

MINUTES

North Dakota State Water Commission Fargo, North Dakota

November 29, 1995

The North Dakota State Water Commission held a meeting in the Sterling Hall Room at the Holiday Inn, Fargo, North Dakota, on November 29, 1995. Governor-Chairman, Edward T. Schafer, called the meeting to order at 8:00 AM, and requested State Engineer and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

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

OTHERS PRESENT:

State Water Commission staff members
Approximately 60 people interested in agenda items

The attendance register is on file with the official minutes.

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

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

**CONSIDERATION OF MINUTES
OF OCTOBER 16, 1995, STATE
WATER COMMISSION MEETING -
APPROVED, AS CORRECTED**

The minutes of the October 16, 1995,
State Water Commission meeting
were considered.

Commissioner Vogel requested that
on page 9, in the first paragraph of the Devils Lake Emergency Response Plan
discussion, the word staff be added in the second sentence. The sentence is
corrected as follows:

This plan, developed through the State Water Commission staff,
consists of storing water in the upper basin, and pumping water
from east Devils Lake to Stump Lake.

Commissioner Vogel stated that
during discussion of the Devils Lake Emergency Response plan at the October 16,
1995, State Water Commission meeting, she had expressed concerns and had a
series of questions regarding funding for the project, which she requested be
reflected in the minutes. The following was added on page 11 of the October 16,
1995, minutes:

Commissioner Vogel expressed concerns and had questions
regarding the funding for the project.

*It was moved by Commissioner Vogel, seconded by
Commissioner Swenson, and unanimously carried, that
the minutes of the October 16, 1995, State Water
Commission meeting be approved, as corrected.*

**CONSIDERATION OF MINUTES
OF OCTOBER 27, 1995, STATE
WATER COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED, AS CORRECTED**

The minutes of the October 27, 1995,
State Water Commission telephone
conference call meeting were consid-
ered.

Commissioner Vogel stated that
during discussion of the Devils Lake Emergency Response plan at the October 27,
1995, State Water Commission telephone conference call meeting, she had
reiterated concerns and questions regarding funding for the project, which she
requested be reflected in the minutes. The following was added on page 3 of the
October 27, 1995, minutes:

Commissioner Vogel reiterated concerns and questions regarding
the funding for the project.

It was moved by Commissioner Vogel, seconded by Commissioner Swenson, and unanimously carried, that the minutes of the October 27, 1995, State Water Commission telephone conference call meeting be approved, as corrected.

**FINANCIAL STATEMENT -
AGENCY OPERATIONS**

dated October 31, 1995, and reflecting 17 percent of the 1995-1997 biennium. *SEE APPENDIX "A".*

Charles Rydell, Assistant State Engineer, presented and discussed the Program Budget Expenditures,

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

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

Mr. Frink stated that the unallocated balance of the Contract Fund is \$1,546,334. The State Water Commission will be considering a recommendation to allocate \$750,000 to the Devils Lake Emergency Response plan at this meeting and, if approved, Mr. Frink said the remaining unallocated balance of the Contract Fund would be \$796,334. With over 80 percent of the biennium remaining, it was suggested the Commission only fund higher priority projects.

On October 16, 1995, the Commission deferred action on four projects due to the uncertainty of the pending situation in the Devils Lake basin: Coburn Township Drain #2, Steele County Drain #11, Harriston-Pulaska Drain #31, and Homme Dam. A recommendation will be presented at this meeting for the Commission's consideration to approve funding for Homme Dam since this is a dam safety project and warrants a high priority. Mr. Frink said because of the overall fiscal condition of the Contract Fund, it is recommended the Commission continue to defer action on the other three projects.

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

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

Contract 2-5A/7-2A - Transmission Line to Belfield and Belfield Rural Service Area: The transmission piping is installed, and the contractor is currently repairing a leak in the main transmission

line. When the repair work has been completed, chlorination and flushing can proceed, as well as testing on the distribution lines. Due to the leakage problem, service to Belfield may not occur on December 1, 1995.

Contract 7-1B - Davis Butte, Taylor, and New Hradec Rural Service

Areas: Installation of the pipe has been completed. Testing, chlorination, flushing, user connection, and cleanup have been completed, with the exception of a few locations including the city of Manning, where bacteriological tests have not been met. The New Hradec pump station, which was flooded by the contractor, has not been repaired, however, it can be operated to pump water into the New Hradec tank. Current activity is directed to repair of settlement, resolution of the pump station problems, and meeting the bacteriological tests.

Contract 7-2 - New England Rural Service Areas: The contractor, due to the additional work completed, has had his completion date extended beyond December 8, 1995. To date, the contractor has installed approximately 219 of the 291 services in his contract.

**SOUTHWEST PIPELINE PROJECT -
AWARD OF CONTRACT 4-1A TO
GEORGE E. HAGGART, INC.,
FARGO, ND
(SWC Project No. 1736)**

Bids for Southwest Pipeline Project contract 4-1A were opened on November 2, 1995. This contract is the upgrade of the raw water transmission line and includes the addition of larger pumps, buried air chambers, and replacement of a short segment of 14-inch piping.

Tim Fay reported five bids were received. The low bid was submitted by George E. Haggart, Inc., of Fargo, ND. This is the firm which built the Dodge pump station and several other Southwest Pipeline Project contracts. Mr. Fay reported that experience on the other project contracts has been uniformly good.

It was the recommendation of the State Engineer that the State Water Commission award Southwest Pipeline Project contract 4-1A to George E. Haggart, Inc., Fargo, ND.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission award Southwest Pipeline Project contract 4-1A to George E. Haggart, Inc., Fargo, ND.

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF WATER SERVICE
CONTRACT AMENDMENTS
(SWC Project No. 1736)**

The transfer of the management, operations, and maintenance responsibilities from the State Water Commission to the Southwest Water Authority is scheduled for January 1,

1996. Tim Fay stated that when the transfer is complete, the Authority will be assuming various duties of the State Water Commission under the water service contract which requires the consent of the water user entities.

Mr. Fay explained that the water service contract provides for the establishment and adoption of a budget for the ensuing year in December for the operation and maintenance responsibilities of the project. Operating experience has shown that the water rate projections can be better made in February after various audits have been completed.

It was the recommendation of the State Engineer that the State Water Commission approve amendments to the existing water service contracts which express the consent of the user that the duties of the Commission, under the Water Service Contract, to operate and maintain the project to provide water service to the user may be transferred to the Southwest Water Authority; and that the date by which the Commission shall establish and consider a budget for the operation and maintenance responsibilities of the project for the immediate ensuing year be February 1 of each year.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the following amendments be approved to the Southwest Pipeline Project Water Service Contracts:

1) the User and the State Water Commission shall agree that the duties of the Commission, under the Water Service Contract, to operate and maintain the project to provide water service to the User may be transferred to the Southwest Water Authority; and

2) the User and the State Water Commission shall agree that the date by which the Commission shall establish and consider a budget for the operation and maintenance responsibilities of the project for the immediate ensuing year shall be February 1 of each year.

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

SOUTHWEST PIPELINE PROJECT - Pinkie Evans-Curry, Assistant
APPROVAL OF AGREEMENT FOR Project Manager for the Southwest
TRANSFER OF MANAGEMENT, Pipeline Project, reviewed the final
OPERATIONS, AND MAINTENANCE draft agreement for the Transfer of
RESPONSIBILITIES TO SOUTHWEST Management, Operations, and Main-
WATER AUTHORITY tenance Responsibilities for the
(SWC Project No. 1736) Southwest Pipeline Project from the
State Water Commission to the
Southwest Water Authority.

Mrs. Evans-Curry said the Southwest Pipeline Project was originally planned as a transmission delivery system. Integration of the project, by including rural water systems, created the need for a local group to work directly with the water users. The Southwest Water Authority was created in 1991 to be this local group.

The State Water Commission began the process of transfer in 1993, with the hiring of the Assistant Project Manager. The Authority has been kept informed of operation and maintenance activities for the last two years. The Commission and the Authority have worked together in many areas including the need for additional personnel, the adoption of policies, rules and regulations, resolving construction issues, and funding efforts to complete construction of the project as a joint effort.

At its November 6, 1995, meeting, the Southwest Water Authority board of directors voted to hire Pinkie Evans-Curry as the Manager of the Authority, effective January 1, 1996. This will ensure continuity in the management, operations, and maintenance of the project. The board approved the final draft of the transfer agreement.

Commissioner Olin commented he has examined the Performance Works Statement and the Operation and Maintenance Schedule of Activities, and said the Southwest Water Authority is ready to begin managing, operating, and maintaining the existing parts of the Southwest Pipeline Project.

It was the recommendation of the State Engineer that the State Water Commission approve the execution of the

**Agreement to Transfer Management, Operations, and Maintenance
Responsibilities for the Southwest Pipeline Project from the State Water
Commission to the Southwest Water Authority.**

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It was moved by Commissioner Vogel and seconded by Commissioner Ames that the State Water Commission approve the execution of the Agreement to Transfer Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority, effective January 1, 1996. The Agreement and Exhibits are attached hereto as APPENDIX "C".

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

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

At its April 26, 1995, meeting, the Commission members passed a motion to file a pre-application with the Rural Economic and Community

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

Tim Fay informed the Commission members at the July 19, 1995, meeting that the Rural Economic and Community Development Service reviewed the information provided to them and determined that the State Water Commission was eligible to participate in the program and that the pre-application was being processed.

Ray Scheetz, Director of the Rural Economic and Community Development Service, addressed the Commission members and informed them that a review of the pre-application filed by the State Water Commission determined eligibility of the Southwest Pipeline Project for funding through the Rural Economic and Community Development Service. Mr. Scheetz presented a letter to the Commission members and explained the requirements for proceeding, which is attached hereto as *APPENDIX "D"*. He said if the State Water Commission decides to proceed, the next course of action is to file a formal application prior to January 31, 1996.

Secretary Sprynczynatyk stated that although he has been advised of limited funding available from the Rural Economic and Community Development Service, he said this is a positive indication that funding could be available for continuation of the Southwest Pipeline Project. It was the recommendation of the State Engineer that the State Water Commission accept the letter from the Rural Economic and Community Development Service, and that an application for funding be pursued prior to January 31, 1996.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the letter from the Rural Economic and Community Development Service be accepted, and that the State Water Commission pursue an application for funding prior to January 31, 1996.

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

Mr. Scheetz suggested that both the State Water Commission and the Rural Economic and Development Service appoint staff persons to serve as project liaisons.

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

Warren Jamison, Manager of the Garrison Diversion Conservancy District, provided a status report on the Garrison Diversion project.

At the October 13, 1995, meeting of the Garrison Diversion Conservancy District board of directors, a proposed plan for the completion of the Garrison Diversion project was considered and endorsed. Mr. Jamison outlined the proposal at the Commission's October 16, 1995, meeting, and summarized the following objectives:

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

On October 26, 1995, Secretary Sprynczynatyk and Mr. Jamison presented draft legislation to the congressional delegation in Washington, DC, for the completion of an affordable water distribution system for Missouri River water in North Dakota.

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

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

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

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

Secretary Sprynczynatyk provided the following MR&I Water Supply program report:

Burleigh Water Users: The Burleigh Water User's expansion and improvement project will add more than 650 rural water users and 5 bulk water users to the existing 970 water users. The city of Bismarck would provide bulk water service to the Burleigh water project. The project design should be completed in 1995 with construction scheduled to begin in the spring of 1996. The total estimated project cost is \$9,700,000.

Dickey Rural Water Project: The Dickey Rural Water system will provide water service to Dickey County and the southern portion of LaMoure County. The construction contracts have been awarded and are scheduled to be completed in late 1996.

Grand Forks Water Treatment: The project's purpose is to achieve compliance with disinfection requirements of the Surface Water Treatment Rule at the Grand Forks water treatment plant. The city will use a chlorine/chloramine disinfection system. The city is upgrading its water treatment plant control system. The upgrade has an estimated cost of \$2,615,202 and should be completed in 1996.

Langdon Water Treatment Project: The project's purpose is to achieve compliance with disinfection requirements of the Surface Water Treatment Rule at the Langdon water treatment plant. The city will use a chlorine/chloramine disinfection system that requires construction of an additional 500,000 gallons in clear well storage and an automatic control system. The contract should be complete in December, 1995.

Missouri West Rural Water Project: The southern portion of Missouri West is proposed to serve the city of Flasher and 370 rural water users in southern Morton County. The city of Mandan would provide bulk water service to Missouri West. Design of the Missouri West project is anticipated to be completed in 1995, with possible phased construction in the spring of 1997. The southern portion of the Missouri West project has an estimated cost of \$7,729,400.

North Valley Water Association's Walhalla/Neché Branch Expansion: The proposed expansion will address water supply problems for the city of Walhalla and for an additional 130 rural water users in northern Pembina County and eastern Cavalier County. The engineer is working on the feasibility study. The estimated project cost is \$7,091,000.

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

Pierce County Rural Water Project: The new rural water system is proposed to serve the area of northern Pierce County, eastern McHenry County, northeastern Benson County, and southern Bottineau County. The rural water system would serve more than 235 rural water users and includes the communities of Barton, Wolford, York, Knox, Berwick, and Balta. Also, bulk water service may be provided to Willow City. The city of Rugby would provide bulk water service to Pierce County Rural Water. The feasibility study is scheduled for 1996. The estimated project cost is \$4,100,000.

Ransom-Sargent Rural Water Project: This new rural water system is proposed to serve more than 720 rural users and the communities of Cogswell, Elliot, Fingal, Forman, Kathryn, LaMoure, Lisbon, Marion, and Nome. The engineer is working on the feasibility study, which includes cultural resource surveys and water supply investigations. The estimated project cost is \$20,539,305.

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

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

The Garrison Diversion Unit federal appropriation for Fiscal Year 1996 includes \$11 million for the MR&I Water Supply program. Secretary

Sprynczynatyk stated that the federal budget has not been resolved in Washington and the Bureau of Reclamation may have to reduce the Garrison Fiscal Year 1996 budget significantly for underfinancing. He said that until those issues are resolved, a final recommendation will not be made on the Fiscal Year 1996 Garrison MR&I budget.

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

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

**GARRISON DIVERSION PROJECT -
APPROVAL OF MR&I FUNDING
FOR FEASIBILITY STUDY ON
SOUTHERN PORTION OF MISSOURI
WEST RURAL WATER PROJECT
(SWC Project No. 237-3)**

The northern portion of the Missouri West water system project is operational and providing water service to northern Morton County residents. The northern portion was approved for a 65 percent MR&I Water Supply program grant and a 35 percent State

Water Commission loan on the eligible project costs. The project is under the control of the Morton County Water Resource District.

Secretary Sprynczynatyk indicated that the Morton County Water Resource District has requested MR&I grant funding for the feasibility study on the southern portion of the project. The feasibility study cost to the District is estimated at \$45,447. The MR&I grant request would be 65 percent of the District's cost, not to exceed \$29,540. Secretary Sprynczynatyk explained that the MR&I grant for the northern portion of the project has funding available to cover the requested feasibility study grant.

It was the recommendation of the State Engineer that the State Water Commission approve a 65 percent MR&I Water Supply program grant, not to exceed \$29,540, to the Morton County Water Resource District for the Missouri West water system feasibility study for the southern portion of the project, and that the funds come from re-allocated funds from the northern portion of the project.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve a 65 percent MR&I Water Supply program grant, not to exceed \$29,540, to the Morton County Water Resource District for the Missouri West watersystem feasibility study for the southern portion of the project, and that the funds come from the re-allocated funds from the northern portion of the project. The motion is contingent upon the availability of funds.

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

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

received about six inches of snow in late October, but the overall fall precipitation was slightly below normal. The National Weather Service will issue its first snowpack forecast in February, 1996. Normal precipitation could raise Devils Lake one to two feet.

Secretary Sprynczynatyk reported that Devils Lake has remained stable near elevation 1435 mean sea level for the last few weeks. The basin

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

term stabilization of Devils Lake and basin-wide management. The plan addresses five general areas of interest set forth in Public Law 102-377, which directed the Corps of Engineers to initiate a feasibility study for Devils Lake. Those areas are: basin water management; lake stabilization; water quality; recreation; and enhancement and conservation of fish and wildlife. The Corps of Engineers and the Bureau of Reclamation have completed the scope of work for the long-term feasibility study and it is being reviewed within the Corps of Engineers Washington, DC office. The feasibility study, as outlined in the scope of work, would be a three-year effort, at a cost of more than \$7 million. He said a decision has not been reached as to when the Corps will proceed with this study.

Secretary Sprynczynatyk reported on the Corps of Engineers and the Bureau of Reclamation's collaborative, interagency process to develop a plan of study that addresses the long-

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

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

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

The final draft report of the FEMA Devils Lake Interagency Task Force has been completed. On November 9, 1995, a telephone conference call was held to discuss the report and the steps underway that need to be taken to implement the recommendations in the report. Secretary Sprynczynatyk summarized the report, which include six tasks that should be done in order to lay the ground work for 18 action items to help alleviate flooding. He said it is anticipated the final report will be distributed in December, 1996.

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

Secretary Sprynczynatyk stated that the North Dakota congressional delegation and the Assistant Secretary of the Army, Civil Works, have agreed that the Corps of Engineers would

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

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

A preliminary draft of the Contingency Plan was submitted to the Corps of Engineers's headquarters on November 24, 1995, for review. The deadline for the public review is scheduled for December 1, 1995, which will include continued agency and local input to fill out, refine, and update the plan's details throughout this winter and spring. Secretary Sprynczynatyk said the proposed Contingency Plan will serve as a vital aid for decision-makers in the prudent selection of appropriate measures under various lake rise scenarios.

**DEVILS LAKE EMERGENCY
RESPONSE PLAN -**

Secretary Sprynczynatyk provided a status report on the Devils Lake

DEVILS LAKE - STUMP LAKE

Emergency Response plan, which is

**EMERGENCY OUTLET COMPONENT
STATUS REPORT**

a short-term emergency flood control measure to alleviate flood conditions

(SWC Project No. 1882)

around Devils Lake in 1996 and 1997 while long-term flood reduction

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

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

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

On October 19, 1995, bids were opened for the pump site earthwork, pumps, and related piping. Secretary Sprynczynatyk said due to delays in obtaining the permits, it was necessary to reject all of the bids for the pump site earthwork contract. He said it is intended to incorporate the work into a larger contract with a February, 1996 bid opening, with construction beginning next spring.

The low bid for the pumps was received from Pump Systems, Inc., of Dickinson, North Dakota. Secretary Sprynczynatyk said the Gator Pumps, included in the bid proposal, have a 14-week delivery time, therefore, a decision should be made in December, 1995, in order to begin pumping by June 1, 1996. Secretary Sprynczynatyk stated that easements for the Stump Lake outlet will be acquired now, where possible, for obtaining options. He said the options will be exercised before construction begins along the channel and when pumping begins around the lake. The cost of the

options is estimated at \$75,000.

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Commissioner Ames made reference to the efficiency, reliability, and other concerns he had expressed at the October 27, 1995, State Water Commission meeting regarding the Gator-type of pump that was bid. Because of the delay in getting the required permits and the fact that the earthwork will not begin this fall, Commissioner Ames said he feels it would be in the best interests of all concerned to re-bid the pumps using a wet-well configuration with vertical turbine pumps. He said the cost estimate for this type of pump would be approximately \$100,000 above the Gator-type pump.

Secretary Sprynczynatyk responded to concerns relative to the use of condemnation in acquiring land for the emergency plan. The State Water Commission has the authority to acquire easements or fee title to property that may be required as mitigation. He said condemnation will not be used unless it is absolutely necessary. Any decision to condemn land will have to go through normal judicial procedures which will require time. In the event condemnation is necessary, the decision will be made by March, 1996, to allow sufficient time to deal with the matter in court.

Duane Breitling, attorney representing the Nelson County Commission, appeared before the State Water Commission to address the Devils Lake Emergency Response plan. Mr. Breitling presented a letter, attached hereto as *APPENDIX "F"*, relative to the Nelson County Commission's opposition to the Section 404 permit and the fact that the Nelson County Commission may decide to pursue injunctive remedies against the State Water Commission and the Corps of Engineers. Mr. Breitling also commented on other features of the plan.

Ronald Dahlen, Chairman of the Nelson County Commission, appeared before the State Water Commission to discuss concerns in Nelson County relating to the acquisition of land or land easements required for the project; the decision to raise Dutch Point road to a top elevation of 1417; mitigation; and flood problems in northern Nelson County. Mr. Dahlen provided the Commission members with a letter, attached hereto as *APPENDIX "G"*.

Ben Varnson, Chairman of the Nelson County Water Resource Board, commented on the Devils Lake Emergency Response plan and provided information relative to local, state and federal communication and interaction efforts that are being pursued.

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

Secretary Sprynczynatyk stated that a very critical part of the Devils Lake Emergency Response plan includes the upper basin water retention component. Upper basin storage will be obtained from landowners willing to participate in a voluntary program.

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

At the October 27, 1995, meeting, the State Water Commission approved a request from the Devils Lake Joint Water Resource Board and allocated \$50,000 from the Contract Fund for the storage of water on CRP land in the Devils Lake basin. Secretary Sprynczynatyk explained the program, which consists of storing approximately 3,000 acre-feet of water on CRP fields to prevent water from reaching Devils Lake in 1996. The Natural Resources Conservation Service (NRCS) will administer the program and design the structures. The Devils Lake Joint Water Resource Board will make the payments to the farmers and the contractors as needed. The \$50,000 approved by the Commission includes \$30,000 for structures and \$20,000 for landowner payments.

On November 9, 1995, the State Water Commission staff sent a survey letter to landowners in the upper Devils Lake basin to determine the level of local interest and what is acceptable to them relative to the storage of water. Secretary Sprynczynatyk explained participation in the program is voluntary. The NRCS will assist in processing the applications for the program, which will be reviewed by a technical committee for feasibility and cost effectiveness. The project design will be coordinated by the technical committee, with assistance from the NRCS and the State Water Commission staff. Construction will occur as early as possible in 1996.

Secretary Sprynczynatyk said there are concerns among the landowners that they won't be able to put their land back into production and that it will become a wetland regulated by federal law. He said the farmers won't have any problems putting their land back into production as far as the state is concerned, but there are questions at the federal level which need to be resolved. He briefed the Commission members on a meeting held with the federal agencies regarding the wetland designations on land flooded as part of the program, and the effort to get a written agreement between the agencies involved in wetlands regulation.

Richard Regan, Chairman of the Ramsey County Water Resource District, addressed the State Water Commission and provided information on the components of the Devils Lake Emergency Response plan. He made reference to situations that have occurred in the basin over the years and, for these reasons, he said there is a great deal of animosity and the farmers have become very cautious. Public meetings are being held to get the information about the program to the affected landowners. Mr. Regan concluded his remarks by expressing appreciation to the State Engineer and the staff for the work that has been done in the Devils Lake basin.

**DEVILS LAKE EMERGENCY
RESPONSE PLAN FUNDING -
(SWC Project No. 1882)**

Secretary Sprynczynatyk stated that the total cost of the Devils Lake Emergency Response plan is \$7.8 million, of which \$4.6 million is for the Devils Lake - Stump Lake emergency outlet component, and \$3.2 million for the upper basin water retention program. He discussed funding options that are being explored for the plan, including FEMA mitigation funds.

Secretary Sprynczynatyk explained that the 1995 legislature appropriated \$1 million to the Contract Fund, but these funds were not line-itemed. He said the legislature supported flood control projects and, subsequently, the State Water Commission further discussed and earmarked these funds for the Sheyenne and Maple River flood control.

The Governor stated because of the emergency and need for funding for Devils Lake for flood control, he discussed with the legislative leaders the possibility of allocating Sheyenne and Maple River flood control funds from the Contract Fund for the Devils Lake Emergency Response plan. The legislative leaders agreed this could be done and that the replacement of the funds for the Sheyenne and Maple River flood control could be addressed during the next legislative session.

It was the recommendation of Governor Schafer and the State Engineer that the State Water Commission allocate \$750,000 from the Contract Fund for the Devils Lake Emergency Response plan. The funds would be used to pay for a portion of the costs associated with the purchase of the pumps and related accessories, land costs, and upper basin storage. Specifically, \$260,000 would be obligated for the pumps; \$75,000 for initial land rights; and \$15,000 for pipe materials. The balance would remain allocated, but unobligated until actually needed. As the emergency plan continues to be implemented, specific recommendations will be brought before the State Water Commission for consideration.

Secretary Sprynczynatyk provided copies of letters to the Commission members that were received from the Sheyenne River Joint Water Resource District and the Cass County Joint Water Resource Board opposing the use of funds for the Devils Lake Emergency Response plan that were earmarked for Sheyenne and Maple River flood control. He said if the State Water Commission approves the recommendation, it should continue to recognize the importance and support these projects, and seek non-federal funding, specifically during the next legislative session.

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

It was moved by Commissioner Ames and seconded by Commissioner Hillesland that:

- 1) the State Water Commission approve the allocation of \$750,000 from the Contract Fund for the Devils Lake Emergency Response plan, of which \$350,000 shall be obligated for pumps, initial land rights, and pipe materials.*

The remaining \$400,000 shall remain allocated, but unobligated until needed, at which time a recommendation will be brought before the State Water Commission for consideration;

- 2) the State Water Commission staff shall re-bid the pumps utilizing a wet-well vertical turbine configuration;*
- 3) the State Water Commission staff shall proceed with acquiring land rights through options for the Stump Lake pumping component; and*
- 4) this motion is contingent upon the availability of funds.*

Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, Swenson, Thompson, and Chairman Schafer voted aye. Commissioner Vogel voted nay. The recorded vote was 8 ayes; 1 nay. The Chairman declared the motion carried.

Commissioner Olin leaves the meeting.

The State Water Commission recessed its meeting at 10:45 AM, for a joint meeting with the Legislative Interim Water Resources Committee.

**JOINT MEETING WITH
LEGISLATIVE INTERIM
WATER RESOURCES COMMITTEE**

Governor Schafer, Chairman of the State Water Commission, and Representative Alice Olson, Chairman of the Legislative Interim Water

Resources Committee, called a joint meeting of the Commission and the Committee to order at 10:45 AM. The minutes of the joint meeting are attached hereto as *APPENDIX "E"*. The joint meeting adjourned at 12:45 PM. Following the joint meeting, the State Water Commission reconvened its meeting.

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

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

A draft report of the test results arrived in late November, with a final report to be available in December, 1995. A meeting with the Garrison Joint Technical Committee will be scheduled thereafter to discuss the results and any further concerns of the committee.

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

Northwest Area Water Supply advisory committee. Mr. Shobe had been recommended for the committee in the spring of 1991 by the Executive Director of the North Dakota League of Cities. It has been recommended that Wanda Emerson, Mayor, City of Mohall, be appointed to serve on the advisory committee.

Secretary Sprynczynatyk stated as provided for by law, he will appoint Wanda Emerson to the Northwest Water Supply Advisory Committee advisory committee to represent the small communities.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
ENGINEER SELECTION PROCESS
FOR PROJECT FINAL DESIGN
(SWC Project No. 237-4)**

Secretary Sprynczynatyk reported on the testing of the effectiveness of the chloramination of raw water from Lake Audubon and Lake Sakakawea. Canadian representatives to the Garrison Joint Technical Committee

(JTC) have agreed that if chloramination can satisfy the disinfection

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

A draft report of the test results arrived in late November, with a final report to be available in December, 1995. A meeting with the Garrison Joint Technical Committee will be scheduled thereafter to discuss the results and any further concerns of the committee.

Secretary Sprynczynatyk informed the Commission members that Ken Shobe, Mohall City Administrator,

recently resigned as the representative of small communities on the

Northwest Area Water Supply advisory committee. Mr. Shobe had been recommended for the committee in the spring of 1991 by the Executive Director of the North Dakota League of Cities. It has been recommended that Wanda Emerson, Mayor, City of Mohall, be appointed to serve on the advisory committee.

Secretary Sprynczynatyk stated as provided for by law, he will appoint Wanda Emerson to the Northwest Water Supply Advisory Committee advisory committee to represent the small communities.

At the October 16, 1995, meeting, the

Commission passed a motion directing the State Engineer to initiate the

selection process for the engineering consultant on the final design of the

Northwest Area Water Supply
project, excluding the city of Rugby water treatment plant and supply, as required
by N.D.C.C. Ch. 54-44.7, and following the procedure used in 1992 for the selection
of the engineer for the pre-final design.

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November 29, 1995

Secretary Sprynczynatyk reported a selection committee was established and held its first meeting on November 3, 1995, by telephone conference call. The committee developed the following timetable for the selection process:

<u>October 27, 1995:</u>	Select committee
<u>November 8, 1995:</u>	Publish Request For Information (RFI) 21 days required
<u>November 8, 1995:</u>	Conference call meeting of committee to discuss selection criteria, schedule, and procedure
<u>November 30, 1995:</u>	Deadline for proposals
<u>December 6, 1995:</u>	Selection committee meets to discuss proposals and select finalists
<u>December 19, 1995:</u>	Formal interview of finalists

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

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

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

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

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

At the October 16, 1995, meeting, the Commission passed a motion to enter into an arrangement with the Industrial Commission to utilize the services of the Industrial Commission's financial advisor on the Northwest Area Water Supply project.

Secretary Sprynczynatyk stated that on October 27, 1995, a letter containing the request was sent to the Executive Director of the Industrial Commission. At its meeting on November 8, 1995, the Industrial Commission approved the request. A meeting with the financial advisory will be scheduled shortly.

**CONSIDERATION AND APPROVAL
OF REQUEST FOR COST SHARING
IN DAM SAFETY MODIFICATIONS
FOR HOMME DAM
(SWC Project No. 828)**

Homme Dam has been evaluated by the U.S. Army Corps of Engineers under the Dam Safety Program. Of particular concern was the projected impact on lives and property due to a failure of the dam at very high flows.

The Corps of Engineers has recommended a dam safety project that would involve increasing the spillway capacity to 53,500 cubic feet per second (cfs). The current spillway capacity is 23,500 cfs. This will be accomplished by constructing an additional concrete spillway adjacent to the existing concrete spillway.

Secretary Sprynczynatyk presented the request and he explained that the Water Resource Development Act of 1986 requires that 15 percent of the cost of modifications for dam safety be assigned to project purposes in accordance with the current cost allocation and shared in accordance with the cost sharing in effect at the time of the initial project construction. The original cost to construct Homme Dam in the late 1940s was \$1,384,097, of which \$62,800, or 4.54 percent, represented the non-federal match. Therefore, Secretary Sprynczynatyk said 4.54 percent of 15 percent is .68 percent of the future dam safety improvements and must be funded by the local sponsor. Construction is not planned until Fiscal Year 1998-1999. The estimated project costs exceeds \$8 million.

The original dam was constructed in the late 1940s and the cities of Grafton and Park River were the local sponsors. The original purpose of the project was to provide water supply for the two cities and flood control for those areas downstream from the dam. Secretary Sprynczynatyk said that recreation has also become an important benefit. The city of Park River continues to use water from the reservoir as their primary water supply. The city of Grafton has completed a pipeline to the Red River, which is their primary water supply, although the city does maintain a water right for water behind Homme Dam as a backup system.

The cities of Grafton and Park River, the Walsh County Commission, and the Red River Joint Water Resource Board have been contacted concerning cost sharing of the local non-federal portion of the project. Secretary Sprynczynatyk said that the Red River Joint Board has agreed to provide \$9,333. To date, no commitments have been made from the other entities.

The Homme Dam safety project meets the current State Water Commission's policy and guidelines for cost sharing, and is eligible for 50 percent cost sharing. The non-federal share of the \$8 million project has been estimated to be \$56,000.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing of 50 percent of the non-federal share, not to exceed \$28,000 from the Contract Fund.

It was moved by Commissioner Ames and seconded by Commissioner Thompson that the State Water Commission approve cost sharing of 50 percent of the non-federal share, not to exceed \$28,000 from the Contract Fund. This motion is contingent upon the availability of funds.

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

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

Patterson Lake from the U.S. Bureau of Reclamation. The city owes the Bureau of Reclamation approximately \$3 million. Presently, the State Water Commission gives the city credit for 75 percent of the debt under the Southwest Pipeline Project's water service contract. The credit amounts to approximately \$12,000 per month for seven more years.

At the October 14, 1994, meeting, the Commission members were advised the city of Dickinson was interested in assuming ownership and responsibility of the Dickinson Dam and

The State Water Commission staff and representatives of the city of Dickinson completed a plan titled "Patterson Lake Area Recreation and Environment Enhancement Project," which addressed the issues associated with the transfer of Dickinson Dam and Patterson Lake from the Bureau to the city. The plan was provided to the congressional delegation for their information in preparing federal legislation that would transfer the dam and the lake to the city. The congressional delegation is expected to introduce legislation to Congress in late October or early November, 1995.

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

Mr. Rydell said the information contained in the Dickinson Dam/Patterson Lake plan will satisfy many of the items described in the Bureau's guidelines required for a title transfer. Financial issues and specific areas of the guidelines requiring additional information before transferring the title were discussed in a recent meeting with the Bureau. The Bureau will be providing additional information to the city concerning the Bureau's views on financial issues associated with the transfer. The information will address how much the Bureau believes the city owes on the bascule gates and the dam. The Bureau will also be providing the city with additional information concerning how their recently published guidelines apply to the transfer of the dam and lake. Mr. Rydell stated that although there is an overlap in the two transfer procedures, the city is currently intending to keep the document-based effort and the Bureau's effort separate, and continue on a parallel-type track.

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

Secretary Sprynczynatyk reported the Missouri River Basin Association is working with consensus-building facilitators, which were hired by the Association to help the basin's states and tribes agree on recommendations to present to the Corps of Engineers for managing the Missouri River. While developing its recommendations, the Association will build on data and suggestions that the Corps compiled during the Master Manual review, but other options are also being considered.

The next meeting of the Association is scheduled for December, 1995, in Kansas City, Missouri.

CANNONBALL RIVER

**BASIN STUDY UPDATE
(SWC Project No. 322-1)**

Secretary Sprynczynatyk provided a status report on the Cannonball River Basin study, which is attached hereto as *APPENDIX "H"*.

PROJECT CONSTRUCTION

(SWC Project No. 1346-2)

Secretary Sprynczynatyk reported that construction activities for 1995 have essentially been halted due to cold weather conditions.

Mount Carmel Dam modifications are 95 percent complete. The new spillway is completed and is useable for the 1996 spring snowmelt. The emergency spillway has also been repaired.

A summary of the State Water Commission's construction crew's activities during the 1993-1995 biennium is attached as *APPENDIX "I"*. Secretary Sprynczynatyk stated that most of the work is cost shared by the Water Resource Districts and the North Dakota Game and Fish Department.

**ATMOSPHERIC RESOURCE
DIVISION INFORMATION**

The Commission members were provided information relating to the May through September precipitation in the state, and the Devils Lake region.

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

**TOUR OF CITY OF FARGO
WATER TREATMENT PLANT
AND SEWAGE FACILITIES**

Following the State Water Commission meeting, the city of Fargo hosted a tour of the city's water treatment plant and the sewage facilities.

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

SEAL

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

