

## MINUTES

North Dakota State Water Commission  
Bismarck, North Dakota

July 28, 1988

The North Dakota State Water Commission held a meeting on July 28, 1988, in the lower level conference room of the Old State Office Building, Bismarck, North Dakota. Governor-Chairman, George A. Sinner, called the meeting to order at 9:00 a.m., and requested State Engineer and Secretary, Vernon Fahy, to call the roll and present the agenda.

MEMBERS PRESENT:

Governor George A. Sinner, Chairman  
Kent Jones, Commissioner, Department of Agriculture, Bismarck  
Richard Backes, Member from Glenburn  
Joyce Byerly, Member from Watford City  
Jacob Gust, Member from West Fargo  
William Lardy, Member from Dickinson  
Daniel Narlock, Member from Oslo, MN  
Norman Rudel, Member from Fessenden  
Jerome Spaeth, Member from Bismarck  
Vernon Fahy, State Engineer and Secretary, North Dakota  
State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members  
Approximately 15 persons interested in agenda items

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

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

CONSIDERATION OF MINUTES  
OF JULY 10, 1988 MEETING -  
ACTION DEFERRED

Secretary Fahy indicated the minutes of the July 10, 1988 meeting have been drafted and are being reviewed by the staff. It was the recommendation of the State Engineer action be deferred on the July 10, 1988 minutes and considered at the Commission's next meeting.

It was moved by Commissioner Lardy, seconded by Commissioner Gust, and unanimously carried, that the minutes of July 10, 1988 be considered at the Commission's next meeting.

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

Pipeline Project Advisory Committee and the West River Joint Board relative to water treatment, rural water delivery, funding, and future ownership and operation of the project.

Dale Frink, Manager of the Southwest Pipeline Project, indicated discussions are continuing with the City of Dickinson, the Southwest

Mr. Frink noted both contractors are continuing to make good progress on the project.

STATUS REPORT ON  
RESOURCES TRUST FUND

David Sprynczynatyk, Director of the State Water Commission's Engineering Division, briefed the Commission members on the status of the Resources Trust Fund. Projections for revenue to the Resources Trust Fund for the current biennium totalled \$6.7 million. This projection was made in March, 1987, and was the base used by the Legislature in its appropriation to the State Water Commission. Mr. Sprynczynatyk indicated there may be additional revenues from interest on money that is in the Resources Trust Fund which was not included in the projection. Language was included in the Legislative appropriation indicating \$9.5 million could be spent from the Resources Trust Fund if there were additional revenues.

David Sprynczynatyk, Director of the State Water Commission's Engineering Division, briefed the Commission

The Office of Management and Budget will be preparing another projection this fall, but for budget preparation for the next biennium, they have recommended using the projection of \$6.7 million to the Resources Trust Fund.

In 1986, the State Water Commission made a request for revenue from the Resources Trust Fund for five projects and programs. Mr. Sprynczynatyk reviewed the appropriation status of the following projects and programs in which funds from the Resources Trust Fund have been earmarked: State Water Commission Contract Fund, Southwest Pipeline Project, Souris River Flood Control Project, Sheyenne River Flood Control Project, and the Garrison Diversion MR&I Water Supply Program.

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

Secretary Fahy briefed the Commission members on the status of the Souris River Flood Control Project. International negotiations are continuing between the State Department and the Department of External Affairs relative to the draft agreement. Secretary Fahy stated although the State of North Dakota is not actively involved in the negotiations, the State has had an opportunity to review the draft agreement and has forwarded its comments to the State Department.

Secretary Fahy briefed the Commission members on the status of the Souris River Flood Control Project.

The Corps of Engineers is completing its environmental review of the project and the Environmental Impact Statement is anticipated to be completed in October, 1988. The EIS must be completed prior to the two governments entering into the final agreement.

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UPDATE ON SHEYENNE RIVER  
FLOOD CONTROL PROJECT  
(SWC Project No. 1344)

Daniel Twichell, Southeast Cass Water Resource District, updated the Commission members on the status of the Sheyenne River Flood

Control Project. Although Congress did not appropriate funding for new projects in 1989, Mr. Twichell said assurance has been received from the Congressional Delegation that funding would be made available next year for Phase I of the Sheyenne River Flood Control Project.

In order to begin land acquisition for Phase I, the Southeast Cass Water Resource District entered into the Local Cooperative Agreement with the Corps of Engineers on July 25, 1988. Mr. Twichell said it appears that the project will be under construction next year, contingent upon Congressional funding.

Mr. Twichell requested the Sheyenne River Flood Control Project be placed on the agenda of the State Water Commission's next meeting for the purpose of entering into a contract for funding of Phase I.

Mr. Twichell stated that Phase III, the proposed Maple River Dam project, has been authorized by Congress. Studies and investigations are being done to develop the benefit-cost ratio for the project.

STATUS REPORT ON PROGRESS  
OF NEW GRAND FORKS RIVERSIDE  
PARK DAM  
(SWC Project No. 520-2)

David Sprynczynatyk provided the Commission members with a progress report on the construction of the new Grand Forks Riverside Park Dam.

The contract was awarded to Swingen Construction of Grand Forks, and construction of the dam is anticipated to begin the first week in August, 1988, and be completed prior to next spring's runoff. Mr. Sprynczynatyk noted low flows will facilitate the contractor's construction activities.

BRIEFING RELATIVE TO WATER  
SUPPLY PROBLEMS AT CITY OF FARGO

Secretary Fahy briefed the Commission members on water problems the City of Fargo has encountered largely

due to the Corps of Engineers reduction in the rate of flow from Orwell Dam for conservation measures. Secretary Fahy said the rate of flow has since been increased to its original rate, but in the interim it will be necessary for the State Engineer to issue a temporary water permit to the City of Fargo to pump water from the Sheyenne River for its water supply requirements.

STATUS REPORT ON STATE'S  
DROUGHT CONDITIONS

Governor Sinner reported on the general drought conditions in the State of North Dakota and discussed federal assistance programs that may be available.

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The State Water Commission is a member of the State Drought Management Task Force and has been assigned to chair the Municipal and Rural Water Subcommittee. The principal concern of this subcommittee is the needs of municipal and rural entities which may have to implement emergency procedures to satisfy basic human needs for water. Secretary Fahy indicated this area is being monitored very closely but to date no serious problems exist in the raw water supplies to rural and municipal systems, although some of those systems do have constrictions limiting the amount of water delivered to customers.

GARRISON DIVERSION PROJECT -  
UPDATE ON CONGRESSIONAL  
BUDGET FOR FISCAL YEAR 1989  
(SWC Project No. 237-3)

Secretary Fahy reported the President's Fiscal Year 1989 federal budget has been increased to \$30 million for the Garrison Diversion Project, although a breakdown of funding was not available.

The possibility of reallocating federal funds to the Garrison Diversion Project from unused funds for projects in other states this year was discussed. Secretary Fahy indicated the Bureau of Reclamation's Regional Directors will be meeting to discuss budgetary matters. He said that a letter has been filed with the Commissioner of the Bureau requesting them to be mindful of the fund turnbacks sacrificed by the Garrison Diversion Project in recent years and requesting that this project be given a high priority when considering the reallocation of funds.

CONSIDERATION OF REQUESTS FROM  
MCLEAN-SHERIDAN JOINT WATER  
RESOURCE BOARD FOR GARRISON  
MR&I PROGRAM FUNDS FOR DESIGN  
PHASE OF PROJECT: AND LOAN  
FOR NON-FEDERAL SHARE OF  
DESIGN COSTS  
(SWC Project No. 1782)

David Sprynczynatyk provided background information on the McLean-Sheridan Rural Water Supply Project stating that the project consists of a two-county water delivery system with a ground-water source and an iron and manganese filtration water treatment plant. The project would provide good quality water

and sufficient quantities to the cities of Mercer, McClusky, Turtle Lake, possibly Underwood, and 232 rural users spread throughout southern Sheridan and McLean Counties. The feasibility study for the McLean-Sheridan Water Supply Project was completed in May, 1988, and met the requirements of the feasibility study as required under the Garrison MR&I Program. The total project costs are estimated at \$8,260,000.

With completion of the feasibility study, Mr. Sprynczynatyk stated the McLean-Sheridan Joint Water Resource Board is prepared to begin the design phase consisting of a water and well testing program, completion of environmental requirements, and a preparation of design plans and specifications. The estimated cost of the design phase is \$660,000.

The State Water Commission and the Garrison Diversion Conservancy District allocated \$150,000 to the McLean-Sheridan Water Supply Project in Fiscal Year 1988. The project expended

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\$55,573 through the feasibility study phase. Mr. Sprynczynatyk presented a request for the Commission's consideration from the McLean-Sheridan Joint Water Resource Board for Garrison MR&I program funds for the design phase of the project. Mr. Sprynczynatyk stated seventy-five (75) percent of the costs of the design would amount to \$495,000, of which \$231,717 would come from the 1988 appropriation and the balance of \$263,283 would come from Fiscal Year 1989 funds, if available. The \$231,717 to come from FY 1988 funds represents 75 percent of the design costs expected to be incurred in FY 1988.

Mr. Sprynczynatyk stated the McLean-Sheridan Joint Water Resource Board has also requested a loan for funding the 25 percent non-federal share of the design costs for the McLean-Sheridan Water Supply Project. The Joint Board is requesting a loan from the Resources Trust Fund for 25 percent of \$660,000, or \$165,000, as matching funds for the MR&I Program. The \$165,000 loan would be paid back in semi-annual payments over a period of up to 50 years at approximately 6 3/8 percent interest. Mr. Sprynczynatyk indicated this reflects the policy agreed to by the State Water Commission and the Conservancy District in the development of the MR&I Program. The exact interest rate will be based on FmHA guidelines at the time of execution of the agreement and the term of the loan can be negotiated. Principle payments on the loan will be deferred until project completion, or five years, whichever is first. Mr. Sprynczynatyk stated assurance of payment should be required by commitment of the taxing authority of the McLean-Sheridan Joint Water Resource Board.

Ivon Boe and William Lindell, McLean-Sheridan Joint Water Resource Board, and Kenneth Loveland, Interstate Engineering of Jamestown, were present to further discuss the project and the funding requests.

It was the recommendation of the State Engineer that the Commission consider approving Garrison MR&I Water Supply Program funds in the amount of \$495,000 (75 percent of the total design costs) for the design phase of the McLean-Sheridan Water Supply Project, of which \$231,717 would come from the FY 1988 appropriation and the balance of \$263,283 from the FY 1989 funds, if available.

It was the recommendation of the State Engineer that the Commission consider approving a loan from the Resources Trust Fund for the 25 percent non-federal share of \$660,000, or \$165,000, as matching funds for the MR&I Program for the design phase for the McLean-Sheridan Water Supply Project. The term of the loan would be for up to a period of 50 years at an interest rate of approximately 6 3/8 percent. The McLean-Sheridan Joint Water Resource Board would also have to levy two mills as a commitment for repayment of the loan.

In discussion of the requests, the Commission members expressed specific reservations relative to the Joint Board's commitment for repayment of the loan; concerns that if the Commission approves funding for the entire non-federal share of the project there may be inadequate funding for other projects; and, the need for sincere efforts by the local people for their commitment to help fund projects.

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Rosellen Sand, Assistant Attorney General for the State Water Commission, distributed and discussed a draft loan agreement. Ms. Sand responded to the Commission's concern relative to commitment for repayment of the loan and indicated the draft agreement provides a condition precedent to the loan whereby a resolution would be required of the McLean-Sheridan Water Resource Board requesting the McLean and Sheridan County Commissions to levy two mills for the repayment of the loan. She said resolutions would be required from the McLean and Sheridan County Commissions authorizing a levy of a tax of two mills upon the taxable valuation of the real property in those counties to be expended as provided in Section 61-16.1-11 of the North Dakota Century Code. Ms. Sand stated these resolutions must be received on or before the day of the loan in a form and substance satisfactory to the Commission and its counsel.

Ms. Sand explained since the Joint Board was created under the laws of the State of North Dakota, the provisions for the Joint Boards allows them to levy up to two mills for projects of this type. This money could be used to pay back the loan in the event the project is not constructed.

It was moved by Commissioner Jones and seconded by Commissioner Lardy that the State Water Commission approve Garrison MR&I Water Supply Program funds for the design phase of the McLean-Sheridan Water Supply Project of 75 percent of the costs of design, in an amount not to exceed \$495,000 (of which \$231,717 would come from the FY 1988 appropriation and the balance of \$263,283 would come from the FY 1989 funds, if available). This motion shall be contingent upon the availability of funds.

In discussion of the motion, Secretary Fahy explained this action is for the design phase only and is not a commitment for the construction phase of the project.

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

It was moved by Commissioner Jones and seconded by Commissioner Lardy that the State Water Commission approve a loan from the Resources Trust Fund for the 25 percent non-federal share of the design costs of \$660,000, in an amount not to exceed \$165,000, as matching funds for the Garrison MR&I Water Supply Program, for the design phase of the McLean-Sheridan Water Supply Project. The terms of the loan would be for a period of up to 50 years at an interest rate of approximately 6 3/8 percent. The McLean-Sheridan Joint Water Resource Board would be required to levy two mills as a guarantee for repayment of the loan.

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In discussion of the motion, Secretary Fahy explained this action is for the design phase only and is not a commitment for the construction phase of the McLean-Sheridan Water Supply Project.

It was the consensus of the Commission members that a provision be included in the agreement that if this project is determined non-workable that a specific time limit be stated for repayment of the loan.

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

GARRISON DIVERSION PROJECT -  
CONSIDERATION OF REALLOCATION  
OF MR&I WATER SUPPLY PROGRAM FUNDS  
(SWC Project No. 237-3)

In February, 1988, the Garrison Diversion Conservancy District and the North Dakota State Water Commission approved the allocation of \$8,545,000 for the Municipal, Rural

and Industrial Water Supply Program in the following manner:

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

Total	\$8,545,000
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David Sprynczynatyk explained the Fiscal Year 1988 allocation was based upon anticipated progress of the projects. He indicated two projects, the McLean-Sheridan and Langdon Rural Water Supply Projects, are in need of additional funds beyond the Fiscal Year 1988 allocation to continue their progress through October 1, 1988. He said additional funds for these two projects could come from the miscellaneous projects allocation since the expenditures for this item are below the anticipated level.

Mr. Sprynczynatyk stated the miscellaneous project expenditures for Fiscal Year 1988 were not as high as originally anticipated primarily due to concern for the low Fiscal Year 1989 appropriation for the MR&I Program. Funding of feasibility studies for additional MR&I projects has been curtailed because the Fiscal Year 1989 appropriation will not be sufficient to fund those projects already approved beyond the preliminary engineering stage. Funding of additional feasibility studies which could become outdated by the time funding is available for construction was deemed not appropriate. Therefore, as a result, Mr. Sprynczynatyk said a balance exists under the miscellaneous

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allocation for Fiscal Year 1988 funds. It is proposed the balance for miscellaneous projects be transferred to the McLean-Sheridan and Langdon Rural Water Supply Projects to be used this year.

Mr. Sprynczynatyk indicated the original Fiscal Year 1988 allocation included \$112,500 for the Northwest Area Water Supply Study and that funding was provided for this study through the Needs Assessment account rather than the Fiscal Year 1988 appropriation, therefore, no funding is shown under the proposed final allocation.

The Abercrombie Water Supply Well Project consists of the construction of a water supply well to furnish water for human consumption to the City of Abercrombie. Mr. Sprynczynatyk stated that the State Water Commission and the Garrison Diversion Conservancy District recently approved design and construction funding for the Abercrombie project.

It was the recommendation of the State Engineer that Fiscal Year 1988 Garrison MR&I Water Supply Program funds be reallocated as follows:

Grand Forks Riverside Park Dam	\$ 375,000
Langdon Rural Water Supply Project	1,960,585
McLean-Sheridan Water Supply Project	287,290
Southwest Pipeline Project	5,802,500
City of Abercrombie	33,750
Miscellaneous Projects	85,875
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Total	\$8,545,000

The State Engineer noted a reallocation of funds was approved by the Garrison Diversion Conservancy District on July 27, 1988.

It was moved by Commissioner Jones and seconded by Commissioner Byerly that the State Water Commission approve the reallocation of Fiscal Year 1988 Garrison MR&I Water Supply Program funds as recommended by the State Engineer and the Garrison Diversion Conservancy District.

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

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GARRISON DIVERSION PROJECT -  
CONSIDERATION, AND APPROVAL,  
OF MORATORIUM ON FUNDING  
OF FEASIBILITY STUDIES FOR  
ADDITIONAL MR&I PROJECTS  
(SWC Project No. 237-3)

Secretary Fahy stated the Garrison Diversion Conservancy District approved a moratorium on the funding of feasibility studies for additional Garrison MR&I Water Supply Program projects because the Fiscal Year 1989 MR&I appropriation will

be insufficient to fund those projects already approved beyond the preliminary engineering report stage. Funding of additional feasibility studies, which could become outdated by the time funding is available for construction, was deemed inappropriate.

It was the recommendation of the State Engineer that the Commission consider supporting the moratorium approved by the Garrison Diversion Conservancy District curtailing funding of feasibility studies for additional MR&I projects except in emergency situations.

It was moved by Commissioner Backes and seconded by Commissioner Narlock that the State Water Commission approve a moratorium on the funding of feasibility studies for additional Garrison MR&I Water Supply Program projects, except in emergency situations.

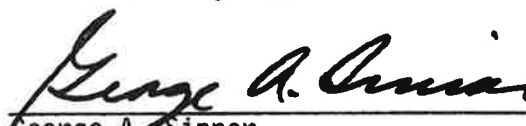
Commissioners Jones, Backes, Byerly, Gust, Lardy, Narlock, Rudel, Spaeth, and Governor Sinner voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

GARRISON DIVERSION PROJECT -  
MR&I FUNDING POLICIES  
(SWC Project No. 237-3)

Commissioner Spaeth indicated he received a copy of a letter from a consulting firm relative to the policies on MR&I funding.

The original of the letter was addressed to the Garrison Conservancy District and for this reason Commissioner Spaeth suggested that the District be contacted and urged to hear the writer's concerns after which he could be invited to appear before the State Water Commission, if necessary.

It was moved by Commissioner Jones, seconded by Commissioner Narlock, and unanimously carried, that the State Water Commission meeting adjourn at 11:10 a.m.

  
George A. Sinner  
Governor-Chairman

ATTEST:

  
Vernon Fahy  
State Engineer and Secretary

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SWC Meeting

<u>Name</u>	<u>Representing</u>	<u>Address</u>
Randall Binger	State Water Commission	Bismarck
Peter Caposella	Standing Rock Sioux Tribe	Ft. Yates
Ron MARSHALL	Assist. Coordination MR&I	SRST.
Steph Klaerington	KFY 12 TV	
Richard Gallagher	Lower Heart WR Dist	Mandan