

## **MINUTES**

### **North Dakota State Water Commission Bismarck, North Dakota**

**May 1, 2002**

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on May 1, 2002. Governor-Chairman, John Hoeven, called the meeting to order at 1:30 PM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, to call the roll. Governor Hoeven announced a quorum was present.

#### **STATE WATER COMMISSION MEMBERS PRESENT:**

Governor John Hoeven, Chairman  
Roger Johnson, Commissioner, Department of Agriculture, Bismarck  
Charles Halcrow, Member from Drayton  
Larry Hanson, Member from Williston  
Elmer Hillesland, Member from Grand Forks  
Curtis Hofstad, Member from Starkweather  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
Dale L. Frink, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **OTHERS PRESENT:**

State Water Commission Staff  
Approximately 75 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, Governor Hoeven announced the agenda approved as presented.

**CONSIDERATION OF FINAL DRAFT  
MINUTES OF FEBRUARY 20, 2002  
STATE WATER COMMISSION  
MEETING - APPROVED**

The final draft minutes of the February 20, 2002 State Water Commission meeting were approved by the following motion:

**It was moved by Commissioner Olin, seconded by Commissioner Hofstad, and unanimously carried, that the final draft minutes of the February 20, 2002 State Water Commission meeting be approved as prepared.**

**FINANCIAL STATEMENT -  
AGENCY PROGRAM  
BUDGET EXPENDITURES**

David Laschkewitsch, accounting manager, State Water Commission's Administrative Services Division, presented and discussed the Program

Budget Expenditures for the period ending March 31, 2002, reflecting 38 percent of the 2001-2003 biennium. All expenditures are within the authorized budget amounts. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds.

**FINANCIAL STATEMENT -  
2001-2003 RESOURCES TRUST  
FUND REVENUES**

David Laschkewitsch stated the oil extraction tax deposits into the Resources Trust Fund are currently \$885,185, or 25.75 percent behind the

budgeted revenues. Revised projections prepared by Economy.com show the oil extraction deposits increasing above budgeted figures beginning in November, 2002 and remaining above budget through the end of the biennium. These revised projections could allow the recovery of some of the current shortfall, and completing the biennium \$487,081 below the budgeted oil extraction tax figures. Even with this expected shortfall, the total revenues into the Resources Trust Fund are projected to exceed the agency's spending authority by approximately \$3.9 million. This is primarily due to a larger biennium beginning balance than was anticipated.

**FINANCIAL STATEMENT -  
2001-2003 WATER DEVELOPMENT  
TRUST FUND REVENUES**

budgeted revenues for the first year of the biennium. The next scheduled payment is anticipated in January, 2003 and is projected to be \$3.5 million. The 1999 Legislature placed a restriction on the funds the State Water Commission may obligate from the Water Development Trust Fund. That restriction allows the commitment of 75 percent of the appropriated amount. The remaining 25 percent may be obligated to the extent the uncommitted funds are available in the Water Development Trust Fund.

David Laschkewitsch reported that deposits into the Water Development Trust Fund total \$11,451,175, which is an increase of more than \$110,000 of the

**DEVILS LAKE  
HYDROLOGIC UPDATE  
(SWC Project No. 416-01)**

area of 125,000 acres and storage of 2.4 million acre-feet of water. The Devils Lake basin has received below normal precipitation since February, 2002. If this drier weather continues, the basin will likely experience below normal runoff volumes which will limit the rise on Devils Lake. Mr. Sando explained that typically the spring runoff begins in April and lasts until May, but this year there was very little snow in the basin and, therefore, the runoff will not last as long. However, he said conditions are subject to change and the basin could receive above normal rainfall over the next few months. To offset the dry winter and spring the basin has been experiencing, it would take well above average precipitation amounts for the remainder of the year to ascertain the current lake elevation.

Todd Sando, Assistant State Engineer, reported that Devils Lake is currently at elevation 1447.1 feet msl.

At this elevation, the lake has a surface

The National Weather Service released its 180-day long range probabilistic forecast for Devils Lake on March 20, 2002. The current 50 percent exceedance elevation is 1447.1 feet msl. This forecast indicates that there is a 50 percent chance that Devils Lake may have already reached its peak elevation for 2002.

Flows have once again started to flow in the Jerusalem channel connecting Devils Lake and Stump Lake. If Devils Lake maintains its current elevation, the flows should not increase. The current elevation of Stump Lake is 1412.0 feet msl. At this elevation, Stump Lake covers 7,800 acres and storage of 124,000 acre-feet of water.

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

On February 26, 2002, the Corps of Engineers released the draft *Integrated Planning Report and Environmental Impact Statement* (EIS) for the

Devils Lake permanent outlet. This document estimates the cost and benefits of an outlet from Pelican Lake to the Sheyenne River and describes the potential environmental impacts. Todd Sando explained that the draft EIS did not make a recommendation on whether to proceed with construction of an outlet, although it generally supports advancing the project. The benefit cost ratio is less than one under the probability model, however, the draft EIS explains the shortcomings of the probability method of calculating the benefit cost ratio for a lake flood and suggests that an outlet could be viewed as an insurance policy rather than an investment. The draft EIS also estimated the benefit cost ratio of 2.63 for a wet scenario, which assumes that the lake would spill naturally in approximately 15 years without an outlet.

Mr. Sando stated that the draft EIS assumed, as a base condition, that a state outlet would not be built and it cautioned that construction of a state temporary outlet could impact the schedule for completing the EIS and, therefore, would delay the construction of the Corps's outlet. Page 1-S-10 of the draft EIS states, in part ... "If the state actually begins construction, a decision would have to be made on whether the future without project conditions should be reevaluated, which would result in the extension of the schedule to complete project design and the preparation of a revised NEPA document."

In March, 2002, the Corps provided a draft Project Cooperation Agreement (PCA) for the Pelican Lake outlet. Negotiations for this PCA agreement are continuing. As part of these negotiations, the Corps informed the state that a cost share for portions of the state outlet could not be approved without Congressional authorization.

The Corps held a series of public meetings in April, 2002 to present the results of the draft EIS and to provide an opportunity for public comments. Mr. Sando said that although the meetings were well attended there were relatively few comments. The public comment period has been extended to May 7, 2002, and the State Water Commission staff is developing comments that will be provided to the Corps.

Mr. Sando discussed the following Corps's current schedule for the Devils Lake outlet:

July, 2002	Final EIS (which includes recommendation regarding an outlet)
August, 2002	Complete first stage plans and specs, and sign PCA
September, 2002	Record of Decision
October, 2002	Potential construction start
May, 2005	Earliest outlet operation

**DEVILS LAKE STATE TEMPORARY EMERGENCY OUTLET PROJECT (SWC Project No. 416-01)**

On August 16, 2001, the State Water Commission approved the selection of Bartlett & West Engineers, Inc./Boyle Engineering Corporation as the engi-

neer for the state's Devils Lake temporary emergency outlet project.

Work continues on the final design of the state outlet project including the pumping plant, pipeline, and channel design and cost estimates, final wetland determinations, cultural resource surveys of the outlet route, and discussions with the U.S. Fish and Wildlife Service regarding crossing their easements. The acquisition of options for the land rights has also begun.

Todd Sando stated that considerable discussions with the Corps have occurred regarding the potential relationships between the state and the Corps outlet projects. Because the Corps has indicated that initiating construction on the state outlet may delay the federal project, and that the state may not receive credit for common features completed on the state outlet without securing a Project Cooperation Agreement (PCA) for the Pelican Lake outlet, Mr. Sando explained that it is important for the state to move forward in a closely coordinated manner with the Corps. The Corps's final EIS will be evaluated in July, 2002, which will provide additional information and, during the interim, tasks will continue that will involve minimal risk of delaying the Corps's schedule. Mr. Sando said these tasks include negotiating and signing the PCA for the Corps's outlet project, obtaining the necessary permits for the state outlet, clarifying the operating plan, obtaining land options for the state outlet, completing and refining the design of the state outlet, and clarification of the legal positions with both the state and federal outlet projects. He said the goal is to continue advancing the state's outlet in a sensible way without delaying the federal project, and without spending funds that would not be required if the Corps begins construction on a permanent outlet in October, 2002.

**DEVILS LAKE BASIN WATER  
MANAGEMENT PLAN  
(SWC Project No. 416-01)**

Management Plan (Plan). The 1991 plan evolved into a more comprehensive plan that was published in 1995. At the request of the Devils Lake Basin Joint Board (Board), the Commission staff is now involved in the updating of that plan.

As part of meeting the need to stabilize Devils Lake, in 1991 the State Water Commission produced the Devils Lake Basin Conceptual Water

Secretary Frink stated that there is no single approach to solving the current flooding problems of Devils Lake. Those involved with combating the flooding situation have concluded that a three-pronged approach, including upper basin water management, infrastructure protection, and an outlet to the Sheyenne River will be required. This planning effort will help address the upper basin management portion of the solution.

The current update of the Plan began in early 2002, with the Board calling upon the Commission staff to take the lead in coordinating the efforts. The Board has requested technical assistance from representatives of various federal, state, and private agencies who have a management interest in the basin. The nine basin counties and the Spirit Lake Nation were asked to appoint a representative to each of the four task forces: agriculture, economic development, tourism, and wildlife/fisheries.

The final 2002 Plan, which is anticipated to be completed in late 2002, will include funding needs and priorities for implementation.

**APPROVAL OF COST SHARE  
POLICY REVISIONS FOR RURAL  
FLOOD CONTROL POLICY  
(SWC Project No. 1753)**

Hoeven appointed a committee consisting of Commissioners Halcrow, Hillesland, Swenson and Thompson to work with the Commission staff and others to develop a comprehensive plan for rural flood control projects.

At its meeting on August 16, 2001, the State Water Commission discussed the rural flood control cost share policy. Because of concerns expressed by the Commission members, Governor

The committee, Commission staff, and others met on November 19, 2001. The meeting resulted in policy recommendations which were presented for consideration by the Commission at its December 7, 2001 meeting. As a result of the discussion during that meeting, Governor Hoeven recommended the Commission staff meet with representatives of the Water Resource Districts Association to solicit additional input.

The Commission staff and others met with representatives of the Water Resource Districts Association on February 1 and 27, 2002, and a meeting with the Commission's committee and others was

held on April 3, 2002. The committee agreed to table discussion regarding an annual cutoff date to submit projects for cost share and the proposed prioritization process. These topics will be revisited within the next six months. After evaluating the information presented, the following committee cost share policy revisions for rural flood control were presented for the Commission's consideration:

- 1) *Drain reconstruction should be funded at 35 percent of the eligible costs, less the portion of the project shown to be deferred maintenance if a sediment analysis prepared by a registered professional engineer is provided. Drain reconstruction should be cost shared at 30 percent of the eligible costs if no sediment analysis is provided.*
- 2) *Increase the funding limitation for individual rural flood control projects to \$250,000 per project for the 2001-2003 biennium, to include projects previously approved during this biennium.*
- 3) *Allow conditional approval of drainage projects, subject to a six-month time limit, for receiving a positive local assessment vote; requests for time extensions could be granted at the State Water Commission's discretion.*
- 4) *Require a discussion of downstream impacts at the project outlet, with the need for further analysis considered on a case-by-case basis as determined by the State Engineer; the analysis shall also include a determination as to whether or not costs will be incurred downstream as a result of the project.*

It was the recommendation of the State Engineer that the State Water Commission approve the above-listed cost share policy revisions (1-4) for rural flood control.

***It was moved by Commissioner Thompson and seconded by Commissioner Swenson that the State Water Commission approve the cost share policy revisions for rural flood control (1-4) as presented.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announce the motion unanimously carried.***

**APPROVAL OF REQUEST FROM  
BUFORD-TRENTON IRRIGATION  
DISTRICT FOR COST SHARE  
ASSOCIATED WITH PUMP HOUSE  
AND CONTROL SYSTEM UPGRADE  
(SWC Project No. 222)**

A request from the Buford-Trenton Irrigation District was presented for the Commission's consideration for cost share participation in costs associated with repairing the main pump house and upgrading the control system.

The request was presented to the State Water Commission during its February 20, 2002 meeting, but because the proposed cost share revisions for rural flood control had not been adopted, action on this request was deferred.

Todd Sando presented the project request, which is located along the left bank of the Missouri River in Williams County between the cities of Buford and Trenton. The Buford-Trenton project was developed under the Case-Wheeler Act by the Department of Agriculture and the Bureau of Reclamation. Construction of the project, which contained 14,000 acres of land, began in May, 1940 and was completed in 1943. In 1950, the landowners of the project voted to organize an irrigation district. Water for the project is pumped from the Missouri River southwest of Trenton. Approximately 10,500 acres are currently being irrigated each year.

The estimated cost of reconstructing the pump house and the control system is \$102,913. The pump house reconstruction will include replacing wood that has deteriorated because lumber components, originally designed to remain above the water surface, have been inundated as a result of the continuing aggradation of the bed of the Missouri River resulting from the construction of the Garrison Dam. Additional reinforcement will also be installed to support the weight of the new control system. The request before the State Water Commission is to cost share in 40 percent of the eligible costs in the amount of \$41,165.

The original, 1940s vintage, DC pump control system is still in use. It has been well maintained as have the motors and pumps, however, the system requires constant monitoring by an operator due to variations in river levels and temperature. A new solid-state control system will be installed to provide flexibility in meeting variable river flows and elevations, the ability to monitor flows, motor hours, heat, and excessive noise, and to start and stop pumps by computer or phone. The intended outcome will be conservation of both water and energy.

Monte Hininger, manager, Buford-Trenton Irrigation District, provided background and technical information relative to the project. He stated that these issues need to be addressed in order to ensure continued operation of the Buford-Trenton Irrigation District. Failure of

either of these components during the irrigation season would result in a tremendous economic loss, as the District puts approximately \$12 million back into the local economy each year. He emphasized that this project is not routine maintenance, such as the cleaning of a drainage ditch, but instead it is reconstruction, similar to the widening of ditches and the reshaping of side slopes, to improve the ability of a drainage system to meet its intended purpose. Mr. Hininger requested the Commission's favorable consideration of cost sharing for the reconstruction of the Buford-Trenton Irrigation District pump house structure and control system.

The Garrison Diversion Conservancy District and the North Dakota Irrigation Caucus provided letters of support for State Water Commission cost share on this project. Along with the project proponents, they explained that cost sharing in this project is consistent with the Commission's policy of cost sharing in the reconstruction of other types of water resource projects including drains and flood control facilities. They also noted that these improvements constitute a complete changeover to accommodate new technology and current river conditions.

It was the recommendation of the State Engineer that the State Water Commission approve cost share with the Buford-Trenton Irrigation District at 40 percent of the eligible costs, not to exceed \$41,165 from the funds appropriated to the State Water Commission in the 2001-2003 biennium.

The request was discussed at length and although the Commission members voiced support for statewide irrigation projects, concerns were expressed relative to the inconsistency of the cost share precedent that has been established by the State Water Commission for other water structures such as drainage ditches, flood control facilities, and other water improvements. The Commission members stressed the importance of defining the cost share policy for irrigation relating primarily to requests for new project construction, reconstruction, and/or maintenance.

***It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve a 40 percent cost share of the eligible items with the Buford-Trenton Irrigation District, not to exceed \$41,165 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for costs associated with repairs to the main pump house and the control system upgrade. This motion is subject to the availability of funds.***

***Commissioners Hanson, Hillesland, Johnson, Olin, and Governor Hoeven voted aye. Commissioners Halcrow, Hofstad, Swenson, and Thompson voted nay. The recorded vote was 5 ayes; 4 nays. Governor Hoeven announced the motion carried.***

Because of the concerns expressed by the Commission members relative to the cost share policy for irrigation, Governor Hoeven appointed a committee consisting of Commissioners Hanson, Hillesland, Hofstad, and Thompson to work with the Commission staff and others to define the cost share policy for requests relating to irrigation.

**APPROVAL OF REQUEST FROM TRI-COUNTY JOINT WATER RESOURCE DISTRICT FOR COST SHARE IN TRI-COUNTY FLOOD CONTROL STUDY, PHASE III (SWC Project No. 1894)**

A request from the Tri-County Joint Water Resource District was presented for the Commission's consideration for cost share participation on Phase III of the engineering analysis for two segments of the Tri-County Flood Control Study project.

These segments include segment 6, which consists of approximately 9.4 miles of channel that would outlet to a natural channel in Section 28 of Leonard township in Cass county. The natural channel is a tributary to Cass County Drain No. 5, which is a tributary to the Maple River. The contributing drainage area of this segment is approximately 3,488 acres. Segment 7 consists of approximately 10.9 miles of channel that would outlet into the Cass County Drain No. 15 in Section 14 of Leonard township in Cass county. The contributing drainage area for this segment is approximately 4,300 acres.

Todd Sando presented the request for Phase III of the engineering analysis that will address the operation and maintenance plans, further analysis of the outlet channels, more accurately define project costs (utility relocation and permit requirements), and to assist the Tri-County Joint Water Resource District in preparation for the hearing stage for these two segments. Mr. Sando said that additional surveys, final design, and specifications are not included in this study. It is estimated that Phase III will be completed in approximately 6-12 months.

The State Water Commission approved cost share at 40 percent of costs for Phase I (reviewing plans, profiles, cross-sections, develop drainage) in 1997; and Phase II (evaluation of control on the drain, suitability of outlets, cost estimates and mitigation requirements) in 1998. The engineer's cost estimate for the Tri-County Flood Control Study project, Phase III, is \$61,600. Under the previous State Water Commission's policy and guidelines for rural flood control cost share, 40 percent of the eligible items qualify for cost share. The request before the State Water Commission is to cost share

in the amount of \$24,640. Mr. Sando explained that if a request for cost share is received for the design and construction phase, the request would be considered based upon the rural flood control criteria adopted by the State Water Commission at this meeting (May 1, 2002) and, therefore, a 35 percent cost share could be considered.

It was the recommendation of the State Engineer that the State Water Commission approve a 40 percent cost share of the eligible items, not to exceed \$24,640 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Tri-County Flood Control project, Phase III study, contingent upon the availability of funds.

***It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve cost share in 40 percent of the eligible items, not to exceed \$24,640 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for Phase III of the Tri-County Flood Control project. This motion is contingent upon the availability of funds.***

***This action increases the State Water Commission's total cost share contribution to \$92,040.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

**APPROVAL OF REQUEST FROM  
TRAILL COUNTY WATER RESOURCE  
DISTRICT FOR COST SHARE ON  
TRAILL COUNTY DRAIN NO. 9-18-29  
(SWC Project No. 1420)**

A request from the Traill County Water Resource District was presented for the Commission's consideration for cost share participation on the Traill County Drain No. 9-18-29 reconstruction project. Traill County

Drain No. 9 (South Mayville), Drain No. 18 (Hanson), and Drain No. 29 (Miller) have been combined into one assessment drain.

Todd Sando presented the project, which involves the reconstruction of 3.14 miles of old drain No. 9, including a one-half mile extension on the south end. A two-mile long lateral drain will also be constructed along the south side of Section 1, Roseville township and Section 6, Mayville township.

The reconstruction includes the excavation of a 10-foot bottom width main channel expanding to 20 feet wide the last 1,000 feet. The lateral will be excavated to an 8-foot bottom width. All side slopes will be 4 horizontal to 1 vertical. Included is the removal and salvage of existing pipes and the installation of new culverts of various sizes at section line crossings and field approaches. Design velocities are all less than 1.5 feet per second.

The design engineer provided a statement of the downstream impacts, which conclude the project should have a minimum effect on the downstream flows in the Goose River, as the maximum flow that can enter the Goose River through Drain No. 9-18-29 will be no more than it is under the present conditions. The drainage area of the drain is 1.55 percent of the Goose River at the point the drain enters the river. The drain is designed to remove the runoff (1.6 inches) from a 24-hour, 10-year rainfall (3.435 inches) in approximately 37 hours.

The quantity of sediment removal that could be considered deferred maintenance associated with the reconstruction portion of the project would be minimal. The drain centerline will be relocated for two of the three miles of reconstruction. The remaining mile of the drain to be reconstructed was recently cleaned of sediment. The design engineer will provide a sediment analysis showing the ineligible excavation costs required to remove accumulated sediment for that mile.

The project engineer's cost estimate is \$775,667.40, of which \$676,555.60 is considered eligible for a 35 percent cost share (\$236,794). The request before the State Water Commission is for a 35 percent cost share in the amount of \$236,794.

It was the recommendation of the State Engineer that the State Water Commission approve a cost share of 35 percent of the eligible items, not to exceed \$236,794 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Traill County Drain No. 9-18-29 reconstruction project.

***It was moved by Commissioner Johnson and seconded by Commissioner Halcrow that the State Water Commission approve a cost share of 35 percent of the eligible items, not to exceed \$236,794 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Traill County Drain No. 9-18-29 reconstruction project. This motion is contingent upon the availability of funds.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

**APPROVAL OF REQUEST  
FROM NDSU WILLISTON  
RESEARCH EXTENSION  
CENTER FOR COST SHARE  
OF IRRIGATION RESEARCH  
SITE IN WILLIAMS COUNTY  
(SWC Project No. 1389)**

A request from the North Dakota State University Williston Research Center was presented for the Commission's consideration for cost share participation for the pumping, conveyance, and distribution infrastructure related to the development of a new irrigation research site in the

Nesson Valley irrigation area located in southeast Williams county. Approximately 160 acres have been purchased by the State of North Dakota, through NDSU, for the purpose of establishing the research site.

Jerald Bergman, director of the Williston Research Extension Center, indicated that the research will focus on irrigation management of high value crops such as sugar beets, potatoes, and other vegetables along with certain conventional crops currently produced in the area. The trials will be used to establish management strategies for obtaining optimal production of high quality crops. The facility will also be used for field scale yield and quality trials of high value crops in cooperation with food processors. The research will be carried out by the Williston Research Extension Center in cooperation with the USDA Agricultural Research Service, Montana State University Extension Service, and NDSU Department of Agriculture and Biosystems Engineering.

Water from the Missouri River (Lake Sakakawea) and ground water will be applied through four linear move irrigation systems. Research will be carried out to determine the effects on crop yield and quality resulting from the two waters which have different chemical and physical characteristics. Because water from the Missouri River and ground water are commonly used for irrigation, there may be significant effects occurring to the crop and the soil that may be important to long-term management. Water permits have been approved for both the ground water and surface water sources.

The estimated cost of the pumping and conveyance infrastructure for both the ground water and surface water sources is \$246,800. The estimated cost of four 1260-foot linear move irrigation systems is \$352,000. The total estimated cost is \$598,800. The request before the State Water Commission is to provide a cost share of 40 percent in the amount of \$239,500 for the development of the irrigation infrastructure.

Secretary Frink explained that the request for funding includes the equipment required to apply the water to the land. In cost sharing with irrigation districts, which are political subdivisions, the irrigation equipment has been considered an on-farm cost and is not eligible for cost share. The pumping and water conveyance infrastructure benefits all of the members of the district and is eligible for cost share. In this case, the irrigation equipment will be owned by the Williston Extension Research Center, a state entity, and the information derived from the results of the research will have wide public benefit by providing important information for the producers of irrigated crops and for the development of new enterprises in the region.

On September 11, 1997, the State Water Commission authorized cost sharing of 40 percent of the eligible costs, in the amount of \$1.5 million, for the construction of the irrigation supply works for the Nesson Valley Irrigation District in Williams county. To date, the District has not obligated those funds. It was the recommendation of the State Engineer that the State Water Commission approve the allocation of 40 percent of the eligible actual costs of the pumping, conveyance, and water application infrastructure, not to exceed \$239,500 as a part of the \$1.5 million authorized for the Nesson Valley Irrigation District, to the North Dakota State University Williston Research Extension Center for the development of an irrigation research facility in Nesson Valley in Williams county.

The Williston Area Development Foundation provided a letter of support and requested the Commission's favorable consideration to fund the request for the research project. Roger Cymbaluk, president, stated the agricultural region is viewed as the Mon-Dak Ag Frontier, which confines the North Dakota and Montana border. He said this region has prospered from an important agricultural research triangle between the Federal Agricultural Research Station in Sidney, Montana, the Montana State University Station in Sidney, and the North Dakota State University Station in Williston. Mr. Cymbaluk explained that irrigation has had a major impact on the economy since the turn of the century. New crops are continually added as well as processing facilities, and the Mon-Dak Region is a focus point for pivot irrigation in North Dakota. He stated that the companies they have been working with want to see their crop varieties raised, tested, and evaluated by the region's research centers.

The request was discussed at length and although the Commission members expressed support for statewide irrigation projects, the importance to define the cost share policy for irrigation was reiterated.

***It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve the allocation of 40 percent of the eligible costs of the pumping, conveyance, and water application infrastructure, not to exceed \$239,500 as a part of the \$1.5 million authorized for the Nesson Valley Irrigation District, to the North Dakota State University Williston Research Extension Center for the development of an irrigation research facility in Nesson Valley in Williams County. This motion is contingent upon the availability of funds.***

***Commissioners Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, and Governor Hoeven voted aye. Commissioners Halcrow and Thompson voted nay. The recorded vote was 7 ayes; 2 nays. Governor Hoeven announced the motion carried.***

**CONSIDERATION OF REQUEST  
FROM BUFORD-TRENTON  
IRRIGATION DISTRICT FOR  
CONVERSION OF LAND  
CURRENTLY IRRIGATED  
BY GRAVITY METHOD TO  
SPRINKLER METHOD  
(SWC Project No. 1389)**

On October 23, 2001, the State Water Commission approved participation in the Bank of North Dakota AgPACE program by providing \$1 million to increase the interest buy down for loans for the development of new irrigation. "New irrigation" pertains to land that has not been previously irrigated.

The Buford-Trenton Irrigation District requested an exemption to the requirement that the State Water Commission funding apply only to new irrigation, and allow the conversion of land currently irrigated by the gravity method to irrigation by the sprinkler method. Portions of the district located below the main water supply canal have a high water table as a result of circumstances largely outside of the control of the landowners. This part of the district is irrigated by the gravity method, which causes an excessively high water table in topographically low areas or areas with poor drainage. The higher water table results in an adverse effect on crop production.

Secretary Frink explained that converting acreage from gravity irrigation to sprinkler irrigation will substantially reduce the volume of water applied. This will reduce the rise in the water table resulting from the larger volume of water applied. With a lower water table, crop production can likely be maintained at an economically viable level. The land will be kept in production that may otherwise be converted to dryland crop production or livestock grazing. He also explained that approval of this request would allow the purchase of sprinkler irrigation equipment through the

AgPACE program for the conversion of previously gravity irrigated land in the Buford-Trenton Irrigation District.

It was the recommendation of the State Engineer that the State Water Commission approve an exemption of the requirement for new irrigation in its part of the AgPACE program to allow the conversion of land currently irrigated by the gravity method to irrigation by the sprinkler method on the Buford-Trenton Irrigation District.

The Commission discussed the request at length and agreed to have the Commission's committee re-visit its participation in the Bank of North Dakota's AgPACE program relating specifically to the requirement stipulating that the State Water Commission's funding shall apply only to new irrigation. Therefore, it was the consensus of the State Water Commission that action be deferred at this meeting on the request from the Buford-Trenton Irrigation District to allow the conversion of land currently irrigated by the gravity method to irrigation by the sprinkler method.

**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:

**Contract 2-4C - Twin Buttes Service Area, Main Transmission Pipeline:**

Contract 2-4C is for approximately 32.5 miles of mostly 10-inch and 8-inch pipe and includes service to the city of Scranton. The contractor, Nygard Construction, completed about 21.5 miles of pipeline installation last year and has remobilized for the 2002 construction season completing 2 additional miles of construction in recent weeks. The contract has a completion date of July 1, 2002. The contractor has laid pipe to the vicinity of the city of Scranton's elevated water storage reservoir. The contract includes a booster pump station, which has been delivered. If all goes well, it is possible that Scranton will be connected to the system in June, 2002.

**Contract 5-3A - Second New England Reservoir:** Contract 5-3A is for a 1,240,000 gallon potable water reservoir 67 feet in diameter and 48 feet high, located about 4 miles north of New England. The contractor has remobilized for the 2002 construction season. The foundation work has been completed, and the contractor is erecting the tank. The completion date for contract 5-3A is August 26, 2002.

**Contract 5-8 - Twin Buttes Reservoir:** Contract 5-8 is for a 249,000 gallon potable water reservoir 42 feet in diameter and 25 feet high, located about 1.5 miles north of Bowman. The contractor has remobilized for the 2002 construction season. The foundation work has been completed, and the contractor is erecting the tank. Contract 5-8 has a final completion date of July 1, 2002.

**Contract 7-6B - Coffin Buttes Service Area, Rural Distribution System:** Contract 7-6B is for approximately 137 miles of pipeline serving about 85 rural water connections. This contract was essentially finished last fall with all connections completed. There are a few items outstanding on this contract including reclamation, seedbed preparation, and administrative items.

**Contract 7-7A - Twin Buttes Service Area, Rural Water Distribution System:** Contract 7-7A is for approximately 124 miles of primarily 6-inch through 1 1/2-inch rural water distribution pipelines serving about 108 rural water connections. The contractor began work the first week in October, 2001 and completed about 35 miles of pipeline prior to winter shutdown. The contractor has remobilized for the 2002 season. The contract has an intermediate completion date of July 14, 2002 for 40 rural water users, and a substantial completion date of September 1, 2002.

**USDA, Rural Development Funding:** The State Water Commission's budget for the 2001-2003 biennium included \$7.3 million for the Southwest Pipeline Project out of the \$37.6 million authorized from the Water Development Trust Fund. This \$7.3 million was intended to match \$3.7 million in grants and loans from USDA, Rural Development, for a total of \$11 million over the current biennium.

The Commission was informed at its October 23, 2001 meeting that no funding was available from USDA, Rural Development in 2001. USDA did agree to support the concept of adding the 2001 and 2002 funding together for 2002.

During refinement of the plans for the Bowman-Scranton regional service area, the cost estimates were revised downward from \$11 million to \$10 million. USDA agreed to provide the same percentage of funding at the lower level, reducing their participation from \$3.7 million to \$3.364 million. The request for funding in 2002 was approved by USDA in February, 2002. A Letter of Conditions, similar to those received in the course of previous USDA participation, was received from USDA on March 13, 2002, which describes the conditions under which the USDA funding is provided. The \$3.364 million in funding consists of \$1.864 million in a loan secured with a revenue bond, and \$1.5 million in a grant.

The USDA funding package for Bowman-Scranton is shown in the following table:

**Bowman-Scranton Phase Funding**

<b>State Grant</b>	<b>USDA Grant</b>	<b>USDA Loan</b>	<b>Total</b>
\$ 6,636,000	\$ 1,500,000	\$ 1,864,000	\$ 10,000,000

A summary of the contracts and estimated costs for Bowman-Scranton are shown in the following table. The funding table on the previous page reflects funding levels agreed to with USDA, Rural Development. The estimated costs in the table below are more current. While the total for Bowman-Scranton exceeds the \$10,000,000 total shown in the table on the previous page, it does not exceed the available funding:

**Bowman-Scranton Phase  
Projected Construction Schedule and Estimated Cost**

**2001 Construction**

<b>Contract</b>	<b>Status</b>	<b>Facility</b>	<b>Size</b>	<b>Estimated Cost</b>
5-8	Awarded	Twin Buttes Reservoir	250,000 gallons	\$ 370,000
2-4C	Awarded	Main Transmission Pipeline	32.5 miles (10" - 4")	1,850,000
7-7A	Awarded	Twin Buttes Service Area (east)	127 miles, 108 users	2,165,000
6	Change Order	SCADA, Telemetry		42,000
<b>2001 Total</b>				<b>\$ 4,427,000</b>

**2002 Construction**

<b>Contract</b>	<b>Status</b>	<b>Facility</b>	<b>Size</b>	<b>Estimated Cost</b>
7-7B/7-3C	Pending	Twin Buttes & WRD Pocket	242 miles, 139 users	\$ 3,770,000
5-13A	Future	Second David Buttes Reservoir	1,000,000 gallons	660,000
6	Future	SCADA, Telemetry		28,000
4-1B	Future	Additional Raw Water Line Pumps		1,479,000
<b>2002 Total</b>				<b>\$ 5,937,000</b>

**Bowman-Scranton Total** **\$10,364,000**

**Declining Block Water Rate:** On February 20, 2002, the State Water Commission was informed that the Southwest Water Authority would be considering a declining block water rate at its March, 2002 meeting. The Authority approved a reduction in the rate for rural users from \$3.60/1000 gallons to \$2.60/1000 gallons for water over 10,000 gallons in a month. There are approximately 165 customers exceeding this amount. The declining block rate is being implemented on a trial basis with a goal of increasing the number of customers exceeding 10,000 gallons per month and the amount of water over that figure by 30 percent after three years.

Under the Agreement for Transfer of Operations for the Southwest Pipeline Project, the State Water Commission receives a proposed budget from the Authority by December 15 of each year. The budget is deemed approved unless the Secretary to the Commission gives written notice of disapproval by February 15. The effect of the declining block water rate will be reviewed under this budget review process.

**Perkins County Rural Water System (PCRWS):** A letter was received on February 1, 2002 from the Perkins County Rural Water System requesting that they be allowed to pay North Dakota as they hook up their customers. The letter included a budget which proposed repayment of the \$4.5 million specified in the SWPP water service contract over a five-year period starting in 2002. Their contract with the Commission specifies that they are to pay the state \$4.5 million before water can be delivered to Perkins county. Their development schedule shows water being provided to the cities of Lemmon and Bison in the second year of construction and then to the rural water customers in subsequent years of construction. The PCRWS has a federal authorization for \$20,630,000. If the budget provision was enforced, it is likely that PCRWS would miss out on an entire construction season.

At the March 21, 2002 PCRWS meeting, it was proposed that they repay North Dakota by allocating 22 percent of their federal allocation received each year until the \$4.5 million is repaid. PCRWS accepted the proposal and an amendment to their water service contract was drafted with the following language included. The Southwest Water Authority will consider the proposal at its meeting on May 6, 2002, and it will then be presented to the State Water Commission for final approval at a future meeting:

The User will pay the Capital cost for Dedication of Existing Capacity by allocating 22 percent of the federal appropriation received in each year until such time as a total of \$4,500,000 has been paid to the Commission. Water service, as provided in Section V of this contract, shall be delivered to the User without reduction based on the amount of the Capital Cost for Dedication of Existing Capacity paid by the User.

It was the consensus of the Commission members that negotiations continue with PCRWS to explore options for repayment of the \$4.5 million as specified in the water service contract.

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF GENERAL  
AUTHORIZATION RESOLUTION  
FOR 2002 SERIES A BOND  
(SWC Project No. 1736)**

At its December 8, 2000 meeting, the State Water Commission authorized the project officers identified in the Southwest Pipeline Project Water Development Revenue Bond documents to execute all USDA, Rural De-

velopment documents in the loan and grant assistance application process up to, but not including, the sale of the bonds. The obligation of the State Water Commission does not occur until the bonds are approved for sale and have been closed. James Lennington explained this action has streamlined the completed application process for the 2002 Series A bond, which is to be used to fund construction of the Bowman-Scranton regional service area, Phases I and II.

In order to meet the obligations of the USDA, Rural Development funding for the Bowman-Scranton regional service area, Phases I and II, the remaining documents to authorize the sale of the 2002 Series A bond require State Water Commission action. The 2002 Series A Bond Resolution was presented for the Commission's consideration which, if approved, will authorize the sale of \$1,864,000 in bonds with an interest rate not to exceed 4.75 percent for the Southwest Pipeline Project.

The 2002 Series A bond documents have not yet received approval from USDA, Rural Development. Mr. Lennington said no significant revisions are anticipated. Closing on the 2002 Series A bond has not been scheduled but should occur in mid to late May, 2002.

It was the recommendation of the State Engineer that in order to satisfy the requirements for USDA, Rural Development funding, the State Water Commission adopt and approve the execution of the 2002 Series A Bond Resolution as presented, which has been satisfactorily reviewed by the State Water Commission's bond counsel and assistant attorney general.

***It was moved by Commissioner Halcrow and seconded by Commissioner Hofstad that the State Water Commission adopt and approve the execution of the Series A Bond Resolution for the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, Bowman-Scranton Regional Service Area, Phases I and II.  
SEE APPENDIX "C"***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

**SOUTHWEST PIPELINE PROJECT -  
AWARD OF CONTRACT 7-7B/7-3C,  
PHASE II, TWIN BUTTES SERVICE  
AREA AND WEST RAINY BUTTES  
BOOSTER AREA, RURAL WATER  
DISTRIBUTION SYSTEM, TO  
ABBOT, ARNE & SCHWINDT, INC.,  
MOORHEAD, MINNESOTA  
(SWC Project No. 1736)**

On April 10, 2002, bids were opened for Southwest Pipeline Project contract 7-7B/7-3C, Phase II, Twin Buttes Service Area and West Rainy Buttes Booster Area, Rural Water Distribution System. This is the second rural water contract for the Bowman-Scranton regional service area. The contract documents specify that the State Water Commission has 60 days to

award the contract after the bid opening, which occurs on June 9, 2002. This contract is for approximately 242 miles of rural distribution lines serving about 139 rural water customers.

There were five bids received from the following for contract 7-7B/7-3C: Abbot, Arne & Schwindt, Inc., Moorhead, Minnesota; Northern Improvement Company, Bismarck, ND; Eatherly Constructors, Garden City, Kansas; Nygard Construction, Garrison, ND; and Duffield Construction, Rapid City, South Dakota. James Lennington explained that the bid from Duffield Construction did not contain a copy of a North Dakota contractors license in the class required for the contract dated at least 10 days prior to the bid opening. On advice of the Commission's legal counsel, the bid was not opened. The apparent low bid received was \$3,053,265 from Abbot, Arne & Schwindt, Inc., Moorhead, Minnesota.

Mr. Lennington explained the contract documents allow the Commission to select the most advantageous bid. The project engineer has reviewed the bids and it appears most advantageous to award contract 7-7B/7-3C to Abbot, Arne & Schwindt, Inc., Moorhead, Minnesota.

It was the recommendation of the State Engineer that the State Water Commission approve the award of Southwest Pipeline Project contract 7-7B/7-3C, Phase II, Twin Buttes Service Area and West Rainy Buttes Booster Area, Rural Water Distribution System, in the amount of \$3,053,265 to Abbot, Arne & Schwindt, Inc., Moorhead, Minnesota.

***It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve the award of Southwest Pipeline Project contract 7-7B/7-3C, Phase II, Twin Buttes Service Area and West Rainy Buttes Booster Area, Rural Water Distribution System, in the amount of \$3,053,265, to Abbot, Arne & Schwindt, Inc., Moorhead, Minnesota. This motion is contingent upon the satisfactory completion and submission of the contract documents, and the Commission's legal review.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

Commissioner Johnson leaves the meeting, and is represented by Jeff Olson, Department of Agriculture.

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

James Lennington, project manager for the Northwest Area Water Supply (NAWS) project, provided the following status report:

**Groundbreaking:** The groundbreaking ceremony for the Northwest Area Water Supply project was held on April 5, 2002 in Minot. A ceremony with speakers was held at 10:30 AM at the Minot city auditorium followed by the actual groundbreaking at the Minot water treatment plant. There were approximately 200 people in attendance.

**Contract 2-1A:** The award of contract 2-1A was authorized by the State Water Commission on February 20, 2002 to S. J. Louis Construction, St. Cloud, Minnesota, contingent upon the written concurrence by the Bureau of Reclamation (received on March 28, 2002, and attached to these minutes as **APPENDIX "D"**), and upon completion of the contract documents.

The contractor received a written notice to proceed on April 9, 2002, and work began on that day. To date, the contractor has been stripping topsoil in the area south of the water treatment plant and south of the Burdick Expressway. Construction has also begun on the bored and cased railway crossings. The contractor began laying pipe on April 29, 2002.

**Acquisition of Easements:** On February 20, 2002, the State Water Commission approved Resolution No. 2002-02-499 relating to the condemnation authority for the acquisition of property and interests needed for the NAWS project.

The easements for approximately 4 miles out of the 7.5 miles needed for contract 2-1A have been acquired. In anticipation of condemnation, site specific appraisals on four land parcels have been initiated and should be completed by mid-May, 2002. According to the contractor's schedule, construction will not approach these areas without easements until the end of June, 2002, although the contractor has indicated his intentions to lay pipe out all the way along the alignment.

In discussion, the Commission members voiced concerns relative to possible condemnation on the four land parcels and requested the Commission staff and the assistant attorney general to review the legal ramifications and safeguards that could be pursued pending the acquisition of the easements.

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

Warren Jamison, Garrison Diversion Conservancy District manager, provided an update on the current efforts relating to the continued appro-

priations under the Garrison Diversion Unit including appropriations for ongoing maintenance of the existing facilities, and for the state MR&I program, the Indian MR&I program, and the management arrangement for the Red River Valley Water Supply studies and environmental analysis required by the passage of the Dakota Water Resources Act of 2000. The Fiscal Years 2002 and 2003 federal budgets for the Garrison Diversion Unit were discussed, and Mr. Jamison reiterated the importance of significantly increasing the project's federal appropriations in the future.

The Commission members were shown the video "It's About the Future - The North Dakota Issue", sponsored by the Garrison Diversion Conservancy District.

**GARRISON DIVERSION PROJECT -  
MR&I WATER SUPPLY PROGRAM;  
MR&I COMMITTEE REPORT;  
APPROVAL OF REVISED  
PROGRAM POLICY; AND  
APPROVAL OF FISCAL YEAR  
2002 MR&I BUDGET  
(SWC Project No. 237-03)**

The State Water Commission and the Garrison Diversion Conservancy District Municipal, Rural and Industrial Water Supply program (MR&I) committee met on March 26, 2002 to discuss the project status, program funding percentage, and the funding of MR&I projects. The issues were discussed at length, and the committee

recommended that the MR&I grant cost share be increased from 65 percent to 70 percent, and recommended the following funding adjustments (*shown in italics*) to the proposed Fiscal Year 2002 federal grant funding:

**All Seasons Rural Water System 4 Expansion:** The All Seasons Rural Water System 4 Expansion project is being constructed in two phases. Phase I is constructed and serves 22 rural users and the city of Bisbee, at a cost of \$2 million. Phase II expands the system to western Towner county, with the addition of 82 rural users and the capacity to serve the city of Rock Lake. This phase includes 82.5 miles of pipeline, expansion of the well field, increased water treatment plant and reservoir capacity, and a new booster station. The estimated Phase II project cost is \$3.3 million.

The non-federal cost share is being provided by a USDA, Rural Development loan at 5 percent interest, and a term of 40 years. System 4 is approved for a 65 percent MR&I grant of \$3.95 million. The project requires a 69 percent grant and an additional \$293,000 for capacity for the city of Rock Lake.

*The MR&I committee recommended a federal grant of up to \$3.95 million, not to exceed 70 percent of the eligible project costs for the main project, including \$293,000 for adding capacity for the city of Rock Lake.*

**All Seasons Rural Water System 5 (Pierce County):** The new rural water system proposes to serve 373 rural users and the city of Willow City. The city of Rugby intends to supply System 5 with a bulk water supply based on receiving an additional water appropriation from the Pleasant Lake aquifer. The city of Rugby and All Seasons need an agreement for the cost of bulk water service. The Bureau of Reclamation will complete the environmental assessment after the water permit process is completed. System 5 is currently approved for a 70 percent MR&I grant, not to exceed \$5.71 million. The estimated project cost has increased to \$8.65 million, and a 70 percent grant would be \$6,055,700, or an additional cost of \$345,700.

*The MR&I committee recommended a federal grant of up to \$6,055,700, not to exceed 70 percent of the eligible costs.*

**Langdon Rural Water - Munich Expansion:** The estimated project cost for the Langdon Rural Water - Munich expansion is \$10.0 million, with service to 220 rural users and to the cities of Calvin, Clyde, Egeland, Munich, and Wales. The proposed project includes reservoir/pumping facilities, pipelines, and improvements to the city of Langdon's water treatment plant. A 70 percent MR&I grant would amount to \$7.0 million.

*The MR&I committee recommended a federal grant of up to \$7.0 million, not to exceed 70 percent of the eligible project costs.*

**McKenzie County Rural Water System:** The proposed system will provide service to 90 rural water users in the vicinity of Watford City. The city would provide water from their water treatment plant including the operation and maintenance. The estimated project cost is \$2.1 million. A 70 percent MR&I grant requires \$1.47 million.

*The MR&I committee recommended a federal grant of up to \$1.47 million, not to exceed 70 percent of the eligible project costs.*

**Northwest Area Water Supply (NAWS) Project (Minot Component):** Bids were opened for the first phase of construction for 7.5 miles of 36-inch and 30-inch pipeline from the Minot water treatment plant south to the intersection of Ward County Road No. 16 and U.S. Highway 83. The approved MR&I grant is \$5,690,498. An additional \$2.66 million would be used for the design of the second phase with construction bids to be let this fall, pending future funding.

*The MR&I committee recommended a federal grant of up to \$2.66 million, not to exceed 65 percent of the eligible project costs.*

**Northwest Area Water Supply (NAWS) Project (Rugby Component):** The water treatment plant was the first component completed. The next component for the Rugby water project is the installation of a new water transmission pipeline to match the capacity of the expanded water treatment plant. The project involves pipeline, two wells, and dredging of the existing sludge pond. The estimated cost is \$2.87 million. The total approved MR&I grant is \$2.6 million. The total estimated project cost is \$5.46 million, with a 65 percent grant being \$3.55 million, or an additional \$950,000.

The water permit for this project has taken considerable more time than estimated. A hearing is scheduled for May 16-17, 2002 on the revised State Engineer's recommended decision.

**Ramsey Rural Utilities Rural Water Expansion:** The proposed expansion project covers portions of Eddy, Foster, and Ramsey counties and would serve 465 users. Service includes the cities of Glenfield, Grace City, and McHenry. The city of Carrington will provide bulk water service to 102 rural users surrounding Carrington. The remaining 363 users will be served by Ramsey's existing water treatment plant near Tolna.

Ramsey has conducted studies for the proposed expansion at a cost of \$115,000, with an approved 70 percent MR&I grant of \$80,500. The studies covered mapping, system hydraulic review, preliminary design/reports, and negotiations with the city of Carrington regarding potential water service.

The initial cost estimate for the Ramsey expansion was \$8.6 million, however, several additional users have increased the cost estimate to \$12 million, of which a 70 percent grant would be \$8.4 million, or an additional \$8.32 million. The project's non-federal share will be a 3 percent, 20-year loan from the State Revolving Loan Fund from the North Dakota Department of Health.

Ramsey has requested a grant of 75 percent, or \$9.0 million, because the projected revenues would support a loan of \$3.0 million and a 70 percent grant requires a loan of \$3.6 million. Ramsey believes this is \$600,000 more than the system can support.

The MR&I committee recommended that Ramsey Rural Utilities Rural Water Expansion project be approved for a 70 percent grant. The system's water rates of \$42.00 per month for a minimum and \$3.00 per thousand gallons of water is lower than some of the other projects. The new cost estimate includes 10 percent for contingencies (mostly unsigned users) and the bid prices have been coming in lower this year.

*The MR&I committee recommended a federal grant of up to \$8.4 million, not to exceed 70 percent of the eligible project costs.*

**Ransom-Sargent Rural Water:** The project will serve 830 rural users and the communities of Cogswell, Elliott, Fingal, and Marion. The final phase involves a water treatment plant expansion in Lisbon, a new well field, and a raw water transmission pipeline. The project is scheduled to be completed this summer. The project received approval for a MR&I grant of \$13.99 million, which included a 65 percent grant and additional funding, if needed, to maintain a monthly minimum rate of \$45.00. This reassures an MR&I grant of \$15.1 million, or an additional \$1,114,025.

*Since the Ransom-Sargent Rural Water project is nearly constructed, the MR&I committee recommended a federal grant of up to \$15.1 million, not to exceed 72 percent of the eligible project costs.*

**Tri-County Rural Water Expansion:** The existing rural water system is planning an expansion to its system to serve 142 rural users, correct water pressure problems, and add a water tower to eliminate nine booster stations in the existing water system. The tower design will save costs for operation and maintenance. The high cost users have been dropped and tighter hydraulic restrictions have been made on the system (approximately 10-mile pipeline reduced in size). The pipeline comes within one-half mile of the city of Michigan, but the city declined water service. The cost to include future capacity for the city of Michigan is \$100,000, and is approximately \$500,000 after the expansion is built. The city connection would be 12 miles of pipeline without the project. The users water rate is \$44.00 per month with \$5.50 per thousand gallons of water.

This project was previously presented to the State Water Commission as serving 120 users at a \$4.0 million total cost, and a 70 percent cost share of \$2.8 million. The new cost estimate is \$4.73 million, serving 142 users. Tri-County has requested a grant of 75 percent, or \$3.475 million, because the

projected revenues would support a loan of \$1.18 million, and a 70 percent grant requires a loan of \$1.42 million. Tri-County believes this is \$236,500 more than the system can support. The McVille area users and the Stump Lake Park would be dropped under a 70 percent grant. The \$4.73 million cost would have a 70 percent grant of \$3.31 million, which is an additional \$511,000 more than considered by the MR&I committee. Tri-County's request for a 75 percent federal grant is an additional \$747,500 more than recommended by the MR&I committee. Although Tri-County is requesting a 75 percent MR&I grant, it is a very costly project per user.

*The MR&I committee recommended a federal grant of up to \$3.31 million, not to exceed 70 percent of the eligible project costs; and an additional \$100,000 for capacity for the city of Michigan, contingent upon the stipulation that the project repay 30 percent.*

It was the recommendation of the State Engineer that the State Water Commission adopt 70 percent as the policy for federal grants from the MR&I Water Supply program, and approve MR&I funding for the projects as recommended by the MR&I committee. Secretary Frink explained that if the State Water Commission acts affirmatively on the MR&I project funding recommendations as presented, all available federal dollars through Fiscal Year 2002 would be committed.

Warren Jamison provided comments in support of the MR&I committee's recommendation to increase the MR&I grant cost share from 65 percent to 70 percent from the MR&I program, and for the grant funding recommendations for the projects. The city of Kensal has expressed interest in receiving water from the Ramsey Rural Utilities Rural Water Expansion project, at an estimated additional cost to the system of \$677,000. Mr. Jamison expressed support for an increase in the MR&I budget appropriation to the Ramsey Rural Utilities Rural Water Expansion project to include service to the city of Kensal. The Garrison Diversion Conservancy District executive board of directors approved the MR&I committee recommendations at its meeting on April 3, 2002.

Dave Koland, executive director, North Dakota Rural Water Systems Association, addressed the State Water Commission concerning the MR&I Water Supply program. Mr. Koland's testimony is attached hereto as **APPENDIX "E"**. Mr. Koland stated that "in the past, the 65 percent grant policy was instituted to enable the grant dollars to fund more projects. However, in today's construction world, a \$10 million appropriation and a 75 percent grant generates a \$13.3 million project, and a 70 percent grant generates a \$14.4 million project. The difference of \$1.1 million is about 10 percent of a typical project cost. That \$1.1 million is enough to make a difference in the viability of the \$13.3 million project but far from enough funds

to build another system or start another project.” Mr. Koland’s comments supported increasing the MR&I grant cost share from 65 percent to 75 percent from the MR&I program, because he said “unfortunately, some of the projects before the State Water Commission today for cost share will not be able to satisfactorily build their infrastructure project on a 70 percent MR&I grant. We have reached the breakpoint in water system construction where every grant dollar is needed to keep water rates at an affordable level and yet build the most efficient delivery system possible. It is in the best interests of North Dakota and the 150 plus local communities not yet served by a regional system that every piece of rural infrastructure be built that is feasible.” Mr. Koland discussed proposals relating to a percentage reduction in the contingency fund, and the bidding process which could assist the rural water systems in financing construction of their systems.

Commissioner Swenson explained that because limited subsidy funds have been available, it has been the practice of the State Water Commission for many years to subsidize projects at the 65 percent level in order to serve as many families as possible in rural North Dakota. He said the Commission is very cognizant of the fact that good quality water, at an affordable price, is the goal of all North Dakotans. Assuming that MR&I funds of \$10 million per year are available to subsidize rural water in North Dakota, and projects are subsidized at the 65 percent level, projects totalling \$15.4 million could be built. However, he said if projects are subsidized at the 75 percent level, then only \$13.3 million of projects could be built. Therefore, Commissioner Swenson expressed concern that funding projects at the 75 percent level (the maximum the law will allow) will ultimately not serve as many families as possible.

Commissioner Hofstad stated that one of the most important jobs the State Water Commission will do is to provide affordable and adequate water to rural North Dakotans. He said it is important to make a distinction in the rural water systems and the percentage levels of subsidy. It is apparent that small communities and less-populated rural areas will not be able to build a system with a 65 percent funding subsidy and, therefore, he said they will need to rely on the implementation of a regional water system for service. Commissioner Hofstad said it is important that a definitive MR&I program cost share policy be adopted for the development of the rural water projects.

Paul Becker, board member, Ramsey Rural Utilities Rural Water Expansion project, appeared before the State Water Commission to discuss the expansion project covering portions of Eddy, Foster and Ramsey counties and service to 465 users. The city of Carrington will provide bulk water service to 102 rural users surrounding Carrington, and the remaining 363 users will be served by Ramsey’s existing water treatment plant near Tolna. Service includes the cities of Glenfield, Grace City, and McHenry. The city of Kensal recently requested the possibility of providing that community with a

municipal/domestic water supply, for an additional cost of \$677,000 to the system. A 70 percent MR&I grant of \$80,500 was approved for the \$115,000 engineering study cost. The project's non-federal share will be a 3 percent, 20 year loan from the State Revolving Loan Fund from the North Dakota Department of Health. The initial cost estimate for the Ramsey expansion project was \$8.6 million, however, several additional user sign-ups have increased the cost estimate to \$12.0 million. A 70 percent grant would be \$8.4 million, or an additional \$2.4 million of federal funds. Mr. Becker requested the Commission's favorable consideration for a MR&I grant of 75 percent, or \$9.0 million, because the projected revenues would support a loan of \$3.0 million, and a 70 percent grant requires a loan of \$3.6 million. Ramsey believes this is \$600,000 more than the system can support.

Michael Yoney, Tri-County Water District, requested an audience before the State Water Commission to discuss the Tri-County Rural Water Expansion project to serve 142 new water users, correct water pressure problems, and to add a water tower to eliminate nine booster stations in the existing water system. The revised project cost estimate is \$4.73 million. Mr. Yoney requested the Commission's favorable consideration of a 75 percent MR&I grant, or \$3.31 million (an additional \$747,450), because the projected revenues would support a loan of \$1.18 million, and a 70 percent grant requires a loan of \$1.42 million. Tri-County believes this is \$236,500 more than the system can support.

***It was moved by Commissioner Hofstad and seconded by Commissioner Halcrow that the State Water Commission adopt 75 percent as the policy for federal grants from the MR&I Water Supply program.***

In discussion of the motion, Secretary Frink reiterated that the MR&I committee recommended funding adjustments at the 70 percent level for several projects previously mentioned. At the 70 percent level of funding recommended by the committee, he said all of the federal dollars through Fiscal Year 2002 would be committed. Secretary Frink expressed his uncertainty relative to the availability of funds if the 75 percent level were approved by the Commission. He said the State Water Commission has had a long-standing policy of not allocating funds until the money is available.

***Governor Hoeven called the question on the motion and asked for a roll call vote:***

***Commissioners Halcrow, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, and Thompson voted aye. Commissioners Hanson, Olin and Swenson voted nay. Governor Hoeven abstained from voting. The recorded vote was 5 aye; 3 nays; 1 abstention. Governor Hoeven announced the motion carried.***

Warren Jamison indicated the Garrison Diversion Conservancy District executive board of directors voted to adopt 70 percent as the policy for the federal grants from the MR&I Water Supply program and, therefore, the executive board will be asked to reconsider the issue based on the Commission's action.

Discussion continued relative to the MR&I program funding percentage, sources of funding for the projects, and options to accommodate exceptional project requests for MR&I funds. Following a lengthy discussion, Governor Hoeven recognized Commissioner Halcrow who requested a reconsideration of the motion that was passed by the State Water Commission adopting 75 percent as the policy for the federal grants from the MR&I program.

***It was moved by Commissioner Halcrow and seconded by Commissioner Hillesland that the State Water Commission reconsider the motion to adopt 75 percent as the policy for the federal grants from the MR&I Water Supply program.***

***Governor Hoeven called the question on the reconsideration of the motion, and asked for a roll call vote:***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the adoption of the reconsideration of the motion.***

***It was moved by Commissioner Hofstad and seconded by Commissioner Thompson that the State Water Commission adopt 70 percent, with exceptions of up to 75 percent to be considered on a case-by-case basis, as the policy for the federal grants from the MR&I Water Supply program.***

***Governor Hoeven called the question on the motion, and asked for a roll call vote:***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

Secretary Frink presented the proposed Fiscal Year 2002 MR&I Water Supply program budget for the State Water Commission's consideration, which is shown on Table 1 (dated April 25, 2002), **APPENDIX "F"**. Based on the Commission's previous action to adopt 70 percent, with exceptions of up to 75 percent to be considered on a case-by-case basis, as the policy for the federal grants from the MR&I program, it was the consensus of the Commission that the Ramsey Rural Utilities Rural Water Expansion project and the Tri-County Rural Water Expansion project each be considered on an individual basis.

***It was moved by Commissioner Olin and seconded by Commissioner Halcrow that the State Water Commission approve the proposed Fiscal Year 2002 MR&I Water Supply program budget as recommended by the State Engineer, with the exception of the Ramsey Rural Utilities Rural Water Expansion Project and the Tri-County Rural Water Expansion project each to be considered on an individual basis. This motion is contingent upon the availability of federal funds and is subject to future revisions.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

***It was moved by Commissioner Hanson and seconded by Commissioner Swenson that:***

- 1) the State Water Commission approve a 72 percent federal MR&I grant for the Ramsey Rural Utilities Rural Water Expansion project, which shall include service to the city of Kensal; and***
- 2) that the State Water Commission staff and others continue discussions with representatives of the Tri-County Rural Water Expansion project.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, Jeff Olson representing Commissioner Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

*(Note: On May 9, 2002, a meeting was held with representatives of the Tri-County Rural Water Expansion project and others to discuss the request for a MR&I grant. It was determined that the project is eligible for funding under the MR&I Water Supply program for a grant of 72 percent of the eligible costs, not to exceed \$3.28 million, with an additional \$100,000 for adding capacity for the city of Michigan, subject to the availability of funds. Also provided was a 65 percent grant, not to exceed \$35,750, for the Tri-County feasibility study. The Garrison Diversion Conservancy District executive board of directors will reconsider its previous approval on June 4, 2002.)*

The revised Fiscal Year 2002 MR&I Water Supply program budget (includes funding for Ramsey Rural Utilities Rural Water Expansion project and Tri-County Rural Water Expansion project) is attached hereto as Revised Table 1 (dated May 30, 2002), **APPENDIX "G"**. *(Note: NAWS (Rugby) has \$950,000 listed in the Recommended Federal Adjustments column on revised Table 1. This amount has not been approved but is included to show impact.)*

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

The Corps of Engineers held a series of public workshops and hearings to receive testimony on the draft Environmental Impact Statement (EIS) for the Missouri River Master Water Control Manual. The meetings in North Dakota were held on October 23, 2001 in Bismarck and on October 24, 2001 in New Town. Governor Hoeven provided testimony on behalf of the state at the Bismarck hearing, and the Commission staff provided testimony at the meetings in New Town, Kansas City, and St. Louis. The Corps accepted comments on the draft EIS until February 28, 2002. More than 55,000 comments were received, of which slightly more than 50,000 of the comments came from various environmental organizations in the forms of letters, postcards, and e-mails. Other comments came from a variety of federal, state, and local governmental agencies, Native American Tribal groups, private citizens, and local interest groups. The Corps intends to publish the final EIS by the end of May, 2002, and have the new Master Manual in effect by March, 2003. Comment letters submitted on behalf of the State of North Dakota, and the North Dakota State Engineer are attached hereto as **APPENDIX "H"**.

Todd Sando reported the Missouri River basin is facing its third consecutive year of drought. As of April 1, 2002, the Corps is predicting the 2002 runoff above Sioux City to be 18.5 million acre-feet, or 73 percent of the normal 25.2 million acre-feet. The runoff above Sioux City was 22.5 million acre-feet in 2001.

On April 15, 2002, Lake Sakakawea was at an elevation of 1827.4 feet msl, which is 3.7 feet lower than a year ago and 8.4 feet below its average end of March elevation. According to the Corps's April 1, 2002 most likely runoff simulation, Lake Sakakawea is estimated to reach an

elevation of 1828.9 feet msl by June 30, 2002 and then fall to a year-end elevation of 1825.6 feet msl. The Corps's lower decile simulation predicts Lake Sakakawea will reach an elevation of 1825.9 feet msl by the end of June, fall below 1825.0 feet msl in mid-July, and end the year at 1819.8 feet msl. The 1825.0 feet msl elevation in July is critical because when Lake Sakakawea falls below this level during the summer, the volume of cold water habitat is reduced and oxygen concentrations can fall below 5 mg/l, which violates the state's water quality standards. This situation jeopardizes smelt populations, and the lake's forage base which, in turn, threatens the sport fishery.

Lake Oahe's elevation on April 15, 2002 was 1597.0 feet msl, which is 6.1 feet lower than last year and 9.7 feet below its average end of March elevation. The Corps's most likely runoff simulation is estimating a Lake Oahe elevation of 1595.5 feet msl on June 30, 2002, then dropping to 1589.7 feet msl by the end of the year. Under the lower decile simulation, Lake Oahe would fall to 1592.9 feet msl by the end of June and then drop to 1583.0 feet msl by the end of the year.

The elevation of Fort Peck Lake on April 15, 2002 was 2218.8 feet msl, which is 4.0 feet lower than a year ago and 14.2 feet below its average end of March elevation. The most likely runoff simulation calls for Fort Peck to rise to an elevation of 2219.9 feet msl by the end of June, and then falling to 2218.2 feet msl by the end of December, 2002. Due to the low lake levels, the Corps announced on March 19, 2002 that the mini-test would be postponed for the second year in a row. The mini-test will consist of a maximum discharge of 15,000 cubic feet per second (cfs) from Fork Peck Dam with up to 11,000 cfs over the spillway and a minimum of 4,000 cfs through the powerhouse. The releases are to occur during the month of June, 2002 for a period of up to four weeks. According to the Corps's "Draft Environmental Assessment Fort Peck Flow Modification Mini-Test", April, 2002, the primary objectives of the mini-test are to test the long-term integrity of the spillway, test data collection methodology, and gather data on temperature based on various flow combinations from the spillway and the powerhouse.

Mr. Sando reported that South Dakota recently filed a lawsuit against the Corps of Engineers preventing the Corps from lowering Lake Oahe to protect the spring hatch of the rainbow smelt, which is a tiny fish that is a food source for walleye and other game fish. South Dakota officials have also asked in their lawsuit to prevent the Corps from lowering the water levels on any of the Missouri River reservoirs in South Dakota, North Dakota, and Montana. That would prevent the Corps from drastically dropping the level of other lakes to support the level in Lake Oahe. The initial hearing on the lawsuit is scheduled for May 1, 2002 in Aberdeen, South Dakota. (*Note: Matthew Sagsveen, assistant attorney general, reported that U.S. District Judge Charles Kornmann issued a temporary order on May 1, 2002 preventing the Corps of Engineers from lowering the water level in Lake Oahe until at least May 23, 2002 when a second hearing will be held.*)

**SECTION 404 ASSUMPTION  
(SWC Project No. 1855)**

During the 2001 North Dakota legislative session, legislation was passed that provided funding and authorized

the hiring of full-time employees to administer the Section 404 permitting program. The funding and hiring authority would be provided once the State Engineer certifies to the Governor that a program has been designed to effectively assume the responsibility for the Section 404 program. Commissioner Thompson requested that staff provide an update on the assumption process at each Commission meeting.

Todd Sando explained the elements which are required for a complete submission for assumption of the 404 program. The elements include a letter from the Governor requesting program assumption; a complete program description; an Attorney General's statement; Memorandum of Agreements with the Environmental Protection Agency and the Corps of Engineers; and copies of applicable statutes and regulations.

Cary Backstrand, Bismarck, ND, has been contracted to provide consulting toward the development of a submission for assumption. A meeting with staff members of the Environmental Protection Agency has been scheduled for May 15, 2002 in Denver, CO. Mr. Sando stated it is hoped that the meeting with EPA will help to define the process for the state's assumption effort. The likely critical steps in that process will be to complete the adoption of the administrative rules that define a program the EPA will find acceptable, and the negotiation of the required Memorandum of Agreements.

The Commission staff members have reviewed background information on the experiences of the states of Michigan and New Jersey, which are the two states to have successfully assumed the program. The Commission's assistant attorney general has reviewed the 1993 draft administrative rules to identify any changes that may have occurred in the law during the last nine years. The next step will be to incorporate any needed changes into the draft administrative rules.

**2003-2005 WATER DEVELOPMENT BIENNIAL REPORT  
(SWC Project No. 322)**

As part of the State Water Commission's efforts to maintain the 1999 State Water Management Plan and to develop a Water Development Biennial

Report for the 2003-2005 biennium, project and cost share information from project sponsors statewide was solicited. The purpose of this effort is to help the State Water Commission comprehensively identify North Dakota's potential water development projects, their timeframe of implementation, and expected funding requirements for the 2003-2005 biennium and beyond.

The water project and related cost share information provided by the project sponsors was reviewed by the Commission staff. Based on this information and staff input, the projects were placed into funding time frames in which they anticipate a need for State Water Commission cost share. The anticipated funding needs for the 2003-2005 biennium are: state - \$83 million; federal - \$134 million; and local - \$115 million. A listing of all projects scheduled in the 2003-2005 biennium timeframe is attached hereto as **APPENDIX "I"**.

**RED RIVER BASIN COMMISSION  
(SWC File RBB)**

The State Water Commission staff has been actively involved in the Red River Basin Board (RRBB) since its organization by the Interim Planning Group in November, 1996. The roots of the organization go back to October of 1995 when The International Coalition (TIC) held a public forum in Grand Forks to discuss the need for a locally driven, basinwide water management plan. In working towards its goal, the RRBB has found itself to be one of several "local" organizations established for similar purposes.

In March, 2002, a retreat involving members of the RRBB, TIC, and the Red River Water Resource Council resulted in an agreement to merge these organizations into a new Red River Basin Commission (RRBC). The RRBC should eliminate redundancy and establish a unified voice for basin residents in managing the region's water resources.

The interim commission held its first meeting April 4, 2002 to refine bylaws and operational methodologies. When ratified in January 2003, the RRBC is expected to be structured with three major components: 1) membership at large (anyone paying dues); 2) RRBC board of directors (41 members, a prescribed mix of local, state and provincial participants); and, 3) RRBC executive committee (13 members with three being the elected officers; two locals each from Manitoba, Minnesota, and North Dakota; four provincial/state, one each from Manitoba, Minnesota, and North Dakota and South Dakota). Other committees will/may be established according to the bylaws.

The RRBC will carry on most tasks the old RRBB had in progress. One of those tasks is a project being done by a "10th Inventory Team" with funding from the State Water Commission. This project is designed to more clearly define the root of issues that have blocked progress in meeting water management needs across the basin. Surveys and meetings with federal, state, and local leaders will be conducted over the next few months as part of accomplishing this objective. The RRBC expects that documenting the cause of many of the most difficult management problems will streamline efforts to find workable solutions that can be implemented.

**NEXT STATE WATER  
COMMISSION MEETING**

It was the consensus of the State Water Commission members that its next meeting be held in Devils Lake, ND, at the discretion of the Governor's schedule.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 5:50 PM.

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John Hoeven, Governor  
Chairman, State Water Commission

SEAL

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Dale L. Frink  
North Dakota State Engineer, and  
Chief Engineer-Secretary to the  
State Water Commission