre payment on top of the CRP payment the landowner already receives from the federal government.

Secretary Sprynczynatyk stated that the motion passed by the State Water Commission at its October 27, 1995, meeting, did not stipulate the amount to be paid per acre, although the information presented in the request from the Devils Lake Joint Board did suggest a lease rate of \$20 per acre. He said flexibility in the rate per acre may be necessary if we are to be successful in acquiring some of the better water storage sites. Some of the higher bid sites will store a significant amount of water and are probably worth the amount asked.

It was the recommendation of the State Engineer that the State Water Commission honor the Devils Lake Joint Water Resource Board's request to negotiate the rate per acre for water storage on CRP lands, using a range of \$20 to \$50 per acre payment, to allow flexibility in negotiating the best fair value for leases on CRP lands. The State Water Commission concurred with the State Engineer's recommendation.

On November 7, 1995, the State Water Commission staff sent a survey letter to 5,300 landowners in the upper Devils Lake basin to determine the level of local interest and what is acceptable to them relative to the storage of water. Mr. Klapprodt explained participation in the program is voluntary. The NRCS will assist in processing the applications for the program, and will be reviewed by a technical committee for feasibility and cost effectiveness. The project design will be coordinated by the technical committee, with assistance from the NRCS and the State Water Commission staff. Construction will occur as early as possible in 1996. To date, more than 847 responses to the letter survey have been received. Of the responses, more than 101 operators have expressed an interest in upper basin storage and, to date, 30 actual applications for the storage program have been received, identifying 49 potential sites. The technical committee has reviewed these applications and determined that 12 of the applications covering 16 sites could be implemented for 1996 spring runoff. Collective storage at these sites is estimated at 1,500 acre-feet with a land cost of \$55,000, or \$37 per acre-foot. Structure costs will be additional and cannot be determined without field inspection.

Mr. Klapprodt briefed the Commission members on the Available Storage Acreage Program (ASAP) and discussed the draft water storage contracts.

Howard Schmidt, President of the North Dakota Farm Bureau, spoke to the draft contracts and made specific reference to concerns he has with the indemnification clause.

Mr. Klapprodt stated that in addition to storage in small tracts, the State Water Commission staff believes there is approximately 38,000 acre-feet of flood storage possible in and around the major lakes in the upper basin. In December, 1995, letters were sent to landowners and renters adjacent to these lakes inviting them to informational meetings about the need for storage on their particular lake. The meetings and a follow-up letter solicited help in finding the storage areas, with compensation offered to offset economic impacts to the people involved.

Of the 50 responses received in a survey of about 200 landowners and farm operators from around the lakes, 16 indicated they would be interested in storing flood water. Hurricane Lake showed the best support with 8 of 15 responses, 53 percent, being positive. Mr. Klapprodt stressed the need for further support for storage in the lakes area.

**DEVILS LAKE UPPER BASIN  
WATER RETENTION PROGRAM -  
APPROVAL OF \$75,000 FOR  
APPROXIMATELY 1,500  
ACRE-FEET OF WATER STORAGE  
(SWC Project No. 1882)**

LeRoy Klapprodt explained that the land offered for lease has been at a cost of approximately \$55,000, averaging \$37 per acre-foot. The cost for construction of the control structures is in addition to the land costs. These costs have not yet been estimated on a

case-by-case basis. An overall project estimate of \$13 per acre-foot can be used to estimate the structure costs. Control structures for 1,500 acre-feet would, therefore, cost approximately \$20,000. The total cost for the first 1,500 acre-feet of upper basin storage will be approximately \$75,000.

Mr. Klapprodt stated that this initial water storage will be used to reduce flooding at Devils Lake and to show others that the state's water storage program works. When carried out, these water storage sites may be used to increase participation for the 1997 runoff, if necessary.

It was the recommendation of the State Engineer that the State Water Commission approve \$75,000 from the Contract Fund for approximately 1,500 acre-feet of water storage in the upper Devils Lake basin to be in place for this spring's runoff. The water storage sites will be used to reduce flood damages and as a demonstration project. These funds are part of the \$750,000 allocated by the State Water Commission at its November 29, 1995, meeting, and would increase the total amount of obligated funds to \$625,000.

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve the obligation of \$75,000 from the Contract Fund for approximately 1,500 acre-feet of water storage in the upper Devils Lake basin to be in place for the 1996 spring runoff. These water storage sites will be used to reduce flood damages and as a demonstration project. These funds are part of the \$750,000 allocated on November 29, 1995, increasing the total amount of funds obligated to \$625,000. The remaining \$125,000 remains allocated, but unobligated until needed, at which time a recommendation will be brought before the State Water Commission for consideration. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

Commissioner Vogel suggested a follow-up letter be sent to the landowners in the upper Devils Lake basin relative to participation in the Available Storage Acreage Program. The Natural Resource Conservation Services agreed to assist with the mailing. (Note: The letter attached hereto as *APPENDIX "E"*, was mailed on March 8, 1996, to approximately 5,300 landowners in the upper Devils Lake basin.)

**DEVILS LAKE UPPER BASIN  
WATER RETENTION PROGRAM -  
APPROVAL OF FUNDS FOR  
'DEVILS LAKE BASIN/DRIFT  
PRAIRIE WETLAND RESTORATION  
AND WATERSHED MANAGEMENT'  
PROJECT  
(SWC Project No. 1882)**

A request from the U.S. Fish and Wildlife Service was presented for the Commission's consideration for cost sharing in the North American Wetlands Conservation Act grant for the Devils Lake Basin/Drift Prairie Wetland Restoration and Watershed Management Project.

Secretary Sprynczynatyk presented the request, and stated that the 101st Congress enacted the "North American Wetlands Conservation Act" (NAWCA), which was signed on December 13, 1989. Approved NAWCA grant proposals must have at least one-to-one match of non-federal funds to the funds requested through the Act. The majority of the projects being proposed will provide long-term water management in the Devils Lake basin, which will benefit agriculture, recreation, tourism, wildlife habitat and economic growth. The following projects are being proposed for this grant:

- Wetlands labeled as small wetland restoration, enhancement, creation projects are located on federal land within the Devils Lake Wetland Management District and the majority of them are within the Devils Lake basin. The small wetlands will range from about .2 surface acres in size to approximately 10 surface acres and will store approximately 257 acre-feet.
- Wetlands labeled as larger wetland enhancement, creation projects will range in size from 27-375 surface acres and will store approximately 4,222 acre-feet of water. The majority of these projects are in the Devils Lake basin and are primarily on federal lands. Some of these projects may need flowage easements. If flowage easements cannot be acquired, attempts will be made to redesign the project to lower the amount of water stored.
- Projects located on Lake Alice National Wildlife Refuge. These water development projects are a result of a draft Lake Alice National Wildlife Refuge Water Management Plan. They will store an additional 5,424 acre-feet of water directly and an additional 6,120 acre-feet will be stored as a result of new water management capabilities. Some of these water development projects will require flowage easements or acquisition.

- Projects funded by the U.S. Fish and Wildlife Service and other partners in 1994-1995, including 610 surface acres and storing 1,347 acre-feet of water.

Secretary Sprynczynatyk explained that the grant has the potential to store up to 16,592 acre-feet of water in the Devils Lake basin, initiate the implementation phase of the Devils Lake Water Management Plan, and to show people downstream of Devils Lake that there is interest in taking steps to help solve Devils Lake flooding problems.

It was the recommendation of the State Engineer that the State Water Commission approve \$75,000 for the proposed "Devils Lake Basin/Drift Prairie Wetland Restoration and Water Management" project. Of this \$75,000 amount, up to \$50,000 would be allocated from the Contract Fund to provide water storage and wildlife habitat improvements within the Devils Lake basin portion of the project area; and a minimum of \$25,000 would be State Water Commission staff in-kind services related to the wetland developments projects, to include survey and design of projects, assistance with permit processing, and negotiations with landowners for flowage easements and acquisition. The \$50,000 from the Contract Fund is a part of the \$750,000 allocated by the State Water Commission at its November 29, 1995, meeting, and would increase the total amount of obligated funds to \$675,000.

*It was moved by Commissioner Vogel and seconded by Commissioner Ames that the State Water Commission approve cost sharing in the non-federal portion of the North American Wetlands Conservation Act grant for the "Devils Lake Basin/Drift Wetland Restoration and Watershed Management" project in an amount not to exceed \$75,000, of which up to \$50,000 will be allocated from the Contract Fund, and a minimum of \$25,000 will be State Water Commission staff in-kind services. The \$50,000 from the Contract Fund is a part of the \$750,000 allocated by the State Water Commission at its November 29, 1995, meeting for the Devils Lake Emergency Response Plan, increasing the total amount of funds obligated to \$675,000. The remaining \$75,000 remains allocated, but unobligated until needed, at which time a recommendation will be brought before the State Water Commission for consideration. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**DEVILS LAKE -  
CORPS OF ENGINEERS  
CONTINGENCY PLAN  
(SWC Project No. 1712)**

Secretary Sprynczynatyk stated that the North Dakota Congressional Delegation and the Assistant Secretary of the Army, Civil Works, had agreed that the Corps of Engineers would

prepare a Devils Lake Contingency Plan by December 1, 1995, identifying measures that could be implemented in response to lake levels that might occur this coming spring and summer. He said the Contingency Plan is:

- to include not just measures the Corps or other federal agencies might be responsible for, but also measures state and local authorities might undertake on their own initiative.
- to address criteria for selecting each measure, requirements to implement each measure, the agency responsible for accomplishing each measure, and each measure's estimated cost and execution schedule.
- to be fully coordinated with appropriate federal and state agencies and local interests. In particular, Corps efforts are to compliment and be coordinated with FEMA Task Force Oversight committee plans to implement Task Force recommendations.

Secretary Sprynczynatyk distributed the Corps of Engineers' Contingency Plan to the Commission members. He said the report will be presented as a chart describing all available options identified thus far to reduce flood damages on Devils Lake.

Each component of the chart includes a description of the work proposed, likely impacts, a cost estimate, and responsible entities. Secretary Sprynczynatyk said the proposed Contingency Plan will serve as a vital aid for decision-makers in the prudent selection of appropriate measures under various lake rise scenarios.

**DEVILS LAKE -  
FEDERAL EMERGENCY  
MANAGEMENT ASSOCIATION  
INTERAGENCY TASK FORCE UPDATE  
(SWC Project No. 1712)**

Secretary Sprynczynatyk briefed the Commission members on an Inter-agency Task Force effort underway through the Federal Emergency Management Association (FEMA).

The effort involves identification of the Devils Lake problems and to propose solutions to the various flooding impacts in the basin which could be implemented within five years.

The final report of the FEMA Devils Lake Interagency Task Force has been completed, and copies were provided to the Commission members. Secretary Sprynczynatyk summarized the report, which includes six tasks that should be done in order to lay the ground work for 18 action items to help alleviate flooding.

**DEVILS LAKE  
FEASIBILITY STUDY -  
APPROVAL TO ENTER INTO  
AGREEMENT FOR PHASE 2A,  
AND ALLOCATION OF \$300,000  
FROM CONTRACT FUND  
(SWC Project No. 416-1)**

Dale Frink reported that the State Water Commission and the Corps of Engineers are negotiating an agreement for further work on the Devils Lake Feasibility Study, Phase 2A. In 1995, the Corps of Engineers, Bureau of Reclamation, State Health Department, State Game and Fish

Department, and State Parks and Recreation developed a plan of study for the feasibility study, which outlines the work items that need to be accomplished. The total cost for the feasibility study was estimated at \$7.2 million. The Corps requires a non-federal sponsor and 50 percent non-federal cost share for feasibility studies, of which up to one-half can be in-kind services.

Mr. Frink stated that the Corps of Engineers has provided the State Water Commission with an agreement for the portion of the feasibility study that could be completed during the next year. He explained that executing the agreement for this phase would not obligate the State Water Commission to the remaining phases of the feasibility study, but additional amendments should be expected. Phase 2A includes funds for upper basin storage evaluations; mapping, soil investigations, and environmental studies for an outlet; and water quality monitoring and evaluation.

On July 2, 1993, the State Water Commission approved the Phase 1 agreement of the Devils Lake Feasibility Study, and allocated \$500,000 from the Contract Fund. On July 19, 1995, the State Water Commission re-approved the balance for Devils Lake long-term studies, of which approximately \$375,000 remains unobligated. Current estimates are that Phase 2A will require a non-federal cost share of \$600,000, of which at least \$300,000 (25 percent of the total expenditures) must be a cash payment to the Corps of Engineers.

It was the recommendation of the State Engineer that the State Water Commission authorize the State Engineer to enter into an agreement for Phase 2A of the Devils Lake Feasibility Study, and to approve the allocation of \$300,000 from the \$375,000 originally earmarked for Devils Lake studies.

*It was moved by Commissioner Vogel and seconded by Commissioner Bjornson that the State Engineer be authorized to enter into an agreement for Phase 2A of the Devils Lake Feasibility Study; and that the State Water Commission approve the allocation of \$300,000 for this study from the funds presently allocated from the Contract Fund for Devils Lake long-term studies. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**DEVILS LAKE -**

Secretary Sprynczynatyk provided

**UNITED STATES-CANADA  
JOINT TECHNICAL COMMITTEE  
(SWC Project No. 416-1)**

historical background on the Devils Lake basin, which has been considered a closed sub-basin of the Hudson Bay drainage for many

centuries. In the past, the Devils Lake chain of lakes overflowed through Stump Lake and Tolna Coulee to the Sheyenne River. A transfer of water from Devils Lake, via a constructed outlet to the Sheyenne River (Hudson Bay drainage) is one of the proposals being considered to relieve serious flooding concerns. Complicating the situation is a concern that hydrologic, water quality, and biological effects of a transfer could extend down the Sheyenne River into the Red River of the North and ultimately into Lake Winnipeg, potentially affecting Canadian interests throughout the Nelson River system.

A United States-Canadian Joint Technical Committee (JTC), composed of federal, North Dakota, and Manitoba agency officials has been investigating the technical aspects of potential impacts to Canada relative to the Boundary Waters Treaty of 1909. The Canadian and United States governments are negotiating terms of reference to further guide the work of the JTC.

In January, 1996, the JTC convened a 12-member United States-Canadian working group to evaluate the hydrologic, water quality, and biological effects of a proposed outlet from Devils Lake and the potential for various violation of Article IV of the United States-Canada Boundary Waters Treaty of 1909, which states "that water flowing across the boundary will not be polluted to the injury of health or property of the other country."

Secretary Sprynczynatyk reported on the current efforts of the Devils Lake working group. A draft report will be provided to the JTC on March 1 for review, and the final report is anticipated April 1, 1996.



**CONSIDERATION AND APPROVAL  
OF REQUEST FROM NELSON COUNTY  
WATER RESOURCE DISTRICT FOR  
ADDITIONAL COST SHARING ON  
MCHUGH SLOUGH, PHASE 1,  
PRELIMINARY ENGINEERING STUDY  
(SWC Project No. 1132)**

A request from the Nelson County Water Resource District was presented for the Commission's consideration for additional cost sharing on McHugh Slough, Phase 1, preliminary engineering study.

Secretary Sprynczynatyk stated that on May 11, 1995, a request was received from the Nelson County Water Resource District to cost share on the McHugh Slough, Phase 1, preliminary engineering study, with a cost estimate of \$25,000. At that time, the preliminary engineering study focused on alternative routes to move sheetwater from the McHugh Slough area south to Stump Lake. Because of concerns with the U.S. Fish and Wildlife Service easement lands and the proposed emergency plan to move water from Devils Lake to Stump Lake, the board decided to include as part of a preliminary engineering study, the route from McHugh Slough north to the Enterprise Drain pumping station. This ultimately will move sheetwater from the McHugh Slough area to the Forest River.

On June 1, 1995, cost sharing of 40 percent of the eligible study costs, in the amount of \$10,000, was approved by the State Engineer under the authority delegated to the State Engineer by the State Water Commission.

Secretary Sprynczynatyk stated that on December 6, 1995, a letter was received from the Nelson County Water Resource District indicating that the board had incurred costs of approximately \$18,500 and had invested an additional \$25,000 for field surveys, hydrologic and hydraulic analysis, and environmental review for the possible outlet to the Forest River. The board requested additional funding for these costs.

The revised estimate of the costs for the McHugh Slough, Phase 1, preliminary engineering study, including the Forest River option, is \$50,000, of which 40 percent of the costs are eligible under the State Water Commission's policy and guidelines for cost sharing. Secretary Sprynczynatyk explained that since \$10,000 was approved under the State Engineer's authority, the request to be considered by the State Water Commission is for an additional \$10,000 to provide 40 percent of the current estimate.

It was the recommendation of the State Engineer that the State Water Commission approve 40 percent of the eligible cost sharing items, in the amount \$10,000 from the Contract Fund, from the McHugh Slough, Phase 1, preliminary engineering study. This would increase the total State Water Commission contribution to \$20,000 for this project.

***It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve additional cost sharing of 40 percent of the eligible items, not to exceed \$10,000 from the Contract Fund, for the McHugh Slough, Phase 1, preliminary engineering study. This expenditure increases the total State Water Commission contribution to \$20,000. This motion is contingent upon the availability of funds.***

***Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.***

Commissioner Vogel made reference to the Nelson County Water Resource District's letter of December 6, 1995, wherein it states, in part:

The original McHugh Slough, Phase 1, preliminary engineering study focused on the Hove Slough through McHugh Slough to the Stump Lake area. The study began in early June, 1995, and involved extensive field surveys, hydrologic and hydraulic analysis, and environmental review.

There have been major developments in the proposed outlet for Devils Lake, and the short-term emergency plan is to pump Devils Lake water into Stump Lake. We have recently been informed that for at least two years there will be no storage available at Stump Lake for sheetwater from McHugh Slough. As a result of this development, an alternate outlet for McHugh Slough is being analyzed.

The Nelson County Water Resource District has incurred costs of approximately \$18,500 to date for the study related the McHugh Slough to Stump Lake route.

The flooding of cropland and roadways in the McHugh Slough area has already resulted in millions of dollars in damages and the threat of further losses is very real. It is imperative that an outlet for excess sheetwater from McHugh Slough be constructed as soon as possible. However, Nelson County does not have the financial resources available to cover all of the costs associated with the necessary studies, plans and construction.

The Nelson County Water Resource District respectfully requests additional funding to help cover the costs of the added field survey, hydrologic and hydraulic analysis, and environmental review necessary as a result of the Devils Lake proposal.

Commissioner Vogel stated that in view of the concerns expressed by the Nelson County Water Resource District and the additional costs the district has incurred for field surveys, hydrologic and hydraulic analysis, and the environmental review for the possible outlet to the Forest River, that the additional costs of \$18,500 be reimbursed to the Nelson County Water Resource District, from the \$750,000 allocated from the Contract Fund on November 29, 1995, for the Devils Lake Emergency Response Plan.

*It was moved by Commissioner Vogel and seconded by Commissioner Swenson that the State Water Commission approve the expenditure of \$18,500 to the Nelson County Water Resource District for additional costs incurred on the McHugh Slough, Phase 1, preliminary engineering study. These funds would be a part of the \$750,000 allocated from the Contract Fund by the State Water Commission on November 29, 1995, for the Devils Lake Emergency Response Plan.*

In discussion of the motion, the Commission expressed its cognizance that the Nelson County Water Resource District had incurred additional expenses in the preliminary engineering study for McHugh Slough, but noted that the district did not formally submit a request for reimbursement of the additional \$18,500 in its letter of December 6, 1995. It was the directive of the State Water Commission that the State Engineer and staff work with the Nelson County Water Resource District to provide additional information relative to the project for the Commission's consideration at its next meeting.

*Commissioner Bjornson moved to lay the question on the table until the next meeting of the State Water Commission. The motion received a second from Commissioner Thompson.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**APPROVAL OF REQUEST FROM  
NORTH DAKOTA WATER  
COALITION FOR PAYMENT  
OF 1996 DUES**

A request from the North Dakota Water Coalition was presented for the Commission's consideration for payment of dues for 1996 in the amount of \$1,000 to the Coalition.

Secretary Sprynczynatyk stated that the mission of the North Dakota Water Coalition is to complete North Dakota's water infrastructure for economic stability and growth and quality of life. The Coalition works to satisfy municipal and agri-processing growth requirements and implementation of water-related legislation. The State Water Commission has been a member of the Coalition since its organization in 1994.

It was the recommendation of the State Engineer that the State Water Commission approve the payment of dues for 1996 to the North Dakota Water Coalition in the amount of \$1,000 from the Contract Fund to further its goals.

*It was moved by Commissioner Ames and seconded by Commissioner Bjornson that the State Water Commission approve the payment of dues for 1996 to the North Dakota Water Coalition in the amount of \$1,000 from the Contract Fund. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.*

**APPROVAL OF REQUEST FROM  
THE INTERNATIONAL COALITION  
FOR PAYMENT OF DUES FOR  
CALENDAR YEAR 1995**

A request from The International Coalition was presented for the State Water Commission's consideration for payment of dues for calendar year 1995 in the amount of \$10,000.

Secretary Sprynczynatyk presented the request and stated that The International Coalition is a public interest group headquartered in Moorhead, Minnesota, dedicated to responsible water management in the Red River basin. The contractual services include the preparation of a strategic plan which takes into account the Coalition's current programs and its mission, goals and objectives in a context of discussions throughout the Red River basin regarding the need for a basin-wide water management plan. The results of such a strategic planning process will be

useful to the State Water Commission in determining its own role in a water management planning process that calls for an increased role for local leadership, yet requires the various kinds of technical services the Commission and other state agencies will likely be called upon to provide.

Paul Suomala, Executive Director of The International Coalition, addressed the request and thanked the State Water Commission for its past support of The International Coalition's activities. Mr. Suomala provided a briefing of the Coalition's Red River Basin Leaders Summit held in Grand Forks on February 14 and 15, 1996.

It was the recommendation of the State Engineer that the State Water Commission approve the payment of dues to The International Coalition in the amount of \$10,000 from the Contract Fund for calendar year 1995 as a means of securing the services outlined above.

*It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission approve the allocation of \$10,000 from the Contract Fund for the payment of dues to The International Coalition for calendar year 1995 as a means of securing the services outlined by the State Engineer. This motion is contingent upon the availability of funds.*

*Commissioners Ames, Bjornson, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer. There were no nay votes. The Chairman declared the motion unanimously carried.*

Commissioners Vogel and Hillesland leave the meeting.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
CHLORAMINATION AND  
OZONATION TESTING OF  
WATER FROM LAKE AUDUBON  
AND LAKE SAKAKAWEA  
(SWC Project No. 237-4)**

Secretary Sprynczynatyk reported on the testing of the effectiveness of the chloramination of raw water from Lake Audubon and Lake Sakakawea. Canadian representatives to the Garrison Joint Technical Committee (GJTC) have agreed that if chloramination can satisfy the

disinfection requirements of the Environmental Protection Agency, then the project is potentially acceptable to Canada from the technical standpoint of biota transfer, but will still have to be reviewed for final consideration. Samples of Lake Audubon and Lake Sakakawea water were collected on November 7, 1994, January 9, 1995, March 12, 1995, May 16, 1995, and August 11, 1995.

The draft report of the test results was received on December 18, 1995. The report was presented to the GJTC at its January 19, 1996, meeting in Minneapolis. Two representatives of Montgomery Watson, the engineering firm performing the tests, were at the meeting to present the report. Secretary Sprynczynatyk stated that the test results show that both chloramination and ozonation can inactivate 99.9 percent of Giardia cysts and 99.99 percent of the virus present in the water by the time the water reaches the Continental Divide. This was the technical criteria established by the United States-Canadian Consultative Group for the project's acceptance by Canada.

Secretary Sprynczynatyk stated that the report was well received by the Canadian representatives present at the meeting. He said staff is working with the Bureau of Reclamation and other agencies to provide information relative to the historical water quality data for Lake Sakakawea and Lake Audubon for comparison with the test conditions. Written comments from the Canadian members are expected after the water quality data is provided and the report is reviewed by water quality experts in Canada.

Assuming all goes well with the GJTC, Secretary Sprynczynatyk said the next step in the construction of the Minot phase of the project will be to satisfy the requirements of the National Environmental Policy Act (NEPA). This would include the development of an environmental assessment, which will include the environmental, social, and cultural impacts of all project alternatives as well as public input. The environmental assessment has been prepared, the Bureau of Reclamation will make a determination as to whether impacts from the project are significant or not. If the Bureau decides that the impacts are significant, an Environmental Impact Statement (EIS) will have to be prepared. If the Bureau rules that the impacts are not significant, a Finding Of No Significant Impact (FONSI) will be issued and the project can proceed.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
CITY OF RUGBY  
(SWC Project No. 237-4)**

Phase I of the Northwest Area Water Supply project for the upgrade and expansion of the city of Rugby's water treatment plant.

At its October 16, 1995, meeting, the Commission passed a motion directing the State Engineer to initiate the negotiations of an agreement with the city of Rugby for proceeding with

At the November 29, 1995, State Water Commission meeting, Secretary Sprynczynatyk distributed the draft agreement defining the relationship between the State Water Commission and the city of Rugby. The draft agreement has been presented to the city and discussions concerning this relationship have begun.

The city of Rugby has selected an engineer for the final design and construction of the Rugby phase of the project. Four engineering firms responded to the request for information by the city. On January 16, 1996, the top three firms were selected for interviews from those responding. On January 30, 1996, the three finalist firms were interviewed, and the firm of Advanced Engineering and Environmental Services, Inc., of Grand Forks, was selected.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
NEGOTIATIONS WITH HOUSTON  
ENGINEERING FOR CONTRACT  
FOR FINAL DESIGN AND  
CONSTRUCTION ENGINEERING  
FOR PROJECT  
(SWC Project No. 237-4)**

At the January 12, 1996, meeting, the Commission passed a motion accepting the recommendation of the selection committee that Houston Engineering was the most qualified firm to do the final design and construction engineering for the Northwest Area Water Supply project, and directed the State

Engineer to initiate negotiations with Houston Engineering for a contract for the proposed engineering work. In the event a contract cannot be negotiated with Houston Engineering, the negotiations would then be initiated with the second most qualified firm, John Corolla Engineers.

Secretary Sprynczynatyk reported on the current negotiation efforts with Houston Engineering for the final design of the Northwest Area Water Supply project.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
FINANCIAL ADVISOR  
(SWC Project No. 237-4)**

At the October 16, 1995, meeting, the Commission passed a motion to enter into an arrangement with the Industrial Commission to utilize the services of the Industrial

Commission's financial advisor on the Northwest Area Water Supply project.

Secretary Sprynczynatyk stated that on October 27, 1995, a letter containing the request was sent to the Executive Director of the Industrial Commission. At its meeting on November 8, 1995, the Industrial Commission approved the request.

On January 18, 1996, a meeting was held with the North Dakota Industrial Commission's financial advisor, Evensen Dodge, Inc. Secretary Sprynczynatyk stated that at the meeting the Evensen Dodge representatives were advised about what kind of services the Commission was interested in. Several options for funding the local share of the NAWS project have been discussed, including bonding and sales tax revenues. He said it

appears that several options may be viable and it is important to choose the one most favorable to the project and the state. Because construction on the Rugby phase is most imminent, Secretary Sprynczynatyk said that Evensen Dodge will concentrate their efforts on this phase first. A current audited financial statement was obtained from the city of Rugby and forwarded to Evensen Dodge for their review. A meeting with the city and Evensen Dodge will be scheduled soon to review funding options.

### **1996 FLOOD FORECAST**

On February 16, 1996, the National Weather Service issued its first spring snowmelt flood outlook. Secretary Sprynczynatyk stated the outlook is general in nature, due to the early date of issuance, and is based on the current knowledge of existing snow cover, soil moisture, and ice and river conditions in North Dakota and northwest Minnesota. He said late February, March and early April weather conditions are primary flood potential factors, which are yet to be determined.

Secretary Sprynczynatyk explained that the outlook assumes normal precipitation and temperature patterns during the melt period. Above normal future snow accumulations, combined with heavy rains and rapid melt will increase the current flood potential while below normal future precipitation and gradual or intermittent freezing and thawing will decrease the magnitude of the current assessment. Ice jams may increase the flooding.

Through the use of an overhead map, Secretary Sprynczynatyk reviewed the statewide spring snowmelt flood outlook assumptions issued by the National Weather Service. He said according to the outlook, the areas of greatest concern for flooding are the Devils Lake area and the lower Red River. The National Weather Service will issue its next outlook on March 1, 1996.

### **DICKINSON DAM/ PATTERSON LAKE OWNERSHIP UPDATE (SWC Project No. 263)**

At the October 14, 1994, meeting, the Commission members were advised the city of Dickinson was interested in assuming ownership and responsibility of the Dickinson Dam and Patterson Lake from the U.S. Bureau of Reclamation. The city owes the Bureau of Reclamation approximately \$3 million. Presently, the State Water Commission gives the city credit for 75 percent of the debt under the Southwest Pipeline Project's water service contract. The credit amounts to approximately \$12,000 per month for seven more years.

The State Water Commission staff and representatives of the city of Dickinson completed a plan titled "Patterson Lake Area Recreation and Environment Enhancement Project," which addressed the issues associated with the transfer of Dickinson Dam and Patterson Lake from the Bureau to the city. The plan was provided to the Congressional Delegation for their information in preparing federal legislation that would transfer the dam and the lake to the city.

The Bureau of Reclamation has initiated its guidelines for transferring projects to non-federal entities. The State Water Commission staff has met with representatives of the city of Dickinson and the Bureau of Reclamation to address the previous efforts undertaken in this matter and how the efforts could be incorporated into the Bureau's new guidelines for title transfers.

Secretary Sprynczynatyk briefed the Commission members on meetings held January 8, 1996, and February 20, 1996, involving representative of the Bureau of Reclamation, the city of Dickinson, and the State Water Commission to discuss the transfer. Discussions at the meeting centered around the city's remaining capital obligations and the Bureau's process steps associated with the proposed title transfer. As a result of the meeting, the Bureau is committed to providing the city with more detailed information regarding the capital obligations of the city upon transfer of the facility, and estimated costs associated with the steps the Bureau believes the city must follow in the title transfer process, particularly with respect to compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA).

Secretary Sprynczynatyk stated he recently had the opportunity to discuss the transfer of the Dickinson Dam with the Bureau of Reclamation's new Commissioner, Eluid Martinez, who was very supportive of the transfer of the facility to the city and has urged his staff to proceed.

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

Secretary Sprynczynatyk reported that since May, 1995, the Missouri River Basin Association has been working with a team of consensus-building experts to reach agreement on issues that have divided the basin's states and tribes in the past. Over the past winter, various issues have been discussed in depth, papers have been presented which outlined the problems and possible solutions, and the aid of several agencies and committees have been enlisted.

Secretary Sprynczynatyk reported on the Missouri River Basin Association meeting held February 16, 1996, in Omaha. At the meeting, the Association directors decided to initiate a basin-wide monitoring program, which would document the current hydrological and biological conditions of the river system and would track the effectiveness of programs designed to improve the basins's fish and wildlife resources. The directors also decided to recommend that the Corps of Engineers drop the idea of a spring rise and acknowledge in the Master Manual that tribal water rights exist. He said the Association directors reached agreement on these issues and discussed various other issues as part of their continuing efforts to exert a stronger influence over water policy decisions by presenting a united front to the federal government. Secretary Sprynczynatyk said that by this summer, the Association directors plan to deliver a list of recommendations to the Corps and other federal agencies.

The next meeting of the Association is scheduled for March 13, 1996, in Omaha, Nebraska.

**INTERIM LEGISLATIVE WATER  
RESOURCES COMMITTEE  
STATUS REPORT**

The 1995 Legislature passed Senate Concurrent Resolution No. 4033 directing the Legislative Council to study the financing and funding needs for development and completion of the state's water resources infrastructure and methods for development of a program to provide financing and funding of water supply facilities in the state.

The Legislature also passed Senate Concurrent Resolution No. 4053 directing the Legislative Council to study the state's water laws concerning their effect on the efficient use of water and their effect on the holders of senior water rights.

Secretary Sprynczynatyk provided a summary report of the Interim Legislative Water Resources committee meeting held February 22, 1996, in Minot. He noted that Commission staff members have provided testimony and information to the committee at its meetings.

**PROGOLD LLC -  
CORN PROCESSING PLANT  
IN RICHLAND COUNTY  
(SWC Project No. 1880)**

Secretary Sprynczynatyk stated that recently there have been several news stories about the volume of water to be used by the ProGold corn processing plant in Richland County. He said some of the information in the news stories has been inaccurate and, in other instances, the information has been misinterpreted. A memorandum, attached hereto as *APPENDIX "F"*, was presented to the Commission members regarding the water use and development plans for ProGold.

**WATER PERMIT APPLICATION  
FILED BY RAMSEY COUNTY  
WATER RESOURCE DISTRICT  
RELATIVE TO CONTROL  
STRUCTURE IN COULEE AT  
OUTLET OF LAKE IRVINE**

On February 16, 1996, the Ramsey County Water Resource District filed an application for a conditional water permit for 5,127 acre-feet of water for storage out of which 114.3 acre-feet of water will be used to offset evaporative losses. The source of

water supply is the Mauvais/Big Coulee, a tributary to Devils Lake, in Ramsey County. In 1995, the control structure was constructed with the weir elevation of 1441.6 msl with the drawdown capability to 1438.6 msl. The proposed plan is to place an apparatus over the weir which could raise the elevation of Lake Irvine from 1441.6 msl to 1443.0 msl (1.4 feet) for flood storage.

Garland Hoistad, Churches Ferry, North Dakota, made reference to the water permit application filed by the district and expressed concerns relating to flood easements. He addressed problems in obtaining upper basin storage, and alluded to conditions stipulated on a water permit issued to the U. S. Fish and Wildlife Service in the 1960s for operating Lake Alice for flood control.

Secretary Sprynczynatyk responded that although he has not had an opportunity to review the specific water permit application Mr. Hoistad made reference to, he assured Mr. Hoistad that the State Engineer does not grant a water permit in any instance where the storage of water will flood private land unless the requirements for easements and land rights have been satisfied.

*There being no further business to come before the State Water Commission, it was moved by Commissioner Olin, seconded by Commissioner Swenson, and unanimously carried, that the State Water Commission meeting adjourn at 4:40 PM.*

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

SEAL

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

