

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

October 16, 1996

The North Dakota State Water Commission held a meeting in the lower level conference room in the State Office Building, Bismarck, North Dakota, on October 16, 1996. Governor-Chairman, Edward T. Schafer, called the meeting to order at 1:30 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
Judith DeWitz, Member from Tappen
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

MEMBERS ABSENT:

Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

OTHERS PRESENT:

State Water Commission staff members
Approximately 25 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF MINUTES
OF SEPTEMBER 4, 1996 STATE**

The minutes of the September 4, 1996
State Water Commission meeting

WATER COMMISSION MEETING -

were approved by the following

APPROVED

motion:

*It was moved by Commissioner Bjornson, seconded by
Commissioner Olin, and unanimously carried, that the
minutes of the September 4, 1996 State Water
Commission meeting be approved as prepared.*

**FINANCIAL STATEMENT -
AGENCY OPERATIONS**

Secretary Sprynczynatyk presented
and discussed the Program Budget
Expenditures, dated August 31, 1996,

reflecting 58 percent of the 1995-1997 biennium. *SEE APPENDIX "A".*

Charles Rydell, Assistant State
Engineer, resigned in September, 1996 to accept employment with the North
Dakota National Guard. Secretary Sprynczynatyk announced that LeNor
Dollinger, Business Manager for the Atmospheric Resource Board, a division of
the State Water Commission, has been appointed Acting Director of the
Administrative and Accounting Support Division.

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

Secretary Sprynczynatyk reviewed
and discussed the Contract Fund for
the 1995-1997 biennium. *SEE
APPENDIX "B".*

At the September 4, 1996 meeting, the
State Water Commission passed a motion approving a request to the Emergency
Commission for an additional \$2.35 million in the capital improvements and
grants budget line item of the 1995-1997 biennium budget.

Secretary Sprynczynatyk indicated
the Emergency Commission and the Legislative Budget Committee approved the
request for an additional \$2.35 million in the capital improvements and grants
budget line items. These funds include \$1,064,000 in capital improvements, and
\$1,286,000 for grants to general projects.

Secretary Sprynczynatyk explained
that of the \$2.35 million, \$564,000 is directly related to the Southwest Pipeline
Project, which is a result of increased water delivery sales and South Dakota's
payment for enlarging the pipeline segment currently under construction in
Perkins County.

It was the recommendation of the State Engineer that the State Water Commission allocate \$564,000 to the Southwest Pipeline Project. If the Commission approves the allocation to the Southwest Pipeline Project, the unobligated balance in the Contract Fund for general projects would be \$2,087,737.

It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission allocate \$564,000 to the Southwest Pipeline Project. This motion is contingent upon the availability of funds.

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

**FINANCIAL STATEMENT -
1997-1999 BIENNIUM BUDGET**

The State Water Commission's 1997-1999 biennium budget reflects a 3 percent reduction in general funds for the agency, which amounts to a reduction of \$163,729 from the present biennium general funding level for the agency of \$5,457,627. Secretary Sprynczynatyk indicated that an optional adjustment request was developed for the budget submittal. A hearing on the agency's 1997-1999 biennium budget with the Office of Management and Budget was held on September 20, 1996.

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

Tim Fay, Project Manager for the Southwest Pipeline project, provided the following contract and construction status report:

Contract 2-4A/7-3 - Transmission Line and Rural Water Distribution in the Jung Lake Service Area: This contract is in its final stages. The majority of the piping of both components is complete and the contractor is working on making connections, pressure testing, leak repair, and other final work.

Contract 4-1A - Raw Water Facilities Upgrade: This contract is complete. The final adjustment related to the delays caused by the late delivery of the surge tanks is being determined. During the operational testing, damage occurred to two large check valves. The apparent cause was the manufacturer's failure to provide pertinent installation information. The damaged components are being replaced as warranty work.

**SOUTHWEST PIPELINE PROJECT -
ALTERNATIVE FUNDING
(SWC Project No. 1736)**

At the June 19, 1996 State Water Commission meeting, it was reported that the issuance of commercial bonds for the future construction of the Southwest Pipeline project appears to be a practical solution to the problem of declining MR&I allocations to the project. Tim Fay indicated that the discussions are combined for the Southwest Pipeline project and the Northwest Area Water Supply project, with the required actions and timetables detailed in the NAWS section of these minutes.

Mr. Fay stated that in order to implement bonding as a future source of funding, draft legislation is being developed to clarify the State Water Commission's authority to issue bonds in excess of \$2 million, and to dedicate a portion of the project's capital repayment revenues to debt service for the term of the bond.

**SOUTHWEST PIPELINE PROJECT -
NRCS WATERSHED PROGRAM
(SWC Project No. 1736)**

Tim Fay reported a meeting was held on August 19, 1996 with the Natural Resources Conservation Service (NRCS) to review the Taylor Watershed project and to discuss future similar projects. He said the PL-566 program is still available for funding projects similar to the Taylor Watershed project, however, funds for this program are being reduced. He said it is possible that a new NRCS program titled "EQIP" may be able to provide funds as well.

On September 16, 1996 a meeting was held with representatives of the NRCS, the State Water Commission and the Southwest Water Authority to explore the possibilities of another cooperative project similar to the Taylor Watershed project. Mr. Fay said the selected area should have a high concentration of rangeland and pastures and be serveable by existing transmission facilities. He said it should also be outside the sequence of the phased development plan. The service area in the phased development plan began their sequence of development several years before their planned construction, thus, selecting a zone that has not begun that sequence will allow regular progress to proceed uninterrupted while progress proceeds on the NRCS project.

Mr. Fay said the discussion focused on the area to the west of Belfield, but it was also realized that there are other entities in that area which should be involved in the process. To accomplish this, a meeting has been scheduled for November 6, 1996 in Dickinson.

**SOUTHWEST PIPELINE PROJECT -
CONTRACT 7-1B
(SWC Project No. 1736)**

At its meeting on September 4, 1996 the State Water Commission passed a motion to proceed with non-binding mediation with Mainline Construction on Southwest Pipeline project contract 7-1B.

Tim Fay reported resumes of potential mediators have been exchanged between the legal advisors for the State Water Commission and Mainline Construction. An agreement to mediate is being negotiated.

**GARRISON DIVERSION PROJECT -
PROJECT UPDATE
(SWC Project No. 237)**

Warren Jamison, Manager of the Garrison Diversion project, provided a status report on the Garrison Completion Plan. At its meeting on

October 8, 1996, the Legislative Interim Water Resources Committee asked several questions about the costs and repayment requirements envisioned in the proposed plan, and what the District's position was regarding the Corps of Engineers Emergency Outlet Plan for Devils Lake. Mr. Jamison provided the Commission members with the written information he presented to respond to the committee's questions.

Mr. Jamison provided tentative information relative to the congressional delegation's public hearings to be held in North Dakota in December, 1996 on the Garrison Completion Plan.

Mr. Jamison reported that negotiations continue with the Bureau of Reclamation relative to the transfer of the Oakes test area facilities to the District for permanent operation and maintenance. Mr. Jamison also made reference to issues involving the James River management.

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

The Garrison Diversion Unit federal appropriation for Fiscal Year 1997 is \$23 million, which includes approximately \$10 million for the MR&I

Water Supply program. Warren Jamison stated there are approximately \$2.4 million of unallocated Fiscal Year 1996 and reprogrammable funds available for Fiscal Year 1997, for a total proposed federal appropriation for the MR&I program of \$12 million. Secretary Sprynczynatyk and Mr. Jamison are working with the Bureau of Reclamation relative to the allocation of MR&I funds for Fiscal Year 1997.

October 16, 1996

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

Secretary Sprynczynatyk provided the following report:

Burleigh Water Users: Northern Improvement Company is working on the water pipeline contract with 1,075 existing users and 90 new water users presently using Bismarck water. Advanced Tank and Construction is completing the site work and water testing on the water storage contract for the Baldwin tank of 159,000 gallons and the Apple Creek tank of 300,000 gallons. Construction may be completed this fall. The plans and specifications for Phase 2 have been completed and are ready for a fall bid date.

Dickey Rural Water Project: The water treatment plant is in operation for filling and testing the main transmission pipeline to Ellendale and Edgeley. Construction of the water pipeline distribution system and four booster stations is ongoing.

Grand Forks Water Treatment: The baffling and piping work on the water treatment plant clearwell is anticipated for completion in November, 1996.

Missouri West Rural Water System: The system design is complete with discussions being held on details for cultural resources, non-federal funding, and the city of Mandan providing bulk water service.

North Valley Water/Walhalla-Neche Branch: The engineer is working on the feasibility study and working with the Bureau of Reclamation on the Environmental Assessment.

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

Ransom-Sargent Rural Water Project: The engineer is working on the feasibility study and working with the Bureau of Reclamation on the Environmental Assessment.

Southwest Pipeline Project: See Southwest Pipeline project section in these minutes for complete status report.

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

Secretary Sprynczynatyk reported the current level of Devils Lake at 1437.42. The lake has fluctuated between 1437.4 and 1437.5 during the past

eight weeks. He said the lake will rise during late fall and during the winter and will probably be near elevation 1438 next spring. The probability of continued rise

next year still exceeds 90 percent, which means that the elevation of Devils Lake will likely exceed the 1867 record elevation of 1438.4. New estimates from the U.S. Geological Survey suggest that the lake level could rise as high as 1440 by next July.

Information relative to the statewide precipitation from April through September, 1996, was provided to the Commission members. This information was documented by the Atmospheric Resource Board for the Cooperative Rain Gauge Network program.

**CORPS OF ENGINEERS
EMERGENCY OUTLET PLAN/
OPERATING PLAN FOR
DEVILS LAKE
(SWC Project No. 416-1)**

The Corps of Engineers was directed to develop an emergency outlet study for Devils Lake. The plan, requested by the North Dakota Congressional Delegation, describes major features and costs of an outlet and demonstrates the degree to which an outlet would help moderate the rising lake levels. Reaching consensus of an emergency outlet plan could also expedite authorization for final design and construction of a permanent outlet as part of a comprehensive stabilization approach for Devils Lake.

The Devils Lake Emergency Outlet Plan was released on August 12, 1996. The Executive Summary was provided to the State Water Commission members. Preparation of the plan included a preliminary analysis of available information on topography, subsurface geology, real estate and engineering criteria. Information gathered from an ongoing feasibility study being conducted by the Corps of Engineers, the State Water Commission, and the Devils Lake Contingency Plan was used in preparing the outlet plan.

Secretary Sprynczynatyk stated that the emergency plan represents a consideration of key factors including cost, water quality, design and construction considerations, and environmental impacts. The plan describes a 12.8-mile channel project across the Spirit Lake Reservation with three holding dams and pump stations. The three-dams system is required to lift Devils Lake water nearly 60 feet until it reaches the natural basin divide and can then flow downhill to the Sheyenne River. The Corps of Engineers estimates the total cost of the emergency outlet project described in the plan to be \$21 million.

The Corps of Engineers, the State Water Commission, and the Devils Lake Emergency Management Committee are conducting public meetings to discuss the emergency outlet plan, to solicit the public's perception and concerns, and to develop a consensus regarding the outlet concept. These meetings are being held within the Devils Lake basin as well as downstream on the Sheyenne and Red Rivers.

Secretary Sprynczynatyk provided the comments and concerns that have been voiced at the public meetings. He said the State Water Commission staff has been directed to develop the framework for an operating plan for the emergency outlet.

**CITY OF DEVILS LAKE
LEVEE PROJECT -
(SWC Project No. 416-2)**

The city of Devils Lake is currently protected by a series of levees constructed by the Corps of Engineers in the 1980s. These levees provide protection to elevation 1440 msl, with an additional five feet of freeboard. Secretary Sprynczynatyk explained that with the current level of Devils Lake there is a reasonably good chance the lake could exceed 1440 msl in 1997. As a result, the Corps of Engineers has agreed to raise the levee five feet. The total cost of the project is currently estimated at \$7.5 million, although this cost could change due to various dike alignment alternatives which are being considered.

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Secretary Sprynczynatyk stated that the project will be constructed in two stages. Stage 1 will consist of the key features that need to be started this fall and are generally located in lower elevation areas. Stage 2 will be bid in early 1997.

Secretary Sprynczynatyk stated the total cost of Stage 1 is \$3,640,000. The Corps of Engineers will pay 75 percent of the costs, leaving a non-federal requirement of \$910,000. Secretary Sprynczynatyk explained that because of the lateness of the construction season, the Corps will not be able to complete Stage 1 in 1996; thus, the Corps indicated \$350,000 for the right-of-way, design, and construction would be required this year. The state's share, based on a 50 percent cost share, would be \$175,000. The balance of the state's share, assuming a \$7.5 million project, will be approximately \$760,000 which would be required in 1997.

At its August 22, 1996 meeting, the State Water Commission passed a motion to request approval of \$175,000 for the Devils Lake levee project from the state's contingency fund through the Emergency Commission, and to approve 50 percent cost sharing of the non-federal costs for 1996 for Stage 1 of the project, contingent upon action of the Emergency Commission. Secretary Sprynczynatyk indicated this request was approved by the Emergency Commission. The State Water Commission had also declared its intent to contribute the remaining state cost share in 1997 for the project, depending on the availability of funds.

Secretary Sprynczynatyk reported that the Corps of Engineers is progressing with the Devils Lake levee raise. The contractor for Stage 1 is Wonzik Construction of Fargo. Efforts are being re-considered by the Corps of Engineers and the Ramsey County Water Resource District to include a subdivision south of the city of Devils Lake in the project.

**DEVILS LAKE EMERGENCY
RESPONSE PLAN -
UPPER BASIN STORAGE
(SWC Project No. 1882)**

Secretary Sprynczynatyk reported approximately 50 Available Storage Acreage Program (ASAP) sites that were applied for in 1996 were found to be feasible. Forty-six of the sites have been completed. The 46 sites inundate about 4,300 acres of land and initially stored approximately 8,000 acre-feet of water. He said since these holding sites evaporate and refill with subsequent rainfall, the net storage for these sites is greater than the 8,000 acre-feet it took to initially fill them. In addition, he said management of the Lake Irvine outlet and U. S. Fish and Wildlife Service efforts in the basin have included 5,500 acre-feet of storage, bringing the total volume of water held back to more than 13,500 acre-feet.

The State Water Commission has allocated funds in the amount of \$600,000 for the ASAP program, with an unallocated balance of \$190,102 as of August 28, 1996.

Secretary Sprynczynatyk stated that the current situation at Devils Lake shows the need to store water on the existing sites in 1997. The minimum cost to do this would be approximately \$347,000. According to the agreement with the landowners, March 15, 1997 is the last date to exercise the second-year option.

Sites deemed feasible from 1996 applications, but not implemented because of timing, are being considered for implementation this fall. Secretary Sprynczynatyk said the procedure to obtain new storage sites would be the same as in 1996. Applications will be taken, reviewed by the State Water Commission at the Devils Lake office, and an offer made to the landowner/renter. If accepted by both parties, the Commission staff will arrange for implementation of any facilities needed to accomplish the storage. Additional authority and funding will be necessary for new sites and to exercise the second-year option on existing sites. The funding requirement has not yet been determined.

At its meeting on September 4, 1996, the State Water Commission passed a motion to continue the Available Storage Acreage Program for 1997.

Secretary Sprynczynatyk indicated that water storage will be pursued throughout the fall and winter for storage in 1997. Additional water in the upper basin lakes will only be held during the summer to help reduce the annual peak on Devils Lake and to increase evaporative losses. Storage on the upper basin lakes may increase to 30,000 acre-feet in 1997. He said the total potential storage for 1997 through the ASAP program and the upper lakes basin is 53,500 acre-feet.

**DEVILS LAKE -
LAKE STABILIZATION
PROJECT UPDATE
(SWC PROJECT NO. 1712)**

addresses five general areas of interest set forth in Public Law 102-377, which directed the Corps of Engineers to initiate a feasibility study for Devils Lake. Those areas are: basin water management; lake stabilization; water quality; recreation; and enhancement and conservation of fish and wildlife. The feasibility study, as outlined in the scope of work, would be a three-year effort, at a cost of more than \$7 million.

Secretary Sprynczynatyk reported on the Corps of Engineers feasibility study that addresses the long-term stabilization of Devils Lake and basin-wide management. The plan

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 unspent balance of \$423,488 for the Devils Lake long-term studies. Of this total, \$50,000 was previously obligated for Phase 1A of the feasibility study.

On February 23, 1996, the State Water Commission authorized the State Engineer to enter into an agreement for Phase 2A of the Devils Lake Feasibility Study, and approved the allocation of \$300,000 for the study from the funds presently allocated from the Contract Fund for the Devils Lake long-term studies. On April 29, 1996, the State Water Commission approved an additional allocation of \$35,500 for Phase 2A, which increased the total state contribution for Phase 2A of the study to \$335,500. Approximately \$38,000 of the \$423,488 remains unobligated.

Secretary Sprynczynatyk reported that the Corps of Engineers is continuing to address the Devils Lake stabilization efforts, but their current focus is on the flooding problems and the emergency outlet.

**DEVILS LAKE BASIN
WATER AUTHORITY
(SWC Project No. 416)**

Committee approved the bill draft for recommendation to the Legislative Council at its meeting on October 8, 1996. He said if the legislation is passed, it would allow water management along hydrologic boundaries rather than county lines, and would provide for better management of the overall Devils Lake basin.

Secretary Sprynczynatyk explained the proposed legislation to create the Devils Lake Basin authority. The Legislative Interim Water Resources

**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. The report includes six tasks that should be done in order to lay the ground work for 18 action items to help alleviate flooding.

The task force continues to meet by telephone conference call meetings. Secretary Sprynczynatyk said regular meetings are held to ensure there is adequate coordination and communication at the federal, state, and local levels on the efforts to provide flood control at Devils Lake.

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

Secretary Sprynczynatyk provided 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, state, and provincial officials, has been investigating the technical aspects of potential impacts to Canada relative to the Boundary Waters Treaty of 1909.

In January, 1996, the JTC convened a 12-member United States-Canada working group to evaluate the hydrologic, water quality, and biological effects of a proposed outlet from Devils Lake, and the potential for various violations 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 the Devils Lake working group completed its efforts, and a report has been provided to the JTC.

The Canada and United States governments are continuing negotiations for the terms of reference to further guide the work of the JTC.

Secretary Sprynczynatyk said he is encouraged that the Joint Technical Committee has agreed to focus its efforts on the Corps of Engineers emergency outlet plan. The committee will submit its report to the governments in the near future.

**SWEETWATER-MORRISON
OUTLET PROJECT
(SWC Project No. 1746)**

Secretary Sprynczynatyk informed the Commission members that the Devils Lake Basin Joint Water Resource Board has agreed to sponsor and fund

a project to improve the control structure on the Morrison outlet in Ramsey County. The counties of Ramsey, Walsh, and Cavalier will be involved with the funding.

The Devils Lake Basin Joint Board requested technical assistance from the State Water Commission to proceed with engineering work to improve the control structure. Several alternatives have been considered by the Joint Board and the Ramsey County Water Resource District, with the preferred alternative to install a concrete weir using existing pilings for the foundation and to include stop logs for drawdown. The estimated cost of this alternative is \$43,000.

Secretary Sprynczynatyk stated the Commission's involvement in the project will not require financial assistance. An agreement is being negotiated with the Devils Lake Basin Joint Board for the Commission staff to provide engineering assistance for improvements to the control structure.

Richard Regan, a member of the Ramsey County Water Resource Board, provided information and concerns relative to the proposed project.

**DEVILS LAKE EMERGENCY
MANAGEMENT COMMITTEE
(SWC Project No. 416)**

Joe Belford and Vern Thompson, co-chairmen of the Devils Lake Emergency Management Committee, appeared before the State Water

Commission to address the committee's activities in the Devils Lake and Red River basins. In conclusion, Mr. Belford and Mr. Thompson, on behalf of the committee, expressed appreciation to the Governor and his staff, the State Water Commission, and the State Engineer and staff for their efforts and assistance in addressing the Devils Lake flood problems.

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

James Lennington, Project Manager for the Northwest Area Water Supply project, reported on the testing of the effectiveness of chloramination

and ozonation of raw water from Lake Audubon and Lake Sakakawea. Canadian representatives to the Garrison Joint Technical Committee (GJTC) have agreed that if chloramination or ozonation can satisfy the 1994 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. The test results showed 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.

The comments on the Chloramination/Ozonation Report were received from the Canadian representatives to the Garrison Joint Technical Committee on May 2, 1996. The most serious comment questioned whether the standards of the Environmental Protection Agency's Surface Water Treatment Rule were met during testing since turbidity limits in the rule were exceeded by the raw water samples. The State Water Commission staff responded to the Canadian comments.

On August 29, 1996, the Garrison Joint Technical Committee met in Minneapolis to discuss the comments on the Chloramination/Ozonation report received from the Canadian representatives as well as the State Water Commission's response. Mr. Lennington reported the committee has determined that both chloramination and ozonation satisfy the disinfection requirements of the Environmental Protection Agency. On

September 6, 1996, the Garrison Joint Technical Committee forwarded its findings to the United States and Canadian governments. The Canadian section expressed a preference for ozonation and recommended that method to North Dakota because of the uncertainty regarding turbidity with the lake water.

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

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

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

At the November 29, 1995 State Water Commission meeting, the draft agreement was distributed defining the relationship between the State Water Commission and the city of Rugby.

The firm of Advanced Engineering and Environmental Services, Inc., of Grand Forks, is preparing the final design for construction of the Rugby phase of the project. James Lennington reported discussions continue with the city of Rugby relative to a revised cost estimate and eligibility for funding.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
APPROVAL OF RESOLUTION
OF INTENT TO ISSUE AND
SELL NORTH DAKOTA STATE
WATER DEVELOPMENT REVENUE
BONDS AND TO APPOINT
AUTHORIZED OFFICERS AND
PROFESSIONAL CONSULTANTS
(SWC Project No. 237-4)**

Earlier, the State Water Commission passed a motion to enter into an arrangement with the North Dakota Industrial Commission to utilize the services of the Industrial Commission's financial advisor on the Northwest Area Water Supply project. An amendment to the Financial Advisor Services Agreement between the Industrial Commission and Evensen Dodge, Inc., the financial consultant,

which allows the State Water Commission to utilize the services of Evensen Dodge under the same terms and conditions as the Industrial Commission, was executed in September, 1996.

James Lennington stated that on September 25, 1996, a conference call was held with Evensen Dodge and the North Dakota Bond Bank to discuss what would be necessary to assure funding for the local share of construction costs for the Northwest Area Water Supply project and the Southwest Pipeline project in the spring of 1997. He said the primary method of financing the local share of construction costs up to this time has been

identified as revenue bonding. The 1993-1995 legislature passed a bill which approved revenue bonding as a method of financing the local share of the Northwest Area Water Supply project. He said bonding the local share of costs would not preclude any of the other funding methods being used to pay for construction, or to repay the bonds.

Mr. Lennington outlined the procedure for implementation of revenue bonding for the Northwest Area Water Supply project. A draft Resolution of Intent to Issue and Sell North Dakota State Water Development Revenue Bonds and to Appoint Authorized Officers and Professional Consultants was presented for the State Water Commission's consideration. Each selection of a professional consultant in the process will be submitted to the State Water Commission for consideration.

Mr. Lennington explained that if the Commission approves the Resolution of Intent, the authorized officers for the North Dakota State Water Development Revenue Bonds program would be the State Engineer and the Executive Director of the North Dakota Municipal Bond Bank.

It was the recommendation of the State Engineer that the State Water Commission approve the draft Resolution of Intent to Issue and Sell North Dakota State Water Development Revenue Bonds and to Appoint Authorized Officers and Professional Consultants.

Tom Tudor, Executive Director of the North Dakota Municipal Bond Bank, and Kathy Kardell, Evensen Dodge, Inc., provided information relative the North Dakota State Water Development Revenue Bond program and the procedure to satisfy the requirements.

It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve the Resolution of Intent to Issue and Sell North Dakota State Water Development Revenue Bonds and to Appoint Authorized Officers and Professional Consultants for the Northwest Area Water Supply project. SEE APPENDIX "C".

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

Secretary Sprynczynatyk stated the process for requests for proposals to provide bond counsel and tax counsel services

to the Commission in connection with the development of the North Dakota State Water Development Revenue Bond program will be initiated. He said the bond counsel will be selected through a formal selection process similar to those used for selecting engineering firms. The selection could be completed in time to allow the bond counsel to review draft legislation prior to the December 10, 1996 submission date for agency bills. The bond counsel will also assist in developing details of the bonding plan for legislative testimony.

The preliminary timeline to implement the Water Development Revenue Bonds program developed by Evensen Dodge was provided to the Commission members.

**APPROVAL OF REQUEST FROM
OAK CREEK WATER RESOURCE
DISTRICT FOR COST SHARING
FOR GARDENA FLOOD CONTROL
PROJECT
(SWC Project No. 1056)**

A request from the Oak Creek Water Resource District was presented for the Commission's consideration for cost sharing for construction of the Gardena Flood Control project.

Secretary Sprynczynatyk presented the request, which was deferred by the Commission at its April 29, 1996 meeting due to the revenue situation for the Resources Trust Fund in the 1995-1997 biennium.

The proposed project consists of cleaning and grading the north and south road ditches of the Gardena road and installing culverts with control gates to regulate the flow. The amount of water flowing west into Stone Creek would be reduced as well as ponding on land northeast of Gardena. The proposed drainage will be along an existing sectionline and discharged into the Oak Creek Drain.

The Oak Creek Water Resource District approved the drain permit. Because the state determined the drain was not of interdistrict nor statewide significance, the board approval constituted a permit to construct the project. It has been determined there are wetlands adjacent to the project, therefore, the District is in the process of obtaining permits from the Corps of Engineers and the Natural Resources Conservation Service. The construction plans indicate the construction of dikes along the drain at the adjacent wetlands.

The estimated cost of the project is \$30,393, with eligible costs of \$29,993. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible project costs qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$11,997.

Myron Hahn, Chairman of the Oak Creek Water Resource District, provided the Commission members with additional information relative to the project, and requested favorable consideration of the cost sharing request.

It was moved by Commissioner Ames and seconded by Commissioner Hillesland that the State Water Commission approve cost sharing in 40 percent of the eligible items, not to exceed \$11,997 from the Contract Fund, for the Gardena Flood Control project in Bottineau County. This motion is contingent upon the availability of funds.

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

**APPROVAL OF \$200,000 FOR
MAPLE RIVER DAM FLOOD
CONTROL PROJECT
(SWC Project No. 1344)**

The Maple River dam is a proposed flood control project located on the Maple River northeast of Enderlin in Cass County. The dam would be dry

except during flood periods. The dam was originally Phase III of the Corps of Engineers Sheyenne/Maple River Flood Control project. Phase I is the diversion of the Sheyenne River flood flows around West Fargo, which has been completed. Phase II is the five foot raise of the flood pool at Baldhill Dam, which the Corps of Engineers is actively pursuing.

Secretary Sprynczynatyk stated the Corps has determined the Maple River dam is not economically feasible to federal standards and has discontinued its efforts on the project. As a result, the Maple River dam is being pursued as a local/state project. The estimated cost of the project is \$13 million, with approximately \$6 million potentially eligible for state cost sharing.

The State Water Commission earmarked \$500,000 for the preliminary engineering studies during the 1991-1993 biennium. On May 26, 1992, the Commission approved an allocation of \$300,000 for the project, with \$200,000 held pending a review of the downstream benefits analysis. Secretary Sprynczynatyk said the Cass County Joint Water Resource District has nearly completed the environmental assessment of the project, including the economic and engineering studies.

It was the recommendation of the State Engineer that the State Water Commission approve \$200,000 from the Contract Fund for the Maple River dam, which was held pending completion of the downstream benefits analysis.

It was moved by Commissioner Bjornson and seconded by Commissioner Olin that the State Water Commission approve an additional \$200,000 from the Contract Fund for the Maple River Dam Flood Control project. This motion is contingent upon the availability of funds.

This would increase the total allocation approved by the State Water Commission to \$500,000.

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

**NORTH DAKOTA WETLANDS
CONSERVATION PLAN
(SWC Project No. 1500-2)**

At its meeting on June 19, 1996, the State Water Commission passed a motion authorizing the State Engineer to execute the agreements

with the U.S. Environmental Protection Agency and the appropriate agencies to implement the Fiscal Year 1996 Wetlands Conservation proposal. The tasks funded by the Fiscal Year 1996 grant, and the responsible agency, include:

- North Dakota State Water Commission's GIS program and GPS survey demonstration in the Devils Lake basin - State Water Commission
- Wetlands grant administration - State Water Commission
- North Dakota Wetlands Institute's State Wetlands Regulatory program - North Dakota Water Education Foundation
- North Dakota Game and Fish Department's Private Lands Initiative program - North Dakota Game and Fish Department
- Wetlands Water Quality Standards Development Project/Ecoregion Integration - North Dakota Department of Health

- **Devils Lake Basin Coordinator - the State Water Commission contracts for services with the required match split between the State Water Commission, State Department of Health, Garrison Diversion Conservancy District, State Game and Fish Department, and the Devils Lake Joint Board**
- **Grand Harbor Watershed Demonstration project - Ramsey County Water Resource District**
- **North Dakota Department of Agriculture's Project Safe Send - Agriculture Department**
- **North Dakota Game and Fish Department's CRP Prioritization - State Game and Fish Department**

Michael Dwyer, Director of the North Dakota Wetlands Institute, provided information relative to the development of a state wetlands conservation regulatory program for North Dakota that would protect critical wetlands; provide for mitigation of wetlands impacted by draining, filling, or other development; establish a wetlands mitigation banking system; encourage enhancement of wetlands related habitat; and establish a regulatory procedure and decision-making process which is efficient, flexible, and user friendly, but at the same time protect wetlands resources and enforce willful and intentional violations.

Mr. Dwyer advised the Commission members that a wetlands conservation regulatory plan for North Dakota has been drafted and is being reviewed by the Governor's office, the State Water Commission, and the State Game and Fish Department.

1997 LEGISLATIVE SESSION

Secretary Sprynczynatyk advised the State Water Commission that

December 10, 1996 is the deadline for filing bill drafts with the Legislative Council for the 1997 legislative session. The State Engineer and the Commission staff are working with the Interim Legislative Water Resources Committee and other entities in the state relative to proposed legislation.

NORTH DAKOTA WATER COALITION

The North Dakota Water Coalition was established in July, 1994 as an initiative of the Flagship Initiative #6

of the North Dakota Vision 2000 Report, which states, in part: "The North Dakota 2000 Committee recommends that North Dakota establish a "Coalition for Infrastructure Projects" to further develop three key elements of our state's infrastructure: water resources, telecommunications, and advanced air transportation." The Coalition is made up of approximately 30 entities, municipalities, and other groups from across North Dakota.

The mission of the North Dakota Water Coalition is to complete North Dakota's infrastructure for economic stability and growth, and quality of life.

The North Dakota Water Coalition goals are:

- 1) To provide an adequate water supply across North Dakota for manufacturing, industrial, energy bi-product utilization, agriculture, agricultural processing, recreation, wildlife, municipalities, and rural water systems which have an inadequate supply or quality of water:**
 - Complete a workable and achievable Garrison Diversion project to provide a multiple-use water supply to central and eastern North Dakota, including the James, Sheyenne, and Red Rivers**
 - Complete the Southwest Pipeline project**
 - Stabilize Devils Lake**
 - Undertake and complete the Northwest Area Water Supply project**
 - Secure adequate funding for the MR&I program**
 - Develop multi-use statewide water impoundments for recreation, wildlife, and fishing**

- 2) To complete projects to control and alleviate floodwaters and damages, including such projects as increasing the flood control capacities of the Baldhill Dam and Reservoir, the Maple River Dam, and others.**

In conjunction with the Interim Legislative Water Resources Committee's study, the Coalition has undertaken the task of establishing water priorities for the numerous water needs of North Dakota. On April 29, 1996, the Commission members were advised of the process of establishing the water priorities, and under the following outline of steps, funding of the state component of North Dakota's major water infrastructure can be considered by the Governor and the 1997 Legislature, with the support of many statewide and regional groups:

- 1) **Identify statewide water needs and solutions**
- 2) **Establish consensus of statewide groups on inventory and priorities of statewide water needs and solutions**
- 3) **Establish consensus of statewide groups (through North Dakota Water Coalition) on funding options - 1996**
- 4) **Present consensus of water priorities and funding options to the Interim Legislative Water Resources Committee - 1996**
- 5) **Meet with Governor and legislative leaders regarding consensus - 1996**
- 6) **Present consensus to the 1997 Legislative Assembly**

Secretary Sprynczynatyk reported that the draft North Dakota Water Priorities was presented to Governor Schafer on June 7, 1996.

At its meeting held on August 27, 1996, the Coalition's funding committee met with agriculture, education, and economic development interests and agreed it would be beneficial to work together; therefore, a working committee was established to write a proposal that identifies the needs of water, agriculture, education and economic development.

The Water Coalition considered resolutions relative to the Garrison Diversion completion proposal and water infrastructure. It was agreed that members of the Coalition would present these resolutions to their respective organizations and/or board. The Coalition would then act on the resolutions at its next meeting.

Dana Bohn, Executive Director of the North Dakota Water Coalition, provided a summary of the Coalition's meeting held on October 8, 1996.

**APPROVAL OF RESOLUTION
NO. 96-10-471, ENDORSEMENT
OF NORTH DAKOTA WATER
PRIORITIES
(SWC Resolution No. 96-10-471)**

Secretary Sprynczynatyk presented a draft resolution for the State Water Commission's consideration expressing support for timely implementation of the North Dakota Water Coalition's statewide water priorities.

It was moved by Commissioner Olin, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission approve Resolution No. 96-10-471, Endorsement of North Dakota Water Priorities. SEE APPENDIX "D".

INTERIM LEGISLATIVE WATER RESOURCES COMMITTEE

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. As a result of SCR 4033, the Legislative Council established a Water Resources Committee to study the state's water needs and possible funding. The interim study began on June 23, 1995.

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.

The Interim Legislative Water Resources Committee met on October 8, 1996 and approved the following bill drafts to be recommended to the Legislative Council:

A bill draft to provide for a statewide water development program and the reallocation of the Oil Extraction Tax Development Fund

A bill draft to provide for creation of the Devils Lake Basin Water Authority

A bill draft to provide a contingent plan for construction of an outlet from Devils Lake to the Sheyenne River

Secretary Sprynczynatyk said he was pleased with the efforts of the Interim Legislative Water Resources Committee relative to the water resource needs of the state. He said if the bills the committee is proposing are passed into law, it will have a significant impact on the future of water development in the state.

SPIRITWOOD LAKE (SWC Project No. 461)

At its September 4, 1996 meeting, the State Water Commission members were informed of flooding problems occurring at Spiritwood Lake in Stutsman County. Secretary Sprynczynatyk indicated that the State Water Commission staff provided technical assistance to the Stutsman County Water Resource District, the city of Spiritwood Lake, and the local people relative to emergency flooding assistance.

Secretary Sprynczynatyk explained the proposed project which consisted of a gravity drainage channel in the southeast corner of Spiritwood Lake to Alkali Lake, with the water pumped from Alkali Lake into Seven Mile Coulee. He said the objective was to lower Spiritwood Lake from 1445.8 msl to the 1441-42 msl level by the end of November.

Because of unresolved issues relating to the project and the lateness of the construction season in which to lower the lake, Secretary Sprynczynatyk indicated the decision was made not to pursue pumping at Spiritwood Lake this fall.

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. 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.

In February, 1996, the Missouri River Basin 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 basin'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. 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. The Association directors plan to deliver a list of recommendations to the Corps and other federal agencies.

During the past several months, the Missouri River Basin Association has developed a planning process to recommend the best methods for maximizing basin water uses and interests. The planning effort involves representation of the basin's primary water interests with state and tribal representatives in a search for ways to obtain maximum benefits for all water uses. The following goals have been identified to meet the needs of the water users and guide the management and operation of the Missouri River:

- **Recreation Goal.** Promote the stability and growth of recreational use of the river through water management, economic assistance, and recreational planning.

- **Navigation Goal.** Promote the stability and growth of navigation on the Missouri River system through water management, economic assistance, and transportation planning.
- **Water Supply Goal.** Enhance water supply in the basin for municipal, rural, industrial, irrigation, and agricultural use.
- **Habitat Goal.** Identify a comprehensive set of programs, both new and existing, that can enhance habitat within the basin.
- **Bank and Shoreline Integrity Goal.** Maintain the integrity of river banks and lake shoreline where appropriate throughout the system to protect present and future water uses.
- **Flood Control Goal.** Operate the Missouri River system to maintain or enhance flood control benefits.
- **Hydropower Goal.** Maintain or enhance hydropower production with consideration for equitable distribution of the benefits among the tribes and states.
- **Future Depletion Goal.** Develop a mechanism for equitable allocation among the basin states and tribes of the risks of future depletions.
- **Monitoring Goal.** Develop a monitoring system that provides adequate information to characterize and understand the existing system and evaluate the impacts of changes.

As part of the Association's planning process, representatives of the basin's water interests were invited to join task force discussions on recreation, navigation, water supply, habitat, bank/shoreline/flood control, and hydropower on June 13-14, 1996 in Bismarck. The charge to the task forces were to identify ways to reach the stated goals of obtaining maximum benefits for all water users in each of the six interest areas in a manner that reflects a basin-wide perspective.

Secretary Sprynczynatyk said there was general consensus among the conference participants of the need for a Missouri River Basin authority to manage the Missouri River rather than the federal government. The strong spirit of basin-wide cooperation at the conference indicates a basic change in the way water management issues will be addressed along the Missouri River. He said we are trying to overcome the decades of confrontational politics that have dominated the decision-making in the basin, and come up with new ways of decision-making that will work better for all of us who live in the basin and depend on the river system.

The ideas proposed from the conference are being reviewed by the Missouri River Basin Association directors, with eventual presentation of the Association's recommendations to the Corps of Engineers and other federal agencies.

The next meeting of the Missouri River Basin Association is scheduled on December 2, 1996 in Denver, Colorado.

**APPROVAL OF RESOLUTION
NO. 96-10-472, IN APPRECIATION
TO CHARLES D. RYDELL
(SWC Resolution No. 96-10-472)**

Secretary Sprynczynatyk presented a draft resolution of appreciation to Charles D. Rydell for the State Water Commission's consideration.

Mr. Rydell resigned from his position as the Assistant State Engineer and Director of Administrative Services for the State Water Commission to accept employment with the North Dakota National Guard.

It was moved by Commissioner Olin, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission approve Resolution No. 96-10-472, In Appreciation to Charles D. Rydell. SEE APPENDIX "E".

**CITY OF GRAND FORKS
CHAMBER OF COMMERCE
DRAFT WATER POLICY
POSITION PAPER**

Commissioner Hillesland stated that the city of Grand Forks Chamber of Commerce has developed a draft water policy position paper to assist and support the advancement of the

comprehensive and progressive state water policy as adopted by that entity in 1992. He said the draft has been recommended by the Grand Forks Chamber of Commerce Agriculture and Governmental Affairs committees, and it is anticipated to be considered by the Executive Committee at its meeting in October.

**NEXT STATE WATER
COMMISSION MEETING**

The next meeting of the State Water Commission has been scheduled for December 4, 1996 in Bismarck. This

meeting is in conjunction with the annual meeting of the North Dakota Water Users Association and the North Dakota Water Resource Districts Association.

There being no further business to come before the State Water Commission, it was moved by Commissioner Olin, seconded by Commissioner Vogel, and unanimously carried, that the State Water Commission meeting adjourn at 3:00 PM.

/S/ Edward T. Schafer

Edward T. Schafer
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk

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

