

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

March 24, 1999

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on March 24, 1999. 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
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Mike Ames, Member from Williston
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen
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:

Elmer Hillesland, Member from Grand Forks

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF MINUTES
OF JANUARY 27, 1999 STATE
WATER COMMISSION MEETING -
APPROVED**

The minutes of the January 27, 1999 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner DeWitz, seconded by Commissioner Olin, and unanimously carried, that the minutes of the January 27, 1999 State Water Commission meeting be approved as prepared.

**FINANCIAL STATEMENT -
AGENCY PROGRAM BUDGET
EXPENDITURES**

Dale Frink, Assistant State Engineer, presented and discussed the Program Budget Expenditures for the period ending February 28, 1999, reflecting

83 percent of the 1997-1999 biennium. **SEE APPENDIX "A"**

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

On March 4, 1999, the Office of Management and Budget provided an updated projection of oil extraction revenues into the Resources Trust Fund of \$5,217,947. Dale Frink stated this forecast

estimated the oil revenues of \$168,367 for January and \$152,822 for February, with the actual revenues for the two months being \$132,269 and \$85,843, respectively. He said the oil revenues for the remaining months of the biennium will likely be lower than the March 4, 1999 forecast, thus to be more consistent with the trend, the oil extraction taxes for the biennium are estimated at \$4,970,000. The estimates for biennial revenues from the other revenue sources have been updated and are shown in the following table:

**Resources Trust Fund Revenue
1997-1999 Biennium**

Beginning Balance (7-1-97)	\$ 2,000,000	\$ 1,449,273
Oil Extraction Tax Collections	7,643,548	4,970,000
MR&I Loan Repayments	1,100,000	1,084,399
Southwest Pipeline Payments	2,600,000	1,400,000
Interest	130,000	193,101
TOTAL	\$13,473,548	\$9,096,773
Difference		\$4,376,775
Southwest Pipeline Bonding Payments		1,200,000
Previous Biennium Expenditures		550,727
Net Shortfall		\$2,626,048

Mr. Frink reviewed the status of the Contract Fund, which included the revised net shortfall as shown in the table on the previous page. The unobligated balance for general projects in the Contract Fund is approximately \$152,436. The State Water Commission typically does not obligate \$250,000 until after the spring snowmelt period for emergencies. Therefore, no new fund requests will be recommended for the State Water Commission's consideration at this meeting. **SEE APPENDIX "B"**

**FINANCIAL STATEMENT -
1999-2001 BIENNIUM BUDGET**

On December 10, 1998, Governor Schafer released his executive budget recommendations during the 1999-2001 biennium. Secretary Sprynczynatyk reiterated that the executive budget is very favorable for the State Water Commission and, if approved by the legislature, will allow enhancement of the agency's operations in some areas.

On January 20, 1999, Senate Bill 2023, the State Water Commission's appropriation, was heard before the Senate Appropriations committee. The bill, as amended, passed the Senate on February 17, 1999.

On March 4, 1999, Senate Bill 2023 was heard before the House Appropriations committee. Secretary Sprynczynatyk commented the hearing went well, and that a subcommittee was appointed to further review the agency's appropriation. The House subcommittee is considering reduction adjustments of approximately \$150,000 from the general fund in the agency's budget.

Senate Bill 2023 also contains funding for the Resources Trust Fund. The Office of Management and Budget lowered its oil extraction tax and interest estimates for the next biennium to \$4,639,614, or \$802,490 less than the November, 1998 estimate. Secretary Sprynczynatyk stated he is hopeful the legislature will not reduce the agency's budget to reflect the projected lower oil extraction tax, and that the original amount will remain appropriated so that if the revenues into the Resources Trust Fund are actually higher than forecasted, the Commission will have the authority to allocate the funds.

1999 LEGISLATION

Secretary Sprynczynatyk provided a legislative status report on the bills relating to the authority of the State Water Commission and the State Engineer, as well as other water-related bills.

Under the authority of the State Water Commission:

House Bill No. 1166

A BILL for an Act to create and enact five new sections to chapter 61-24.6 of the North Dakota Century Code relating to water rates, operation and maintenance fund, reserve fund for replacement, capital costs, and areas served by the north-west area water supply project; to amend and reenact sections 61-02-23.1 and 61-24.6-02 of the North Dakota Century Code, relating to condemnation of property for and inclusion of Pierce County in the northwest area water supply project.

Bill in conference committee

Senate Bill 2106

A BILL for an Act to create and enact a new subdivision to subsection 6 of section 6-09-4.03 of the North Dakota Century Code, relating to the state water commission's participation in the municipal bond bank's drinking water state revolving fund.

Bill signed by the Governor

Under the authority of the State Engineer:

Senate Bill No. 2107

A BILL for an Act to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to water permit applications; and to amend and reenact subsection 4 of section 61-04-05 and section 61-04-06 of the North Dakota Century Code, relating to water permit applications.

Bill in conference committee

House Bill No. 1139

A BILL for an Act to create and enact a new section to chapter 61-16.1 of the North Dakota Century Code, relating to appeals of water resource board decisions of noncomplying dams, dikes, or other devices to the state engineer.

Bill signed by the Governor

House Bill No. 1140

A BILL for an Act to amend and reenact sections 61-35-04, 61-35-07, 61-35-08, and subsection 1 of section 61-35-25 of the North Dakota Century Code, relating to payment of publication costs to create a water district, election of a board of a water district, and notice of dissolution or merger of a rural water cooperative or corporation.

Bill signed by the Governor

House Bill No. 1167

A BILL for an Act to create and enact a new section to chapter 11-33.2, a new subsection to section 61-16.2-02, and new section to chapter 61-16.2 of the North Dakota Century Code, relating to identifying the floodplain on plats, definition of community, and state engineer review of uses in floodways; and to amend and reenact subsection 2 of section 11-33-03, subsection 2 of section 40-47-03, subsection 11 of section 40-50.1-01, sections 58-03-12, 61-16.2-04, 61-16.2-08, and 61-16.2-13 of the North Dakota Century Code, relating to emergency management, identifying floodplain on plats, delineation of the floodway for lakes, elevation of structure in the floodway, and mandatory community participation in the flood insurance program.

Bill in conference committee

Secretary Sprynczynatyk referenced House Bill 1281, which is a bill for an Act to create and enact a new chapter to Title 61 of the North Dakota Century Code relating to the creation of an irrigation district finance program. He explained the bill would provide a bond program, implemented by the State Water Commission, for the purpose of providing financing to irrigation districts. The bill would also expand the State Water Commission's authority to finance irrigation districts.

Since the legislative status report provided at the January 27, 1999 Commission meeting, Secretary Sprynczynatyk reported House Bill 1281 was amended to enhance the Commission's authority to participate in the Promised Payment Plan (PPP) program for MR&I water supply projects. The bill was referred to the Senate Appropriations committee and the hearing scheduled for March 26, 1999.

Senate Bill 2188 relating to bonds for the Devils Lake outlet and a statewide water development program was discussed. Secretary Sprynczynatyk stated the original bill was amended to establish legislative goals for comprehensive statewide water development, authorize the

issuance of bonds for critical water projects, and allocate a portion of the tobacco settlement funds for water development. The bill and the amendments are being considered in the conference committee.

The following technical information and explanation of the sections of Senate Bill 2188 were provided by the State Engineer to the House Natural Resources committee hearing on March 11, 1999:

Section 1 of the bill incorporates, as legislative goals, the 1999 State Water Management Plan as adopted by the North Dakota State Water Commission, chaired by Governor Schafer, at its December 21, 1998 meeting. This plan is designed to meet the short- and long-term water resource needs of the state for municipal, rural, industrial, and agricultural water supply. It is also designed to protect the state's current and future water usage and claim its proper share of Missouri River water. The plan was developed over an 18-month period, with considerable public input.

Section 2 of the bill amends the definition of works to include works for flood control projects to ensure the Commission has the authority to issue bonds for flood control projects. Current law implies flood control, but is not explicit.

Section 3 of the bill authorizes the Commission to issue bonds for a Devils Lake emergency outlet, the Southwest Pipeline Project, Grand Forks, Grafton, and Wahpeton flood control projects, and other projects authorized pursuant to the federal Dakota Water Resources Act. Congress must authorize and provide funding for all of these projects, except the Southwest Pipeline Project, before the Commission can issue bonds. The Commission can only issue bonds for the Southwest Pipeline Project under this Act if it appears the Perkins County, South Dakota, rural water system will not make a \$4.5 million payment to the Commission.

Section 3 also limits the amount of bonds that the Commission can issue for construction costs of the projects as follows:

Grand Forks Flood Control	\$52 million, or 45 percent of Grand Forks's share, whichever is less
Wahpeton	\$3.5 million, or 50 percent of Wahpeton's share, whichever is less
Grafton	\$4.8 million, or 50 percent of Grafton's share, whichever is less
Southwest Pipeline Project	\$4.5 million
Devils Lake Outlet and Dakota Water Resources Act	\$20 million
<i>Total</i>	<i>\$84.8 million</i>

Section 3 limits the time in which an action can be brought to challenge the validity of the bonds to 30 days after the Commission adopts a resolution authorizing the sale of the bonds.

Section 3 also provides the sources for repayment of the bonds authorized under this Act. The primary source of repayment is intended to be from transfers made into the Resources Trust Fund of 45 percent of the funds received by the state from the 1998 tobacco settlement; additional sources are transfers made by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota; appropriations of other current available funds; and any other revenues made available by the Commission. This section clarifies that bonds issued under this Act are not general obligation bonds of the state.

Section 4 requires, as a condition to the issuance of bonds for the Grand Forks flood control project, that Grand Forks pledge revenues from its corporate center to the state. The revenues that Grand Forks must pledge are those received after bonds issued for the corporate center have been repaid. In addition, Grand Forks must pledge the proceeds of the sale of the corporate center, if it is voluntarily sold, as repayment for the flood control project. The revenue pledged to the state must be in amounts similar to the amounts dedicated for repayment of the bonds issued by Grand Forks for the corporate center. The revenues must be pledged to the state from the date of the final payment of the revenue bonds until the end of the life of the corporate center.

Section 5 allocates 45 percent of the funds received by the state from the 1998 tobacco settlement agreement to the Resources Trust Fund to be used to repay bonds issued under this Act or for other water projects.

Section 6 is the legislative intent section for funding for the Southwest Pipeline Project. The intent is that a total of \$6.0 million of funding will be provided to the project from a combination of sources, which may include the Perkins County water system in South Dakota, bonds, or other available resources.

Section 7 authorizes the Commission to issue bonds for the Southwest Pipeline Project when the State Engineer certifies that the Perkins County water system will not make a payment to the Commission.

Section 8 requires the State Engineer to report to the budget section, or other interim committee specified by the Legislative Council, regarding the implementation of the comprehensive statewide water development program, the State Water Management Plan, and the issuance of any bonds under Senate Bill 2188.

Section 9 is the effective date clause and provides that bonds may only be issued from the effective date of the Act through June 30, 2001.

Section 10 declares the Act to be an emergency measure.

**CONTRACT FUND
PROJECT REQUESTS
(SWC File ACT/RES)**

The State Water Commission has received cost share requests for various projects across the state.

Secretary Sprynczynatyk reiterated that as a result of the net shortfall estimate of oil extraction tax collections to the Resources Trust Fund, \$152,436 remains unobligated for the Contract Fund. The State Water Commission typically does not obligate \$250,000 until after the spring snowmelt period for emergencies.

It was the recommendation of the State Engineer that due to the revenue situation of the Contract Fund, the State Water Commission defer action on the cost share requests. The Commission members concurred with the State Engineer's recommendation.

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

On November 10, 1997, the North Dakota congressional delegation introduced legislation in the United States Senate and House of Representatives (S. 1515 and H.R. 3012) that will re-focus and complete the Garrison Diversion Project. The bills were introduced as amendments to the Garrison Diversion Reformulation Act of 1986, which is an amendment to the 1965 Act. The "Dakota Water Resources Act of 1997" is the final product of years of negotiations and represents broad, bipartisan consensus on the future of the project.

Field hearings on the Dakota Water Resources Act of 1997 were held February 19, 1998 in Fargo, ND, and on August 11, 1998 in Minot, ND. The hearings were convened to receive testimony from interested parties in North Dakota and the region on the legislation to complete the Garrison Diversion Project.

The Dakota Water Resources Act of 1997 was heard before the Subcommittee on Water and Power of the U.S. Senate Committee on Energy and Natural Resources on July 14, 1998 in Washington, DC. The Act was heard before the Subcommittee on Water and Power of the U.S. House of Representatives Committee on Resources on September 29, 1998.

On March 16, 1999, the Dakota Water Resources Act of 1999 was reintroduced in Congress (S. 623 and identical bill H.R. 1137). The Garrison Diversion Conservancy staff and others have worked closely with the elected leadership for introduction and for ultimate passage of the Act in 1999. The press release, dated March 16, 1999, and titled "Garrison Diversion Applauds Introduction of Dakota Water Resources Act" is attached hereto as **APPENDIX "C"**.

Secretary Sprynczynatyk made reference to Senate Concurrent Resolution 4026 urging Congress to enact the Dakota Water Resources Act. A hearing was held before the House Natural Resources committee on March 12, 1999. The North Dakota Chapter of the Wildlife Society submitted testimony at the committee hearing supporting the Dakota Water Resources Act, as proposed, to be introduced into the United States Congress, which is attached hereto as **APPENDIX "D"**. SCR 4026 was signed by the Senate President and the House Speaker and filed with the Secretary of State.

Secretary Sprynczynatyk stated the President's budget request includes \$24.7 million for the Garrison Diversion Unit for Fiscal Year 2000 to continue assistance to communities still in dire need of a guaranteed supply of water. He said this could include approximately \$10 million for the MR&I Water Supply program.

**GARRISON DIVERSION PROJECT -
MR&I WATER SUPPLY PROGRAM
(SWC Project No. 237-03)**

Jeffrey Mattern, Coordinator for the MR&I Water Supply program, provided the following program report:

All Seasons Rural Water: The project will provide water to 24 rural users and the city of Bisbee, and will involve a reservoir/pump station, pipelines, and in-line booster stations. The construction contracts were awarded to Ronald Peterson Construction for the pipeline and to Wanzek Construction for the reservoir.

Langdon Rural Water Users - Munich Expansion: The Langdon Rural Water Users have requested MR&I grant funding towards the feasibility study for the Munich service area. The study has an estimated cost of \$50,000, with a 65 percent grant being \$32,500. The project would expand the existing rural water system from the city of Langdon to service the community of Munich and the surrounding rural users. The project would be developed to ensure the expansion matched with All Seasons Water Users to the west. The estimated project cost is \$9.6 million and would serve 350 users.

Missouri West Rural Water, Phase II: The construction contract is scheduled to be completed in July, 1999.

Northwest Area Water Supply, Phase I (Rugby Component): The project is anticipated to be completed in August, 1999.

Northwest Area Water Supply, Phase II (Minot Component): The project is being reviewed for compliance with the National Environmental Policy Act.

North Valley Water Association/Walhalla-Neché Branch: The project reclamation is anticipated to be completed in the spring of 1999.

Ramsey County Rural Water: The project engineer is working on the feasibility study of the proposed rural water expansion project into Eddy and Foster Counties. The estimated project cost is \$3.3 million.

Ransom-Sargent Rural Water: The core service area includes a water treatment plant expansion in Lisbon, a new well field, and a raw water transmission pipeline. The well field area potentially impacts 94 acres of prairie fringed orchid habitat and 24 acres of wetlands habitat. The Bureau of Reclamation and the U.S. Fish and Wildlife Service are working on the mitigation measures. The environmental assessment process is scheduled for completion in April, 1999.

Southwest Pipeline Project: The city of Glen Ullin is scheduled to receive water in April, 1999.

**GARRISON DIVERSION PROJECT -
APPROVAL OF REVISED FISCAL
YEAR 1999 MR&I WATER SUPPLY
PROGRAM BUDGET
(SWC Project No. 237-03)**

On January 27, 1999, the State Water Commission passed a motion approving the proposed \$7.2 million Fiscal Year 1999 MR&I Water Supply program budget, contingent upon the availability of federal funds and subject to future revisions.

Secretary Sprynczynatyk stated the Langdon Rural Water Users is proposing to expand its existing rural water system from the city of Langdon to service the community of Munich and the surrounding rural users. The estimated project cost is \$9.6 million and would serve 350 users. Langdon has requested a MR&I grant funding toward the feasibility study for the Munich service area. The estimated cost of the feasibility study is \$50,000, with a MR&I grant of \$32,500.

Secretary Sprynczynatyk presented the following breakdown for the revised proposed funding budget for the Fiscal Year 1999 MR&I Water Supply program for the Commission's consideration:

Project	Activity	Current	Proposed
Langdon Rural Water (Munich SA)	F	\$ 0	\$ 32,500
NAWS, Phase II (Minot)	D&C	2,500,000	2,500,000
Ransom-Sargent Rural Water	D&C	4,500,000	4,500,000
Administration		200,000	167,500
Total		\$ 7,200,000	\$ 7,200,000

It was the recommendation of the State Engineer that the State Water Commission approve the revised proposed \$7.2 million Fiscal Year 1999 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions. The revised proposed budget includes the request from the Langdon Rural Water Users for the Munich service area.

It was moved by Commissioner Johnson and seconded by Commissioner Bjornson that the State Water Commission approve the recommendation of the State Engineer of the revised proposed \$7.2 million Fiscal Year 1999 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions.

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

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

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

Contracts 2-3H and 7-5A - Transmission Pipeline to Hebron and Glen Ullin and the Rural Distribution Systems in the East Taylor Service Area: Installation of pipeline on contract 2-3H, the main transmission line between Hebron and Glen Ullin, is complete. Hydrotesting of the pipeline in February, 1999 detected a leak in the main transmission line between Hebron and Glen Ullin. The target date for connecting Glen Ullin to the Southwest Pipeline Project was March 3, 1999, and the contract documents specify that Glen Ullin must be connected to the project by July 19, 1999. Glen Ullin was notified of the problem with this line in February, 1999 when it first appeared that the target date would not be met. The city has indicated it will accept the water whenever it becomes available.

The contractor, Karas Construction, located and repaired the leak on March 12, 1999, and no additional leaks were detected. Pipeline chlorination and bacteria testing are scheduled, and it may be possible to begin service to Glen Ullin the first week of April, 1999.

Karas Construction has requested to resume construction on contract 7-5A, the main transmission pipeline in the East Taylor service area. The completion date for contract 7-5A is September 11, 1999.

Contract 4-4 - Jung Lake Pump Station: The mechanical and electrical contractors have several items remaining for contract completion anticipated by mid-April, 1999. Contract work relating to the general contractor has been completed.

Contract 5-4 - Jung Lake Reservoir: Because of inclement winter conditions, the contractor shut down operations last fall. The majority of the reservoir exterior remains to be painted, but the interior of the tank has been painted and the tank has been put into service. A time extension was granted to the contractor last fall, contingent upon completion of the contract work by May 22, 1999.

Contract 7-4/7-3A - Bucyrus and Three Pocket Service Area Rural Distribution: The contractor for contract 7-4/7-3A, Northern Improvement, Inc., shut down operations for the winter. A prefinal inspection on all portions of the contract, excluding the East Rainy Butte Pocket No. 2, was conducted in December, 1998. The contractor will address the items listed which remain to be completed. On the East Rainy Butte Pocket No. 2 service area, the contractor will pick up where they left off this winter, and work is anticipated to be completed in July, 1999. A change order is being contemplated that could add approximately 12 users to the contract.

The Southwest Water Authority and the city of Dickinson have created a joint committee to address changes to the Southwest Pipeline water treatment agreement. This agreement was originally between the city of Dickinson and the State Water Commission, but was transferred to the Authority with the operations and maintenance responsibilities. The committee has proposed several changes to the agreement which deal with the determination of the city's cost for treating water and resolving disputes. Another proposed change would allow the city to charge an amount for capital replacement. The city has been notified that replacement of treatment equipment is already covered in the replacement and extraordinary fund maintained by the Authority. This could be clarified with the appropriate language added to the agreement. The Commission will be a party to any proposed amendment to the water treatment agreement.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF REVISED RURAL
WATER DESIGN CRITERIA FOR
MOTT-ELGIN PHASE
(SWC Project No. 1736)**

James Lennington explained that as part of the application process for USDA funding, a preliminary engineering report was prepared for the Mott-Elgin phase of the Southwest Pipeline Project. The report documents the planning, need, development of alternatives, construction costs and operating budget. During development of the report, the Mott-Elgin phase was divided into several service areas and pockets. The service areas are defined by the reservoirs from which the areas get their operational storage.

The report indicates the rural signup density is low in many of the areas served by this phase. At its July 2, 1993 meeting, the State Water Commission approved the adoption of rural water feasibility and design criteria for the integrated Southwest Pipeline Project. The adopted feasibility criteria, which were developed with the cooperation of the Southwest Water Authority, were as follows:

No service area will be considered feasible in which less than 50 percent of the potential users have signed up as members and paid their membership fees. In addition, no more than \$25,000 will be allocated, or expended, for a single hookup. The \$25,000 maximum may be modified for certain factors.

Mr. Lennington stated the \$25,000 limit for a single hookup is adjusted annually for inflation when developing the design of rural water distribution systems for each phase of the project. The current number used for the Mott-Elgin phase is approximately \$28,900. Only two of the nine pockets, representing about 98 of approximately 293 rural signups, meet this criteria. Signups in several areas were so low that costs were not developed.

In an effort to serve as many rural users in the Mott-Elgin phase as possible, the Commission's engineer, Bartlett & West/Boyle Engineers Corporation, was directed to examine the design criteria to determine if it was possible to lower the cost per user. Three criteria were reviewed for possible modification to reduce the cost of constructing the rural distribution pipeline in this phase including the peak instantaneous flow, potential service units, and the peak instantaneous flow for high consumption users. The attached memorandum, **APPENDIX "E"**, provides the results of the engineer's review of the design criteria, and the technical information relating to the proposed revised design criteria, which was explained by Mr. Lennington.

On rural water distribution systems, the sizing of the majority of the rural pipelines is governed by peak instantaneous flow, which is the maximum flow rate at any location on the pipeline that exists simultaneously with maximum flows in other pipelines in the same pressure zone. The peak instantaneous flow criteria for the Southwest Pipeline Project was part of the rural water design criteria approved by the State Water Commission on July 2, 1993. The adopted peak instantaneous flow criteria is intended to provide for household water use on a demand basis while providing for livestock use spread evenly throughout the day. The current criteria allocates 9 gallons per minute to a single end user. To decrease pipeline costs, it was proposed to reduce the criteria to that used for the Randall Community Water District in South Dakota, which is 7 gallons per minute.

Potential service units are those rural residences in the project area which have either not signed up or have not notified the Southwest Water Authority of their intentions. In the current design criteria,

1999 additional capacity is included for potential service units which may elect to sign up in the future. Each potential service unit is counted as one-half in the current criteria. The proposed criteria would count each potential service unit as one-third. Mr. Lennington said this change may be more appropriate for the Mott-Elgin phase where residents have had numerous opportunities to sign up with the project. To date, the project has added approximately 125 subsequent rural users. These are potential service units which have decided to sign up and connect after the bids have been opened for their particular service area. Thirteen (13) subsequent users were added after the final design and bidding for contract 7-4/7-3A.

Mr. Lennington stated the proposed criteria relating to high consumption users has been reconsidered since the March 16, 1999 memorandum to the State Water Commission was prepared. When the Southwest Water Authority considered the proposed design criteria changes at its meeting on March 1, 1999, the Authority did not act on the proposed change to the high consumption users criteria because the intent of the proposed change was unclear.

On February 25, 1999, public meetings were held to publicize the results of the preliminary engineering report. At the meetings, it was explained that many areas would not be constructed because of high costs with the current and the proposed design criteria. An appeal was made to those people considering, but not yet signed up, to do so. The final sign up deadline was extended to May 1, 1999, at which time the proposed project will be re-evaluated.

Mr. Lennington explained the proposed changes to the rural design criteria for the Mott-Elgin phase would substantially reduce the cost to serve the entire area. This reduction in costs does not increase the number of signups, which meet the \$28,900 feasibility criteria, but it does put many close to that criteria. If the pocket areas with average costs per service unit below \$31,000 were allowed to bid, there would be approximately 230 of the approximate 334 rural signups in the area included. The final number constructed would depend on the bids received and the availability of funding. Additional signups may be received before the bid date, which would help to reduce the costs.

It was the recommendation of the State Engineer that the State Water Commission approve the adoption of the revised rural water design criteria proposed for the peak instantaneous flow and the potential service units for the Mott-Elgin phase of the Southwest Pipeline Project.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve the adoption of the following revised rural water design criteria for the Mott-Elgin phase of the Southwest Pipeline Project:

***Peak Instantaneous Flow:
The rural water design criteria shall allocate 7 gallons per minute to a single end user.***

***Potential Service Units:
The rural water design criteria shall count each potential service unit as one-third.***

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

**NORTHWEST AREA WATER
SUPPLY PROJECT UPDATE
(SWC Project No. 237-04)**

James Lennington reported that the revised *Biota Transfer Control Facilities and Criteria* report, a draft Finding of No Significant Impact, and a proposed final Environmental Assessment were distributed to the Garrison Joint Technical Committee (GJTC) on September 18, 1998. The GJTC held a meeting on November 20, 1998 to discuss these documents.

The Canadian section of the committee presented a list of issues and concerns they have with the project as it is proposed. The committee agreed to draft a joint letter of finding to the Garrison United States-Canada Consultative Group. The Bureau of Reclamation, as the responsible federal agency, will provide a statement of its intentions concerning the National Environmental Policy Act (NEPA) decision document, as well as a draft copy of the document. According to the 1986 Garrison Diversion Reformulation Act, construction may begin after the project has received clearance from the United States section of the Consultative Group assuring that the Administrator of EPA and the Secretaries of State and Interior have determined that the project will meet the requirements of the Boundary Waters Treaty of 1909.

Mr. Lennington reported the letter was executed by the United States and the Canada Garrison Joint Technical Committee co-chairs on February 1, 1999 and forwarded to the United States-Canada Consultative Group requesting that a meeting be scheduled at the earliest possible time. The letter included a status of the NAWS project and the

findings of the Garrison Joint Technical Committee. Also included with the letter was a statement of intention and a draft Record of Decision from the Bureau of Reclamation. These steps are consistent with the approved process developed by the Garrison Joint Technical Committee and provided to the Consultative Group in April, 1997. He said it is possible that if a decision of the Consultative Group can be obtained in the next month or two, that construction on the project could begin in the summer of 1999.

Several differences remain between the United States and Canadian sections of the Joint Technical Committee concerning biota transfer issues associated with NAWS. Mr. Lennington indicated that a summary of the outstanding issues, which require further direction from the Consultative Group, was also included with the letter.

The NAWS engineering team is currently developing plans and specifications for the first phase of construction on the pipeline from Snake Creek to Minot. The first phase is anticipated to involve approximately seven miles of pipeline from the Minot water treatment plant to a pressure reducing valve along U.S. Highway 83. Representatives of the city of Minot and the engineering team are refining the pipeline route within the city of Minot. The draft plans and specifications for this phase of the NAWS project are anticipated within the next several months.

A letter from the North Dakota Department of Health relative to concerns about ozonation of raw Missouri River water is being addressed. Mr. Lennington explained this is an option being considered for pretreatment of Missouri River water before it crosses the Continental Divide. Ozonation of raw water containing naturally occurring organic matter can result in the formation of assimilable organic carbon, or AOC. This AOC can result in increased bacteriological regrowth in the distribution pipeline and is not easily removed by conventional treatment. The Health Department has expressed a preference for the chlorine/chloramine option of pretreatment. The NAWS engineering team is of the opinion that the AOC issue can be addressed through treatment, adequate maintenance of disinfectant residuals, and periodic maintenance such as flushing and cleaning pipelines. Discussions of the Garrison Joint Technical Committee and the United States-Canada Consultative Group have shown that pretreatment with either ozone or chlorine/chloramine is adequate to address the biota transfer concerns. Mr. Lennington explained as this issue is further addressed with Canada, it is preferred that both options of pretreatment be retained.

Mr. Lennington reported on meetings held February 11 and March 17, 1999 with the Bureau of Reclamation concerning negotiations to supply Garrison Diversion water from Lake Audubon for the NAWS project. He said that although the intake location has not been determined, payment for the use of the Garrison Diversion features will be required if Lake Audubon is selected for the intake site. The purpose of the

meetings was to discuss the technical issues related to the negotiations, which are required by law to be public meetings. Once a contract is agreed upon, it will be made available to the public for a 30-day comment period prior to execution of the contract. The negotiating team for the state includes three members of the State Water Commission staff, the Manager of the Garrison Diversion Conservancy District, the Minot City Auditor, and the Chairman of the NAWS Advisory Committee. The negotiations with the Bureau will provide data relative to the federal water service costs for a Lake Audubon intake, which can then be used to assist in making the decision of the intake location.

Mr. Lennington stated construction is progressing on the expansion and upgrade of the NAWS, Phase I, Rugby water treatment plant. The contractor, Swanberg Construction, Valley City, ND, is constructing the addition to the water treatment plant and is approximately six weeks ahead of the contract schedule. When the addition is completed and operational, the rehabilitation of the existing portions of the plant will commence. It is anticipated the contract will be completed in August, 1999.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
APPROVAL OF WATER
SERVICE CONTRACT
WITH CITY OF MINOT
(SWC Project No. 237-04)**

At its meeting on January 27, 1999, the State Water Commission approved an Interim Financing Agreement with the city of Minot for financing construction of the Northwest Area Water Supply Project between Minot and the Missouri River intake. The

Commission members were also informed that the water service contract for Minot was being revised and, upon review and approval by the NAWS advisory committee, the contract would be presented for the Commission's consideration.

Under the interim financing contract, the Commission committed, upon commencement of construction, to keeping the current allocation for NAWS, Phase II (Minot) of \$26,730,000 in the five-year plan for expending MR&I funds, subject to annual reductions equal to the amount expended. The Commission also committed, upon commencement of construction, to recommend to the Secretary of the Interior that a minimum of \$26,730,000 of the MR&I federal funds authorized under the Act, if appropriated and received after Fiscal Year 1998, be used to fund NAWS, Phase II (Minot). Pursuant to the Commission's favorable action on the contract, the city of Minot agreed to underwrite the local share of the capital costs incurred by the Commission.

The city of Minot intends to use a \$0.01 sales tax to meet its obligation under this contract. The tax would begin on January 1, 2000 after the present \$0.01 sales tax for improvements to the All Seasons Arena sunsets. The sales tax is expected to generate \$4.0 to \$4.5 million a year. On March 23, 1999, the citizens of Minot voted in support (4,673 for; 527

against) of the sales tax extension. The current cost estimate for NAWS, Phase II (Minot) is approximately \$52 million. Mr. Lennington stated approval of the interim financing contract and an extension of the sales tax will allow construction to begin in 1999, pending compliance with the National Environmental Policy Act.

The NAWS water service contract, approved by the city of Minot in 1994, was developed during the prefinal design of the project. The project was being formulated with a 75 percent federal share and a 25 percent local share of construction costs. The original contract also contained discussion of the possibility of closing the Minot Air Force Base.

It became clear in subsequent years that the project would, at least initially, be developed with a 65 percent federal and a 35 percent local share of construction costs. The Defense Base Closure and Realignment Commission, cited in the original contract, issued its final report several years ago and it did not recommend closure of the Minot Air Force Base. The original contracts were approved, in form, by the State Water Commission in 1994, but the contracts were not executed.

A revised water service contract, modeled after the original but with the appropriate modifications, was developed by the Commission staff and the city of Minot. This contract will serve as a template contract for use with all water user entities in the project. Mr. Lennington said it is possible that construction on the pipeline from the Missouri River intake to the city of Minot could begin this year and, therefore, it is appropriate a contract with the city be executed at this time. The contracts with the other water user entities can be executed at the time federal funding is authorized to allow development beyond Minot.

At its meeting on March 10, 1999, the NAWS advisory committee voted to recommend approval of the NAWS water service contract with the city of Minot.

It was the recommendation of the State Engineer that the State Water Commission approve the execution of the Northwest Area Water Supply Project Water Service Contract with the city of Minot.

It was moved by Commissioner Ames and seconded by Commissioner Thompson that the State Water Commission approve the execution of the Northwest Area Water Supply Project Water Service Contract with the city of Minot. SEE APPENDIX "F"

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

**1999 SPRING FLOOD OUTLOOK
(SWC Project No. 1431-08)**

the spring of 1999. Secretary Sprynczynatyk provided a summary of the outlook, which is attached hereto as ***APPENDIX "G"***.

On March 12, 1999, the National Weather Service issued its first numerical flood outlook statement for

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

early March. As a result of the above normal precipitation, the National Weather Service raised the outlook for the Devils Lake peak elevation from 1445.5 to 1446.0. The outlook is based on normal precipitation from now until Devils Lake peaks.

Secretary Sprynczynatyk reported the current level of Devils Lake is 1444.06. The Devils Lake basin received above normal precipitation in February and

The State Water Commission's survey crew is scheduled to take snow depth and water equivalent measurements in the Devils Lake basin the week of March 24, 1999. The results of the survey will be provided to the National Weather Service for use in preparation of an update to the Devils Lake outlook on March 26, 1999.

**CORPS OF ENGINEERS DEVILS
LAKE EMERGENCY OUTLET
(SWC Project No. 416-01)**

proposed emergency outlet for Devils Lake. The proposed outlet will follow the Peterson Coulee corridor and will consist of a pump station located on the shore of the west bay south of Minnewaukan, approximately 13 miles of pipeline, and an energy dissipation structure located adjacent to the Sheyenne River. The pipeline will have a maximum pumping capacity of 300 cubic feet per second, but the flow will be controlled to maintain the 450 mg/l sulfate standard and 600 cubic feet per second channel capacity in the Sheyenne River. The State Water Commission staff continues to meet with the Corps and Barr Engineering to discuss the state's interests in the design of the outlet.

Secretary Sprynczynatyk reported the Corps of Engineers and their consultant, Barr Engineering, are continuing the engineering work on the

Due to the downstream water quality impacts and the need to increase the Devils Lake outlet effectiveness, the Corps and Barr Engineering are investigating moving the outlet intake north of Minnewaukan to discharge the fresh water from Mauvais Coulee. The options being considered are moving the pumping plant north of Minnewaukan, and

constructing a channel from north of Minnewaukan to the vicinity of the old pumping plant. Either option would increase the cost of the outlet, but would allow the outlet to remove more water from the lake compared to the old plan while meeting downstream water quality constraints. The Corps' preliminary data indicates that an open channel to a pumping plant near Long Lake would be the least expensive option.

Secretary Sprynczynatyk stated that either option would require channel work and a crossing through Highway 281 north of the junction with Highway 19 to redirect Mauvais Coulee water to the outlet. The highways currently have a minimum elevation of 1448.5 and, if Devils Lake rises to that elevation, the embankments may need to be raised to prevent West Bay water from mixing with the fresher Mauvais Coulee water and decreasing the effectiveness of the outlet. The Department of Transportation does not plan to raise Highway 19, but to abandon the highway if it is overtopped. The Department also plans to relocate Highway 281 to the west if the lake threatens to overtop that highway.

Secretary Sprynczynatyk explained options that are being investigated for ensuring an adequate supply of fresh water include a control structure on Mauvais Coulee at Highway 19, moving water from Dry Lake through the Chain of Lakes instead of down Channel "A", and controlling Sweetwater/Morrison Lakes. The Corps of Engineers, the U.S. Geological Survey and the Commission staff are determining the storage available above Highway 19, the benefits to the outlet of using this storage, and the associated costs.

The engineering documentation for the entire project is anticipated to be completed in April, 1999. The final draft scoping document is expected to be released on April 26, 1999, which will include the details of the process used to determine the scope of the issues that will be included in the Environmental Impact Statement (EIS) for the project. Future milestones in the EIS process for the emergency outlet are currently set as:

September, 1999	Draft EIS out for public review
October, 1999	Public review meetings
February, 2000	Final EIS distributed
May, 2000	Record of Decision

**DEVILS LAKE TO STUMP
LAKE EMERGENCY OUTLET
(SWC Project No. 416-01)**

If Devils Lake reaches an elevation of 1446.6 feet msl, it will begin to spill into Stump Lake. In an effort to reduce or delay flood damages around

Devils Lake and to provide time for the Peterson Coulee outlet to be constructed, the State Water Commission staff investigated the possibility of an emergency plan to move up to four feet of floodwater from Devils Lake to Stump Lake. The intention is to raise Stump Lake to an elevation between 1441 and 1448 feet msl, depending on the inflow to Devils Lake over the next several years.

The project will require compensating landowners around Stump Lake whose land will be inundated by the project. To establish the cost of the land, appraisals were conducted, and a contract with Reilly Appraisals Consultants, Inc., was executed by the State Engineer on August 31, 1998. The contract called for appraisals of three tracts of land for the Devils Lake to Stump Lake emergency outlet including: 1) a tract along the channel; 2) a large tract on West Stump Lake consisting of a farmstead cropland and hayland; and 3) a wooded tract on East Stump Lake. The contract was completed October 12, 1998.

A preliminary cost estimate of \$8 million has been developed for the project, which is based upon a preliminary project design, an estimate of project mitigation requirements, a county-wide average of land values, and \$2 million to raise State Highway 1 east of Stump Lake.

At its meeting on December 21, 1998, Secretary Sprynczynatyk informed the Commission members that on December 11, 1998, a response was received from Roger Hollovoet, District Manager, U.S. Fish and Wildlife Service, Devils Lake, ND, addressing the request of refuge compatibility in the proposed plan to move water from Devils Lake to Stump Lake where the Stump Lake National Wildlife Refuge is located. In part, the letter stated:

“The solicitor’s opinion determined that your proposal is a refuge compatibility issue. Therefore, we have to determine if the proposed action will interfere with or detract from the mission of the National Wildlife Refuge System or the purposes of the individual National Wildlife Refuge. Stump Lake NWR was established under Executive Order 296A by President Theodore Roosevelt on March 9, 1905 for the purpose of a preserve and breeding grounds for native birds.

We are mandated to carry out the mission of the National Wildlife Refuge System and the purpose of Stump Lake NWR. Your proposal will inundate the Refuge for several years and will not allow the refuge to carry out its designed purpose, therefore, it is determined that this proposed action is not compatible. This decision is based on the Refuge’s purpose, the National

Wildlife Refuge Administration Act and the National Wildlife Refuge Improvement Act. After various discussions, I have also determined that we cannot mitigate or negotiate the loss of an entire Refuge unless Congress requires us to do so.”

The Corps of Engineers is also investigating a project to increase the channel capacity between Devils Lake and Stump Lake, similar to the project proposed in 1995, and again last year, except that the channel capacity would be larger and water would not be moved from Devils Lake to Stump Lake until Devils Lake either reached 1446.6, or was predicted to significantly exceed that elevation by the National Weather Service.

On March 23, 1999, the Corps of Engineers held a public meeting in Lakota, ND, to discuss the Devils Lake to Stump Lake concept. Joe Belford provided a summary of the meeting and commented that the local people would prefer letting the water flow into Stump Lake naturally, if Devils Lake reaches an elevation of 1446.6 when it will begin spilling into Stump Lake, rather than artificially moving the water.

Mr. Belford provided comments relative to future damages that will occur if Devils Lake reaches elevation 1446. The Commission members were provided the paper titled “Devils Lake Dilemma, 1999”, prepared by the Devils Lake Emergency Management Committee.

**DEVILS LAKE AVAILABLE
STORAGE ACREAGE PROGRAM
(SWC Project No. 1882-01)**

Storage Acreage Program (ASAP) contingency fund, from money earmarked to Devils Lake projects, and from the general projects fund, as needed, to the ASAP program to continue the program through 1999.

On December 21, 1998 the State Water Commission passed a motion to approve the reallocation of up to \$950,000 from the previous Available

Letters were sent to the 1998 participants following the Commission’s approval of funding the program into 1999 to inform them of the status of their site and the state’s intentions of continued storage in 1999. Of last year’s 231 participants, 33 were not given the opportunity to participate in the ASAP program because of their proximity to the lake and the potential for the lake to flood their sites. Many of these landowners will hold water on their sites with the understanding that if there proves to be a benefit to the lake, some level of compensation will be made under the program.

After the removal of the questionable sites, 198 people were asked to continue storing water in 1999. To date, 147 (75 percent) have agreed to continue storage with approximately 7,600 acres of land to be inundated that will hold approximately 14,000 acre-feet of water. This is 65

percent of the 1998 storage totals. Increased interest from last year's participants is expected as the planting season approaches and as producers learn if they have been accepted into the Conservation Reserve Program. If all of the 198 participants agree to renew their sites in 1999, approximately 9,800 acres of land will be holding approximately 17,500 acre-feet of water.

Water storage contracts were mailed to the 147 participants expressing an interest in continuing their water storage in 1999. To date, 75 signed contracts have been returned.

Secretary Sprynczynatyk stated that based on current projects, there will be funds available for new ASAP sites in 1999. At the March 10, 1999 Devils Lake Basin Joint Board meeting, board members were asked to solicit new water storage sites within their respective counties. Additional advertising for new participation will begin later this spring.

The State Water Commission staff is reviewing a report from the Bureau of Reclamation titled "Wetlands Inventory and Drained Wetlands Water Storage Capacity Estimation for the St. Joe-Calio Coulee Subbasin of the Greater Devils Lake Basin, North Dakota", dated February 17, 1999.

**GRAND FORKS FLOOD
CONTROL PROJECT
(SWC Project No. 830)**

Secretary Sprynczynatyk provided a status report on the permanent flood protection project for the cities of Grand Forks and East Grand Forks.

The estimated project cost is \$342 million, with a non-federal share of \$116 million. In December, 1998, Governor Schafer recommended a \$52 million state contribution during the 1999-2001 biennium for the project through the sale of bonds.

At its meeting on January 27, 1999, the State Water Commission passed resolution No. 99-1-482 recognizing that the current plan proposed by the Corps of Engineers is the most cost effective means to provide flood control to the cities of Grand Forks and East Grand Forks. The resolution supports the city of Grand Forks in its efforts to provide flood control for its citizens, endorses the city's selected plan, and urges expedient implementation to include state funding of a portion of the non-federal cost share.

Secretary Sprynczynatyk referenced Senate Bill 2188 which, if passed by the legislature, would provide funding for the 1999-2001 biennium for the Grand Forks project through the sale of bonds for the non-federal cost share requirements of flood control projects. (**Note:** See section in these minutes '1999 Legislation' for technical information relating to project funding contained in the bill.) He commented that the Commission staff continues to provide technical assistance to the city as the project is developed.

**ELK/CHARBON IRRIGATION
PROJECT - MCKENZIE COUNTY
(SWC Project No. 1857)**

On December 4, 1996, the State Water Commission passed a motion to cost share with the McKenzie County Water Resource District for 50 percent

of the eligible costs, not to exceed \$25,000, for a feasibility study of developing irrigation in the Elk/Charbonneau/Timber Creek area of McKenzie County. IRZ Consulting of Hermiston, Oregon, completed the feasibility study. The results of the feasibility study were presented to the Commission at its February 13, 1998 meeting, which showed that irrigation in the area was feasible.

The steering committee petitioned for the creation of an irrigation district, which was processed in accordance with state law. The Order creating the Elk/Charbon Irrigation District was executed by the State Engineer on March 3, 1999. (**Note:** The original project name of Elk/Charbonneau/Timber Creek Irrigation was shortened to Elk/Charbon Irrigation.)

A request was received from the Elk/Charbon Irrigation steering committee on March 10, 1999 requesting funding for the construction of the project, which could begin this year. The request is for \$1.98 million, which is 40 percent of the irrigation water delivery works. The total cost of the project, including on-farm cost, is approximately \$4.8 million, a per acre cost of approximately \$1,006.

Secretary Sprynczynatyk stated the cost share request from the Elk/Charbon Irrigation District steering committee has been reviewed by staff. Because of the revenue situation in the Contract Fund, the steering committee has been informed that funds are not available at this time for the project.

Matt Iverson, chairman of the Elk/Charbon Irrigation District steering committee, requested an audience before the State Water Commission, for the purpose of providing a project status report which, in part, is as follows:

We realize the budget squeeze with which the state is currently faced. With both the ag and oil economies in the doldrums, money for cost share is a scarce commodity. But, as the summary of economic benefits in the report provided to the Commission shows, to get this project underway now would be of exponential benefit once the ag economy turns around. The cost/return figures used are for current markets. One must believe that most markets are at the bottom of their respective cycles. Having the project fully functional by the spring of 2001 would allow the county and state to benefit from expanded jobs and economic impacts at the genesis of a recovery in the state ag economy, versus trying to play 'catch-up'.

We sincerely need this 'leg-up' on getting this project off the ground. Nesson Valley is stimulating potato interest in the area. They need more acres to get a processor to seriously consider building in the west. We are losing sugar beet acres to Montana annually.

Comments of support for the Elk/Charbon Irrigation project were provided by Dean Winkler, Williston, representing the Fred and Clara Eckert Foundation; David Johnson, Chairman of the McKenzie County Water Resource District; and Gene Veeder, Executive Director, McKenzie County Job Development Authority.

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

In 1994, the U. S. Army Corps of Engineers circulated a draft Environmental Impact Statement (EIS), which identified a preferred alternative for the future operation of the Missouri River mainstem reservoir system. As required by the National Environmental Policy Act, the draft EIS was subject to full public review. In response to the public comments, the Corps agreed to conduct additional technical studies, re-initiate the alternative analysis, and prepare a revised draft EIS. The Corps agreed that the revised draft EIS would present a preferred alternative for public review and comment.

Current efforts of the Missouri River Basin Association and other interest groups have shown considerable progress in regard for the potential for consensus building in the basin. To maximize the potential for consensus building regarding the operation of the reservoir system, the Corps of Engineers elected to prepare and circulate a preliminary revised draft EIS, which does not present a preferred alternative, but presents data on eight alternatives that represent the range of interests in the basin. At its August 13, 1998 meeting, the Commission members were provided the "Summary of the Preliminary Revised Draft Environmental Impact Statement Master Water Control Manual Missouri River", dated August, 1998.

A six-month public coordination period followed the release of the preliminary revised draft EIS, with a series of public workshops held throughout the Missouri River basin. The public workshops were held in North Dakota in September, 1998 at New Town, Williston, Garrison and Bismarck. Informational material, prepared by the Commission staff relative to North Dakota's perspective, was made available at the workshops. The preliminary revised draft EIS is part of the Corps' effort to build consensus to facilitate the identification of a preferred alternative. State agencies developed the official state's position to ensure that North Dakota's interests are considered in the new Master Manual. When a preferred alternative has been identified and the revised draft EIS completed, the Corps of Engineers will hold public hearings, currently scheduled for October, 1999 through March, 2000.

The Missouri River Basin Association held a conference in Kansas City, Missouri, on December 14 and 15, 1998. Approximately 150 Missouri River constituents participated in the conference to address the Corps of Engineers Master Manual review for the operations of the Missouri River system. Secretary Sprynczynatyk commented that it was a positive conference, and the Missouri River Basin Association will continue to review the recommendations at its next meeting scheduled for May 10, 1999. He said the goal of the Missouri River Basin Association is to make a final recommendation to the Corps of Engineers by May 31, 1999.

Secretary Sprynczynatyk commented that he and the State of Missouri Department of Natural Resources director have discussed issues relative to the Missouri River Master Manual, but because of legislative constraints in both states, further discussions have been postponed until the end of April.

**RED RIVER BASIN BOARD
(SWC File AOC/RBB)**

The Red River Basin Board was organized to develop and cause to be implemented, a comprehensive water management plan for the Red River basin addressing the needs on a watershed basis and to facilitate and pursue the resolution of inter-jurisdictional issues.

The board contracted with Eugene Krenz, former State Water Commission employee, to develop the Red River Basin Water Management Plan and coordinate the efforts for implementation of the plan. An inventory task force, with several subcommittees, is working on the initial phases on the new plan.

Secretary Sprynczynatyk stated that over the past several months, the Commission staff has been working with the Red River Basin Board in its efforts to develop a water management plan for the entire basin area. In 1997, the State of Minnesota appropriated \$200,000 for the Board, contingent upon an equal match provided by North Dakota. North Dakota has contributed \$60,000 supported by the Environmental Protection Agency's Wetlands Conservation Grant and \$100,000 in federal flood mitigation funds provided through the North Dakota Department of Health.

In 1997, the State Water Commission qualified for and received a grant from the Federal Emergency Management Agency to offset additional costs associated with problems related to the 1997 floods. Secretary Sprynczynatyk explained that, to date, approximately \$50,000 of travel and staff time qualifies for federal reimbursement. It was the recommendation of the State Engineer to apply the federal funds to the agency's 1997 flood related costs and disburse the \$40,000 of general funds, replaced by the grant, as a contribution to the Red River Basin Board. This contribution will bring North Dakota's total to \$200,000 and enable the Board to access the balance of

the money budgeted by Minnesota. The State Water Commission concurred with the State Engineer's recommendation for the reimbursement of the federal grant funds and the expenditure of \$40,000 to the Red River Basin Board.

**APPROVAL OF RESOLUTION
OF APPRECIATION TO
CARY A. BACKSTRAND
(SWC Resolution No. 99-3-483)**

A draft Resolution of Appreciation to Cary A. Backstrand was considered by the State Water Commission.

Mr. Backstrand served the State of North Dakota for 32 years; 12 years with the North Dakota Department of Transportation, and the following 20 years with the North Dakota State Water Commission serving as a water resources engineer and Chief of the Regulatory Section of the Water Development Division. Mr. Backstrand retired from the State Water Commission on March 31, 1999.

*It was moved by Commissioner Olin, seconded by Commissioner Thompson, and unanimously carried, that the State Water Commission approve Resolution 99-3-483, Resolution of Appreciation to Cary A. Backstrand.
SEE APPENDIX "H"*

Secretary Sprynczynatyk informed the Commission that Craig Odenbach, presently a hydrologist with the State Water Commission's Water Appropriation Division, was hired for the Chief of the Regulatory Section position vacated by Mr. Backstrand. Mr. Odenbach will assume this position on April 1, 1999.

**GARRISON DIVERSION PROJECT -
PROMISED PAYMENT PLAN (PPP)
FOR WATER PROJECTS
(SWC Project No. 237-03)**

Dave Koland, Executive Director, North Dakota Rural Water Systems Association, presented the Promised Payment Plan (PPP) for MR&I water supply projects to the State Water Commission at its December 21, 1998 meeting.

Under the PPP, a four-year construction schedule and MR&I budget would be developed based on the \$53 million federal MR&I commitment. If, in any one year of the proposed budget, the federal payment fell short of the budgeted amount, the state would promise to cover the shortage until the federal dollars were received. The project sponsors would then be able to plan their projects to take full advantage of North Dakota's short construction season. The net result is more costly projects and the delay of water delivery. The PPP program would advance funds to allow expedited project construction and water delivery. No action was taken by the State Water Commission at its December 21, 1998 meeting.

At its meeting on January 21, 1999, the State Water Commission continued its discussion on the Promised Payment Plan. A memorandum to the State Water Commission members and attachments providing technical and support information relative to the PPP program was presented by Secretary Sprynczynatyk. John Hoven, President of the Bank of North Dakota, and Tom Tudor, North Dakota Municipal Bond Bank, provided technical information relating to the bond programs offered by their institutions, benefits and problems foreseen with the PPP concept, as well as outlining a process for the concept to become viable.

Governor Schafer expressed concerns regarding the future of the remaining federal appropriations of \$53 million for the MR&I program. The Governor made reference to the bonding authorities in the state and questioned the possible consolidation of the bonding authorities. Concerns were also voiced by the Governor relative to the effects and impacts that bonding has on the overall operations of the state. The Commission members voiced concurrence with the concerns that were expressed by the Governor.

At the State Water Commission meeting on January 27, 1999, a motion failed that would have allowed the State Engineer and staff to further explore and develop a plan to utilize the Promised Payment Plan concept for MR&I water supply projects scheduled to be constructed within the remaining \$53 million of MR&I funding.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission reconsider the vote on the motion to allow the State Engineer and staff to further explore and develop a plan to utilize the Promised Payment Plan (PPP) concept for MR&I water supply projects scheduled to be constructed within the remaining \$53 million of MR&I funding.

In discussion of the motion, Commissioner Swenson stated that although the future reliability of receiving the total authorized federal funding of \$200 million for the MR&I Water Supply program is unknown, the program's appropriation history from the federal government has averaged \$12.2 million per year since 1987. It is likely the remaining \$53 million will be received within the next five or six years. Commissioner Swenson said because of the federal government's history of the MR&I appropriations, there is reasonable assurance the appropriations will continue for the remaining \$53 million, which would allow for repayment of the bonds under the PPP concept.

Commissioner Johnson questioned the State Water Commission's reconsideration of the vote and further discussion of the issue at this meeting. He said because of the importance of the proposed concept, but the fact that the legislature has not adjourned its session, he would prefer to place the item on the agenda for the next Commission meeting for continued discussion.

Governor Schafer emphasized and reiterated the comments he voiced at the January 27, 1999 State Water Commission meeting relative to bonding authorities and the effect and impacts that bonding has on the overall operations of the state. He said that although the PPP concept merits further discussion, he recommended the State Water Commission delay its reconsideration and further discussion until the next meeting of the Commission. He expressed concerns relative to committing the resources of the Commission staff at this time to carry out the intent of the motion prior to the Commission's next meeting.

Governor-Chairman Schafer called the question on the reconsideration of the vote on the motion, and asked for a roll call vote.

Commissioners Ames, Bjornson, DeWitz, Olin, Swenson and Thompson voted aye. Commissioner Johnson and Chairman Schafer voted nay. The recorded vote was 6 ayes; 2 nays.

Governor-Chairman Schafer announced the adoption of the reconsideration of the vote on the motion, repeated the original motion, and asked for a roll call vote.

(Original Motion)

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission authorize the State Engineer and staff to explore and develop a plan to utilize the Promised Payment Plan (PPP) concept for MR&I water supply projects scheduled to be constructed within the remaining \$53 million of MR&I funding. The plan is to be presented for the Commission's consideration at a future meeting.

In discussion of the original motion, Governor Schafer and Commissioner Johnson emphasized and reiterated their comments expressed during the discussion of the reconsideration of the vote.

Governor-Chairman Schafer called the question on the original motion, and asked for a roll call vote.

Commissioners Ames, Bjornson, DeWitz, Olin, Swenson and Thompson voted aye. Commissioner Johnson and Chairman Schafer voted nay. (Note: Commissioner Hillesland was absent at this meeting.) The recorded vote was 6 ayes; 2 nays. The Chairman announced the motion carried.

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

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

SEAL

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