

## **MINUTES**

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

**September 4, 1996**

The North Dakota State Water Commission held a meeting in the lower level conference room in the State Office Building, Bismarck, North Dakota, on September 4, 1996. Governor-Chairman, Edward T. Schafer, called the meeting to order at 9:45 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  
Florenz Bjornson, Member from West Fargo  
Elmer Hillesland, Member from Grand Forks  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **MEMBERS ABSENT:**

Mike Ames, Member from Williston  
Judith DeWitz, Member from Tappen

#### **OTHERS PRESENT:**

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

The attendance register is on file with the official minutes.

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

#### **CONSIDERATION OF AGENDA**

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

**CONSIDERATION OF MINUTES  
OF JUNE 19, 1996 STATE WATER**

**COMMISSION MEETING -**

**APPROVED, AS CORRECTED**

omitted from the 'Members Present' section on page 1.

The minutes of the June 19, 1996 State Water Commission meeting were

considered. It was noted that

Commissioner Thompson was at the meeting and was inadvertently

*It was moved by Commissioner Olin, seconded by Commissioner Bjornson, and unanimously carried, that the minutes of the June 19, 1996 State Water Commission meeting be approved, as corrected.*

**CONSIDERATION OF MINUTES  
OF AUGUST 22, 1996 STATE WATER  
COMMISSION TELEPHONE  
CONFERENCE CALL MEETING -  
APPROVED**

The minutes of the August 22, 1996 State Water Commission telephone conference call meeting were approved by the following motion:

*It was moved by Commissioner Olin, seconded by Commissioner Bjornson, and unanimously carried, that the minutes of the August 22, 1996 State Water Commission telephone conference call meeting be approved as prepared.*

**FINANCIAL STATEMENT -  
AGENCY OPERATIONS**

dated July 31, 1996, reflecting 54 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**

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

Secretary Sprynczynatyk explained that several completed projects did not require all grant funds previously approved by the State Water Commission. This has resulted in \$48,344 becoming available for new projects, for a total unallocated balance of \$501,623 in the Resources Trust Fund. A recommendation to approve deferred projects including the Coburn Township Drain #2, the Steele County Drain #11, and the Elliott Drain (Gemar Dam) will be presented for the Commission's consideration at this meeting.

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



It was the recommendation of the State Engineer that the State Water Commission continue to defer cost sharing requests on the Gardena Flood Control project, the Harriston-Polaski Drain, and Cass County Drain #13.

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

Charles Rydell presented the State Water Commission's 1997-1999 biennium budget. He said the budget reflects a 3 percent reduction in general funds for the agency, which amounts to a reduction of \$163,729 from the present biennium general funding level for the agency of \$5,457,627. Mr. Rydell indicated that an optional adjustment request is being developed for the budget submittal. A hearing on the agency's 1997-1999 biennium budget with the Office of Management and Budget has been scheduled for September 20, 1996.

**CONSIDERATION AND APPROVAL  
OF REQUEST FOR EMERGENCY  
COMMISSION ACTION ON  
RESOURCES TRUST FUND**

Secretary Sprynczynatyk indicated the revenues into the Resources Trust Fund have been greater than what was forecasted in March, 1995. This increase is due to increased revenues during the biennium and from turn back of several completed projects during the 1993-1995 biennium. These increases total \$1.7 million.

Water delivery revenues from the Southwest Pipeline Project are \$280,000 ahead of projections for the biennium, and Perkins Rural Water in South Dakota is scheduled to make a \$284,000 payment into the Resources Trust Fund to pay added costs for enlarging the pipeline segment currently under construction.

MR&I loan payments are \$83,000 ahead of the 1995 estimate. Therefore, Secretary Sprynczynatyk said the total additional revenues into the Resources Trust Fund are currently estimated at \$2.35 million beyond the forecast of March, 1995.

The State Water Commission's budget was appropriated through Senate Bill 2025. Section 5 of this bill states: "If the resources trust fund 1995-1997 revenues are in excess of \$9,296,181, any excess is hereby appropriated, subject to emergency commission approval." Secretary Sprynczynatyk explained that since the current estimate exceeds the \$9.3 million in Senate Bill 2025, Emergency Commission action at this time would allow the State Water Commission to further address water development needs on a case-by-case basis during the last nine months of the current biennium.

The allocation and obligation of these funds would be handled on a program and project specific basis by the State Water Commission. Secretary Sprynczynatyk stated projects likely to receive funds include the Southwest Pipeline Project, the Upper Basin Storage project in the Devils Lake basin, the 1997 portion of the Devils Lake Feasibility Study, and cost share grants to several small statewide water projects. Exact amounts for projects would be determined as the project continues to develop.

It was the recommendation of the State Engineer that the State Water Commission approve a request to the Emergency Commission for an additional \$2.35 million in the capital improvements and grants line items of the 1995-1997 biennium budget.

*It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve a request to the Emergency Commission for an additional \$2.35 million in the capital improvements and grants line item of the 1995-1997 biennium budget. The State Water Commission shall determine the allocation and obligation of these funds on a program and project specific basis.*

*Commissioners Bjornson, 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 -  
PROJECT UPDATE; CONTRACT  
AND CONSTRUCTION STATUS  
(SWC Project No. 1736)**

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

**Contract 2-3G - Cathodic Protection:** This contract completes the cathodic protection system for all of the steel and ductile iron piping in the project. The contract was completed in July and has been accepted.

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

**Contract 4-1A - Raw Water Facilities Upgrade:** The new pumps, switch gear, and wiring have been installed in the Dodge and Richardton pump stations. Delivery of the surge chambers was delayed which impacted the contract schedule, however, all three tanks have been installed and are in service.

**Contract 7-2 - Rural Water Distribution in the New England Service Area:** This contract was completed in July, 1996.

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

At the June 19, 1996 State Water Commission meeting, it was reported that the issuance of commercial bonds for the future construction of

the Southwest Pipeline Project appears to be a practical solution to the problem of declining MR&I allocations to the project. Tim Fay stated that as soon as contractual arrangements are in place, the intent is to meet with Evensen Dodge, Inc., financial consultants, to prepare the detailed bonding proposals.

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

A potential source of funding is the Natural Resources Conservation Service. Mr. Fay stated that a meeting was held on August 19, 1996 with the NRCS to review the Taylor Watershed project and to discuss future similar projects. He said the PL-566 program is still available for funding projects similar to the Taylor Watershed project, however, funds for this program are being reduced. He said it is possible that a new NRCS program titled "EQIP" may be able to provide funds as well. A meeting has been scheduled for September 16, 1996 with NRSC to select an area for possible development.

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

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

Mr. Jamison provided a summary of the meeting held on July 5, 1996 with the water and power interests to review the working draft of the Garrison Diversion Completion Plan. Reference was made to a letter from the Western Area Power Administration, dated August 23, 1996, in which the Administration states, in part:

"In discussing the primary funding mechanism in Section 403(c) in the July 5, 1996 draft, it was agreed that the intent of the funding mechanism was to be rate neutral. It was pointed out that certain other costs associated with aid to irrigation and multi-purpose costs assigned to be repaid by power were being made non-reimbursable by Section 411. We agree this would have a downward pressure on the firm power rate."

On August 21-23, 1996, Bob Faber, staff director for the House Subcommittee on Water and Energy, Washington, DC, toured facilities of the Garrison Diversion project. Mr. Jamison summarized the tour and he said "we were very fortunate to have Mr. Faber's time for three days, he was favorably impressed, and pledged his support to assist in proposed legislation for the project."

Mr. Jamison made reference to and expressed support for the continuation of the Will & Carlson contract through June 30, 1997, and the use of a construction contract provision for use on future MR&I Program project. Both of these items will be considered by the State Water Commission at this meeting.

**GARRISON DIVERSION PROJECT -**

**APPROVAL OF CONTINUATION OF CONTRACT WITH WILL &**

**CARLSON, WITH COST SHARING UP TO \$25,000 FROM CONTRACT**

**FUND, THROUGH JUNE 30, 1997 (SWC Project No. 237-3)**

Secretary Sprynczynatyk presented a request from the Garrison Diversion Conservancy District to continue

participation in support of the Will & Carlson contract in the amount of

\$25,000. Since 1991, the State Water Commission has pledged financial support of \$105,000 for the consulting services of Peter Carlson, Will & Carlson, in Washington, DC.

Secretary Sprynczynatyk explained that Mr. Carlson provides a comprehensive monthly report on activities in Washington affecting water issues important to the mission and goals of the State Engineer and the State Water Commission. This information assists in tracking changes in Washington that affect the regulation and management of water resources dealing with the welfare and prosperity of the people of North Dakota. Changes deal with annual federal appropriations, Garrison Diversion, stabilization of Devils Lake, Missouri River, and other water issues in Washington.

The next major project for Will & Carlson will be to assist in the Garrison Diversion Completion Plan. Secretary Sprynczynatyk explained that this plan includes benefits to the communities and industries in the Sheyenne, Red, and James River basins by working towards providing access to the Missouri River. Will & Carlson will assist in providing extra support in obtaining annual appropriations and assuring that new members and staff of key committees are fully informed of North Dakota's needs and expectations.

It was the recommendation of the State Engineer that the State Water Commission approve up to \$25,000 from the Contract Fund to continue the Will & Carlson contract through June 30, 1997.

**The funds would be used to cost share with the Garrison Diversion Conservancy District.**

**- 6 -**

**September 4, 1996**

*It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve continuation of the Will & Carlson contract through June 30, 1997, up to \$25,000 from the Contract Fund. This motion is contingent upon the availability of funds.*

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

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

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

**Burleigh Water Users:** Northern Improvement is working on the water pipeline contract and Advanced Tank and Construction is working on the water storage tanks contract. Construction is scheduled to be completed this fall.

**Dickey Rural Water Project:** The water treatment plant is near the testing stage with work continuing on the 500,000 gallon water reservoir. Construction of the water pipeline distribution system and booster stations is progressing. The raw water pipeline is installed and near the testing stage. The communities of Edgeley and Ellendale could have water service by November, 1996.

**Grand Forks Water Treatment:** The project is anticipated to be completed this fall.

**Missouri West Rural Water Project:** The system design is complete with final water connection details being discussed with the city of Mandan.

**North Valley Water/Walhalla-Neche Branch:** The engineer is working on the feasibility study.

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

**Ransom-Sargent Rural Water Project:** The engineer is working on the feasibility study.

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

**GARRISON DIVERSION PROJECT -  
MR&I SUBCOMMITTEE REPORT  
(SWC Project No. 237-3)**

The Municipal, Rural and Industrial Water Supply Program (MR&I) has been in existence since 1986, with the original funding authority of \$200 million. The MR&I subcommittee, composed of State Water Commission members and Garrison Diversion Conservancy District members, held a series of meetings in 1995 to review the amount of money that remained in the MR&I program, which was approximately \$88 million. In September, 1995, a recommendation was made by the North Dakota Water Coalition on how the remaining MR&I money should be allocated. After this was done, there were several other projects that came forward and indicated they had not had an opportunity to be involved in some of the previous meetings.

On March 28, 1996, the MR&I subcommittee held a meeting where representatives from the Williams Rural Water Association, Stutsman Rural Water Users, Benson Rural Water Users, and other project sponsors were provided an opportunity to present their projects.

The 1986 authorization of \$200 million for the MR&I program is not adequate to meet North Dakota's water supply needs across the state. There are efforts underway, through the State Water Commission and the Garrison Diversion Conservancy District, to increase the authorization and it is important that the Congressional Delegation be made aware of the needs as well, since Congress is where the final action will be taken.

The MR&I subcommittee passed a motion at its March 28, 1996 meeting that Secretary Sprynczynatyk and Warren Jamison review the material that was presented at the subcommittee meeting and present a recommendation for the subcommittee's consideration at a future meeting.

The planned funding for the Garrison MR&I program is \$16 million for Fiscal Year 1997 and it appears that reductions from that level are probable. Due to the uncertainty of the 1997 funding, three funding level tables were created to reflect the possible outcomes. On May 30, 1996, the MR&I subcommittee held a telephone conference call with project sponsors to discuss the impacts of potential reductions. Discussion involved funding levels of \$16 million, \$12 million, and \$9 million. The subcommittee took no action.

Jeffrey Mattern summarized the MR&I committee telephone conference call meeting held on August 26, 1996. The committee discussed the allocation schedule of the remaining Garrison MR&I grant funding, a funding request from the Benson Rural Water Users Association for feasibility study costs, and a construction contract provision dealing with available MR&I funds.

**GARRISON DIVERSION PROJECT -  
BENSON RURAL WATER  
ASSOCIATION -  
(SWC Project No. 237-3)**

The Benson Rural Water Users Association requested a 65 to 75 percent MR&I grant on feasibility costs of \$34,863.40. Jeffrey Mattern explained that the recent MR&I grant

percentage for feasibility studies is 65 percent and, thus, would be \$22,660 for the project.

At its meeting on August 26, 1996, the MR&I committee recommended that funding for the Benson Rural Water Association be programmed into the 1997 funding allocations once the final appropriation is known. The committee further stated that funding the feasibility study costs were not a commitment or obligation for funding, design, or construction from the existing \$200 million MR&I authorization. The funding for design and construction would come from additional federal funding authorizations.

**GARRISON DIVERSION PROJECT -  
APPROVAL OF CONSTRUCTION  
CONTRACT PROVISION FOR USE  
ON MR&I PROGRAM PROJECTS  
(SWC Project No. 237-3)**

At its meeting on August 26, 1996,

the MR&I committee considered a contract provision that would allow the issuance of construction contracts beyond the annual MR&I federal funding, with a hold harmless

withdrawal provision should MR&I funding not materialize from the annual federal appropriation. The provision would be used to bid the total project with the original contract listing the funding allocated for that project for the current fiscal year. Jeffrey Mattern explained that the current fiscal year funding level is what the contractor would receive in the fiscal year for work completed, with the assumption that the remaining balance would be available in the next fiscal year, contingent upon adequate federal funding. If federal funds were not available, the contract may have to be terminated, depending on actual available funds.

The Bureau of Reclamation requires all MR&I project specifications to include a section that addresses this type of construction contract provision. A review of the Bureau's provision is being made by the Garrison Diversion Conservancy District and the State Water Commission's legal counsels to determine if any modifications are required to ensure that both entities are covered if MR&I funding is not available for a project.

Mr. Mattern explained that the projects bid using this provision would be ready for construction in a timely manner to match the construction season with the funding cycle and provide water to users in a most efficient manner. The MR&I committee recommended the use of a construction contract provision to be reviewed by the Manager of the Garrison Diversion Conservancy District and the State Engineer.



It was the recommendation of the State Engineer that the State Water Commission approve the inclusion of a construction contract provision on future MR&I Program projects.

*It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve the inclusion of a construction contract provision on future MR&I Program projects.*

*Commissioners Bjornson, 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)**

Secretary Sprynczynatyk provided historic water level data for Devils Lake as documented by the U.S. Geological Survey. Hydrographs depicting information relative to the past 24 months of activity on Devils Lake were also provided to the Commission members. He reported the current level of Devils Lake at 1437.62. The probability of continued rise next year still exceeds 90 percent, which means the elevation of Devils Lake will likely exceed the 1867 record elevation of 1438.4.

Secretary Sprynczynatyk provided historic water level data for Devils Lake as documented by the U.S. Geological Survey. Hydrographs

An informational brochure titled "Lake Levels, Streamflow, and Surface Water Quality in the Devils Lake Area, North Dakota", prepared by the U.S. Geological Survey, the State Water Commission, the Department of Health, and the State Game and Fish Department, was provided to the Commission members.

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

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

The Corps of Engineers was directed to develop an emergency outlet study for Devils Lake. The plan, requested by the North Dakota Congressional Delegation, describes

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

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

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

#### **CITY OF DEVILS LAKE LEVEE PROJECT -**

**(SWC Project No. 416-2)**

The city of Devils Lake is currently protected by a series of levees

constructed by the Corps of Engineers in the 1980s. These levees provide

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

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

Secretary Sprynczynatyk stated the total cost of Stage 1 is \$3,640,000. The Corps of Engineers will pay 75 percent of the costs, leaving a non-federal requirement of \$910,000. Secretary Sprynczynatyk



explained that because of the lateness of the construction season, the Corps will not be able to complete Stage 1 in 1996; thus, the Corps indicated \$350,000 for the right-of-way, design, and construction would be required this year. The state's share, based on a 50 percent cost share, would be \$175,000. The balance of the state's share, assuming a \$7.5 million project, will be approximately \$760,000 which would be required in 1997.

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

**DEVILS LAKE EMERGENCY  
RESPONSE PLAN -  
APPROVAL TO CONTINUE  
AVAILABLE STORAGE  
ACREAGE PROGRAM (ASAP)  
FOR 1997  
(SWC Project No. 1882)**

Secretary Sprynczynatyk reported approximately 50 Available Storage Acreage Program (ASAP) sites that were applied for in 1996 were found to be feasible. Forty-six of the sites have been completed. The 46 sites inundate about 4,300 acres of land and initially stored

approximately 8,000 acre-feet of water. He said since these holding sites evaporate and refill with subsequent rainfall, the net storage for these sites is greater than the 8,000 acre-feet it took to initially fill them. In addition, he said management of the Lake Irvine outlet and U. S. Fish and Wildlife Service efforts in the basin have included 5,500 acre-feet of storage, bringing the total volume of water held back to more than 13,500 acre-feet.

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

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

Sites deemed feasible from 1996 applications, but not implemented because of timing, are being considered for implementation this fall. Secretary Sprynczynatyk said the procedure to obtain

new storage sites would be the same as in 1996. Applications will be taken, reviewed by the State Water Commission at the Devils Lake office, and an offer made to the landowner/renter. If accepted by both parties, the Commission staff will arrange for implementation of any facilities needed to accomplish the storage. Additional authority and funding will be necessary for new sites and to exercise the second-year option on existing sites. The funding requirement has not yet been determined.

It was the recommendation of the State Engineer that the State Water Commission approve the continuation of the ASAP program for 1997.

Commissioner Vogel expressed concerns relative to the effectiveness of the ASAP program. She suggested the program be reviewed, and stressed the importance of landowners input relative to the program. Commissioner Vogel requested that the Water Bank Program continue to be explored for adaptation of upper basin storage.

*It was moved by Commissioner Olin and seconded by Commissioner Vogel that the State Water Commission approve the continuation of the Available Storage Acreage Program (ASAP) for 1997.*

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

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

Secretary Sprynczynatyk explained the proposed legislation to create the Devils Lake Basin authority, which is being considered by the Legislative Water Resources Interim Committee.

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

Secretary Sprynczynatyk briefed the Commission members on an Inter-agency Task Force effort underway through the Federal Emergency Management Association (FEMA). The effort involves identification of

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

The final report of the FEMA Devils Lake Interagency Task Force has been completed, and copies were provided to the Commission members. The report includes six tasks that should be done in order to lay the ground work for 18 action items to help alleviate flooding.

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

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

Secretary Sprynczynatyk provided historical background on the Devils Lake basin, which has been considered a closed sub-basin of the Hudson Bay drainage for many centuries. In the past, the Devils Lake chain of lakes overflowed through Stump Lake and Tolna Coulee to the Sheyenne River. A transfer of water from Devils Lake, via a constructed outlet to the Sheyenne River (Hudson Bay drainage) is one of the proposals being considered to relieve serious flooding concerns. Complicating the situation is a concern that hydrologic, water quality, and biological effects of a transfer could extend down the Sheyenne River into the Red River of the North and ultimately into Lake Winnipeg, potentially affecting Canadian interests throughout the Nelson River system.

A United States-Canadian Joint Technical Committee (JTC), composed of federal, state, and provincial officials, has been investigating the technical aspects of potential impacts to Canada relative to the Boundary Waters Treaty of 1909.

In January, 1996, the JTC convened a 12-member United States-Canada working group to evaluate the hydrologic, water quality, and biological effects of a proposed outlet from Devils Lake, and the potential for various violations of Article IV of the United States-Canada Boundary Waters Treaty of 1909, which states "that water flowing across the boundary will not be polluted to the injury of health or property of the other country."

Secretary Sprynczynatyk reported the Devils Lake working group completed its efforts, and a report has been provided to the JTC.

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

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

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

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

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

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

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

**PRESENTATION BY  
GORDON BERG,  
DEVILS LAKE, ND  
(SWC Project No. 416)**

to is titled "Water for Birds, Fish & People", dated September, 1995. He said this proposal utilizes the Sheyenne River to provide flood control for Devils Lake and the Sheyenne and Red Rivers during periods of excess moisture; provides water for Devils Lake and the two rivers during times of drought; and meets the concerns of downstream cities and Canada.

Gordon Berg, Devils Lake, ND, appeared before the State Water Commission to present and explain a proposal for the Devils Lake basin.

The report Mr. Berg made reference

Mr. Berg said this is a comprehensive plan to manage our water resources for the benefit of birds, fish and people. It utilizes an inlet and an outlet to Devils Lake and an inlet and an outlet to Stump Lake. Without inlets and outlets to both lakes, Mr. Berg said it will be impossible to accomplish the project goals.

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

Sakakawea. Canadian representatives to the Garrison Joint Technical Committee (GJTC) have agreed that if chloramination or ozonation can satisfy the 1994 disinfection requirements of the Environmental Protection Agency, then the project is potentially acceptable to Canada from the technical standpoint of biota transfer, but will still have to be reviewed for final consideration. Samples of Lake Audubon and Lake Sakakawea water were collected on November 7, 1994, January 9, 1995, March 12, 1995, May 16, 1995, and August 11, 1995.

The draft report of the test results was received on December 18, 1995. The report was presented to the GJTC at its January 19, 1996 meeting in Minneapolis. The test results showed that both chloramination and ozonation can inactivate 99.9 percent of Giardia cysts and 99.99 percent of the virus present in the water by the time the water reaches the Continental Divide. This was the technical criteria established by the United States-Canadian Consultative Group for the project's acceptance by Canada.

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

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

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
FINAL DESIGN ENGINEERING  
AND CONSTRUCTION SERVICES  
CONTRACT  
(SWC Project No. 237-4)**

National Environmental Policy Act before the final design of the project can proceed. Some of the work under the final design contract can proceed, and

Secretary Sprynczynatyk reported on the testing of the effectiveness of chloramination and ozonation of raw water from Lake Audubon and Lake

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Secretary Sprynczynatyk stated that Houston Engineering has begun work under the final design engineering and construction services contract. Work thus far has been primarily in support of the environmental assessment required by the

actually is necessary, for completion of the environmental assessment. This work includes evaluation of the reservoir intake locations and configurations, evaluation of the proposed pipeline route, and evaluating alternative locations of major facilities.

**NORTHWEST AREA WATER**

The Northwest Area Water Supply

**SUPPLY PROJECT -**

Advisory Committee met on August

**NAWS ADVISORY COMMITTEE**

15, 1996. Secretary Sprynczynatyk

**(SWC Project No. 237-4)**

said the primary purpose of the meeting was to discuss the federal

statute, PL-1926(b). The intent of the law is to preserve and enhance the ability of a rural water system financed by the federal government, through the U.S. Department of Agriculture (FHA), to repay its loan to the federal government by essentially granting the rural water system a "franchise" to sell water in its service area. No other rural system or city can sell water in such a rural system's service area without the approval of the rural system and the USDA's Rural Development branch. Nor can another system, such as the NAWS project, construct transmission facilities through the rural system service area without permission. The law applies to any rural water system and cities which have outstanding loans with the USDA and also includes those systems which have refinanced their federal loans with a private financing company. According to the USDA Rural Development personnel, most of the rural water systems and many of the small towns in North Dakota have outstanding loans.

The Advisory Committee concluded that agreements between the rural water systems and the State Water Commission will be necessary to address how committees not presently served by rural water, but within the service area of rural water systems, can be served by the NAWS project.

The Advisory Committee was informed of the resignation of Monte Meiers, Williston City Engineer, representing the city of Williston. Kelly Keith, Williston City Commission, was appointed by the State Engineer to replace Mr. Meiers as a representative to the NAWS Advisory Committee.

**APPROVAL OF REQUEST  
FOR PAYMENT OF \$10,000 TO THE  
INTERNATIONAL COALITION  
(TIC) FOR 1996  
(SWC Project No. 1588-1)**

A request from The International Coalition for financial support for development of a draft plan of study for a Red River basin-wide planning process was presented for the Commission's consideration. The pro-

posed work is in conjunction with the efforts of the Red River Basin Water Planning Group. The cost to perform this work is \$10,000 over the next year.



Secretary Sprynczynatyk said the proposed plan of study would define the process to be employed, identify the participants, determine specific tasks to be performed and the cost of completing them, and allocate the funding requirements as appropriate. He said the value of such a plan of study to the Commission would be two-fold: (1) it would facilitate the integration of the state water planning process into the basin-wide effort making it possible to update the Red River Basin portion of the State Water Plan as a part of a basin-wide effort rather than as a separate North Dakota initiative; and (2) it would provide an opportunity to test a new planning approach which may serve as a basis for modifying the state's current process and making it more effective by being truly citizen-driven through locally elected policy-makers.

It was the recommendation of the State Engineer that the State Water Commission approve payment of \$10,000 to The International Coalition in 1996 for developing a draft plan of study for the Red River Basin Water Planning Group.

*It was moved by Commissioner Hillesland and seconded by Commissioner Bjornson that the State Water Commission approve financial assistance in the amount of \$10,000 from the Contract Fund to The International Coalition in 1996 for development of a draft plan of study for the Red River Basin Water Planning Group. This motion is contingent upon the availability of funds.*

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

**APPROVAL OF REQUEST  
FROM NORTH DAKOTA  
WATER EDUCATION FOR  
PARTICIPATION IN *NORTH  
DAKOTA WATER* MAGAZINE  
FOR 1996**

A request from the North Dakota Water Education Foundation was presented for the Commission's consideration to continue its participation in the *North Dakota Water* magazine for 1996.

Secretary Sprynczynatyk stated that the State Water Commission contributed \$18,000 in 1995 to support the magazine and its own pages, the monthly "Oxbow" section and the "Water Primer" section. He said with the Commission's support, the *North Dakota Water* magazine has:

- Increased its subscription base to more than 5,000 each month, and it continues to grow;
- won numerous state and national writing and photography awards;

- Received approximately 10 requests for story reprints from newspapers in the state;
- Encouraged further water coverage from the mainstream media and emphasized the importance of water in our state; and
- Received requests from other state water associations to duplicate ideas.

It was the recommendation of the State Engineer that the State Water Commission approve payment of \$18,000 from the Contract Fund to the North Dakota Water Education Foundation to assist in the publication of the *North Dakota Water* magazine in 1996.

*It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve payment of \$18,000 from the Contract Fund to the North Dakota Water Education Foundation to assist in the publication of the North Dakota Water magazine in 1996. This motion is contingent upon the availability of funds.*

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

**APPROVAL OF REQUEST FROM  
DICKEY COUNTY WATER  
RESOURCE DISTRICT FOR COST  
SHARING FOR ELLIOTT DRAIN  
(DICKEY COUNTY DRAIN NO. 1)  
(SWC Project No. 1102)**

A request from the Dickey County Water Resource District was presented for the Commission's consideration for cost sharing for the rehabilitation, enhancement and extension of the Elliott Drain project, also referred to as the Dickey County

Drain No. 1, and the installation of a control structure in the Gemar Dam.

Secretary Sprynczynatyk presented the request, which was deferred by the Commission at its June 19, 1996 meeting due to the revenue situation for the Resources Trust Fund in the 1995-1997 biennium.

The project begins at the confluence of the existing drain with the Maple River in the NW1/4 of Section 24, Township 131 North, Range 62 West, and extends upstream approximately three miles, terminating at the Gemar Dam in the NW1/4 of Section 1, Township 131 North, Range 62 West. The Dickey County Water Resource District has retained Interstate Engineering to design the project. The purpose of the project is to

rehabilitate and enhance the existing drainage ditch to handle additional water precipitated by the lengthening of the drain, which will be extended up to the Gemar Dam. The district is installing a control structure in the dam enabling the water to be temporarily held while allowing the Maple River to drop before adding additional water and flooding downstream occurs.

The estimated cost of the project is \$81,800, with eligible costs of \$81,800. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible project costs qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$32,720.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$32,720 from the Contract Fund, for the Elliott Drain project (Dickey County Drain No. 1).

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$32,720 from the Contract Fund, for the Elliott Drain project (Dickey County Drain No. 1). This motion is contingent upon the availability of funds.*

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

**APPROVAL OF JOINT REQUEST  
FROM RANSOM COUNTY AND  
MAPLE RIVER WATER RESOURCE  
DISTRICTS FOR COST SHARING  
IN COBURN TOWNSHIP  
DRAIN NO. 2  
(SWC Project No. 1299)**

A joint request from the Ransom County Water Resource District and the Maple River Water Resource District was presented for cost sharing in Coburn Township Drain No. 2.

Secretary Sprynczynatyk presented the request, which was deferred by the Commission at its October 16, 1995 meeting due to the revenue situation for the Resources Trust Fund in the 1995-1997 biennium.

The proposal is to construct four miles of new channel in Ransom County and one mile of new channel in Cass County, discharging into Cass County Drain No. 54.

The Joint Water Resource District approved the drain permit on July 15, 1995. Because it was determined the drain was not of interdistrict nor statewide significance, and the NWI maps and ASCS photos indicate that no existing wetlands will be drained by the project, board approval constituted a permit to construct the project.

The total estimated cost of the project is \$235,000, with eligible project costs of \$145,069. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible items qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$58,028 from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$58,028 from the Contract Fund, for the Coburn Township Drain No. 2 in Ransom and Cass Counties.

Ken Stroh, Chairman of the Ransom County Water Resource District, provided the Commission members with additional information relative to the completed project. Mr. Stroh expressed appreciation to the Commission members for their support and requested favorable consideration of the cost sharing request.

*It was moved by Commissioner Vogel and seconded by Commissioner Bjornson that the State Water Commission approve cost sharing in 40 percent of the eligible items, not to exceed \$58,028 from the Contract Fund, for the Coburn Township Drain No. 2 in Ransom and Cass Counties. This motion is contingent upon the availability of funds.*

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

**APPROVAL OF REQUEST  
FROM STEELE COUNTY WATER  
RESOURCE DISTRICT FOR  
COST SHARING ON STEELE  
COUNTY DRAIN NO. 11  
(SWC Project No. 1223)**

A request from the Steele County Water Resource District was presented for the Commission's consideration for cost sharing on the Steele County Drain No. 11 project.

Secretary Sprynczynatyk presented the request, which was deferred by the Commission at its October 16, 1995 meeting due to the revenue situation for the Resources Trust Fund in the 1995-1997 biennium.

The project involves cleaning and improving sectionline road ditches, and installing culverts and drop structures. Drain Permit No. 2721 has been approved by the Steele County Water Resource District. Secretary Sprynczynatyk said there are no impacts to any wetlands and the project is not of statewide nor interdistrict significance.

The engineer's cost estimate for the project is \$153,048, with eligible project costs of \$134,938. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible items qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$53,975 from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$53,975 from the Contract Fund, for the Steele County Drain No. 11 project.

Don Elston, Chairman of the Steele County Water Resource District, appeared before the State Water Commission. He alluded to the fact that the county has been involved in litigation, and has proposed plans for four legal drains. Steele County Drain No. 11 is complete. He acknowledged the Commission's support and requested favorable consideration of the request for cost sharing.

*It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 40 percent of the eligible items, not to exceed \$53,975 from the Contract Fund, for the Steele County Drain No. 11 project. This motion is contingent upon the availability of funds.*

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

**DICKINSON DAM/  
PATTERSON LAKE  
TITLE TRANSFER -  
APPROVAL OF REQUEST  
OF \$200,000 FOR TRANSFER  
COSTS  
(SWC Project No. 263)**

At the June 19, 1996 State Water Commission meeting, representatives from the city of Dickinson requested an audience before the Commission to discuss transferring the title of Dickinson Dam and Patterson Lake.

The city is anticipating approximately \$375,000 in costs to accomplish the land transfer from the Bureau of Reclamation, which includes the following:

|                                      |                |
|--------------------------------------|----------------|
| Transfer Price                       | \$ 50,000      |
| Study Costs (Transaction Costs)      | 200,000        |
| December, 1996 Bascule Gates Payment | <u>125,000</u> |
| Total                                | \$ 375,000     |

The transfer price of \$50,000 is the amount estimated by the Bureau of Reclamation based on the present asset value of the bascule gates, less the estimated costs of operation and maintenance of the lake in the future and other costs. The study costs, \$200,000, include a cultural/archeological study by the North Dakota State Historic Preservation office, an environmental impact study conducted by the Bureau of Reclamation, title searches, and transfer documents. The Bureau of Reclamation is requiring that the city advance the money for the study costs prior to authorizing the work. The Bureau of Reclamation will require the city to pay the current bascule gates contract payment due in December, 1996, of \$125,000.

It is the city's understanding that, upon approval of the title transfer, the State of North Dakota will no longer supplement the city's water bond indebtedness costs of \$93,654 per year beginning in 1997 and continuing through 2001. With the elimination of the bascule gates obligation, the state will save approximately \$468,270. The city of Dickinson requested that the State Water Commission consider assisting the city with a portion of the transfer costs.

Secretary Sprynczynatyk explained the request from the city of Dickinson for \$200,000 to cover the transaction costs associated with the title transfer. The city will pay the transfer price (the value of the dam to the federal government) of the dam to acquire ownership. The transfer price is still under negotiation, but is estimated to be \$50,000.

The \$200,000 transaction cost is generated by meeting Bureau of Reclamation guidelines for transferring federally-owned property out of federal ownership. The guidelines are designed to protect the public use of this land. Part of the protection includes meeting the National Environmental Policy Act and the National Historical Preservation Act to ensure society's resource availability will not be reduced after the title searches and legal fees.

Secretary Sprynczynatyk said that under the current transfer agreement, the city will not be indebted to the Bureau of Reclamation after the title is transferred. This debt was the basis for the Southwest Pipeline Project's water service credit to the city; and therefore, after

the title transfer, the water service credit will no longer need to be made. He said five years of credit could be saved if the title transfer is successful. He explained that in order to meet the city's request, this credit could be extended past the title transfer date until \$200,000 is credited, which would be approximately two years. The state will save about three years worth of credit.

It was the recommendation of the State Engineer that the State Water Commission approve the continuation of the water service credit to the city of Dickinson until \$200,000 has been credited, contingent upon the title transfer from the Bureau of Reclamation to the city of Dickinson. The credit will be used to repay the transaction costs associated with acquiring the title to the Dickinson Dam area, and is expected to be in effect approximately two years beyond the title transfer date.

William Foster, Dickinson City Commission, and Greg Sund, Dickinson City Administrator, appeared before the State Water Commission to provide information relative to the discussion and to request favorable consideration of the request.

*It was moved by Commissioner Bjornson and seconded by Commissioner Olin that the State Water Commission approve the continuation of the water service credit to the city of Dickinson until \$200,000 has been credited, contingent upon the title transfer from the Bureau of Reclamation to the city of Dickinson. The credit will be used to repay the transaction costs associated with acquiring the title to the Dickinson Dam area, and is expected to be in effect approximately two years beyond the title transfer date.*

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

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

Secretary Sprynczynatyk reported that since May, 1995, the Missouri River Basin Association has been working with a team of consensus-building experts to reach agreement on issues that have divided the basin's states and tribes in the past. Over the past winter, various issues have been discussed in depth, papers have been presented which outlined the problems and possible solutions, and the aid of several agencies and committees have been enlisted.

Secretary Sprynczynatyk reported that since May, 1995, the Missouri River Basin Association has been

In February, 1996, the Missouri River Basin Association directors decided to initiate a basin-wide monitoring program, which would document the current hydrological and biological conditions of the river system and would track the effectiveness of programs designed to improve the basin's fish and wildlife resources. The directors also decided to recommend that the Corps of Engineers drop the idea of a spring rise and acknowledge in the Master Manual that tribal water rights exist. The Association directors reached agreement on these issues and discussed various other issues as part of their continuing efforts to exert a stronger influence over water policy decisions by presenting a united front to the federal government. The Association directors plan to deliver a list of recommendations to the Corps and other federal agencies.

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

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

- **Future Depletion Goal.** Develop a mechanism for equitable allocation among the basin states and tribes of the risks of future depletions.
- **Monitoring Goal.** Develop a monitoring system that provides adequate information to characterize and understand the existing system and evaluate the impacts of changes.

As part of the Association's planning process, representatives of the basin's water interests were invited to join task force discussions on recreation, navigation, water supply, habitat, bank/shoreline/flood control, and hydropower on June 13-14, 1996 in Bismarck. The charge to the task forces were to identify ways to reach the stated goals of obtaining maximum benefits for all water users in each of the six interest areas in a manner that reflects a basin-wide perspective. The discussions on the first day of the conference were focused within each of the six interest areas. On the second day of the conference, discussion groups were reorganized to reflect a cross-section of interests and emphasized actions that will integrate all basin interests.

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

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

The next meeting of the Missouri River Basin Association is scheduled on September 11-12, 1996 in St. Paul, Minnesota.

**MISSOURI RIVER BANK  
STABILIZATION  
(SWC Project No. 1766)**

10 consecutive months of above normal runoff. With normal precipitation the remainder of the year, he said the Corps of Engineers forecasts 1996 runoff at 35.4 million acre-feet; normal runoff is 24.6 million acre-feet. This would be the sixth highest in 99 years of recording. The six mainstem power plants are projected to produce a record 14.1 billion KWH; normal is 10 billion KWH.

Higher than normal releases have been, and will continue to be, necessary to evacuate the excess floodwater stored in the reservoirs. More than 10 million acre-feet of water will be needed to be evacuated by March 1, 1997 in order to accept next year's runoff.

Over the past several decades, lands adjacent to the Missouri River have been seriously eroded and permanently lost to the local landowners and the state because of reservoir management. Secretary Sprynczynatyk stated this year's high flows in the Missouri River have accelerated the rate of riverbank erosion and have created tremendous landowner concerns along the free-flowing 80-mile reach between the Garrison Dam and Lake Oahe.

On August 13 and August 20, 1996, the Senate Congressional delegation and State Water Commission staff toured the river in the Bismarck-Mandan area. Discussions on the tour included developing a list of the most affected sites, with the goal to obtain immediate Corps of Engineers Section 33 funding for repair and stabilization of these sites.

Secretary Sprynczynatyk commented that congressional funding will be extremely difficult to obtain due to the tight fiscal constraints. The State Water Commission staff will continue to work with the congressional delegation and the affected landowners to try to alleviate landowner problems.

**NORTH DAKOTA  
WATER COALITION**

The North Dakota Water Coalition was established in July, 1994 as an initiative of the Flagship Initiative #6 of the North Dakota Vision 2000 Report, which states, in part: "The North Dakota 2000 Committee recommends that North Dakota establish a "Coalition for Infrastructure Projects" to further develop three key elements of our state's infrastructure: water resources, telecommunications, and advanced air transportation." The Coalition is made up of approximately 30 entities, municipalities, and other groups from across North Dakota.

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

**The North Dakota Water Coalition goals are:**

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

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

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

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

Michael Dwyer, Executive Director of the North Dakota Water Users Association, provided a briefing of the North Dakota Water Coalition meeting held on August 27, 1996. The Coalition's funding committee met with agriculture, education, and economic development interests and agreed it would be beneficial to work together; therefore, a working committee was established to write a proposal that identifies the needs of water, agriculture, education and economic development.

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

The North Dakota Water Priorities Plan will be printed for statewide distribution in the near future.

**INTERIM LEGISLATIVE WATER  
RESOURCES COMMITTEE  
STATUS REPORT**

The 1995 Legislature passed Senate Concurrent Resolution No. 4033 directing the Legislative Council to study the financing and funding needs for development and completion of the state's water resources infrastructure and methods for development of a program to provide financing and funding of water supply facilities in the state. As a result of SCR 4033, the Legislative Council established a Water Resources Committee to study the state's water needs and possible funding. The interim study began on June 23, 1995.

The Legislature also passed Senate Concurrent Resolution No. 4053 directing the Legislative Council to study the state's water laws concerning their effect on the efficient use of water and their effect on the holders of senior water rights.

Secretary Sprynczynatyk indicated the next meeting of the Interim Legislative Water Resources Committee is scheduled for September 11, 1996 in Bismarck. During the meeting, the Committee will discuss proposed legislation to provide \$41 million to fund the immediate priorities listed in the North Dakota Water Priorities Plan, as well as long-term funding.

**NESSON VALLEY  
IRRIGATION PILOT PROJECT  
(SWC Project No. 1858)**

In August, 1991, the Williams County Water Resource District requested that the State Water Commission conduct a study to determine the feasibility of creating new irrigation districts in Williams County. In December, 1991, the Commission entered into an agreement with the District to conduct a reconnaissance investigation of irrigation in Williams County. At the March 9, 1994 meeting, the Commission members were provided with copies of the Williams County Irrigation Reconnaissance Report, dated March, 1994.

The possibility of developing irrigation in four areas in Williams County was investigated, including the Lower Little Muddy, the Nesson Valley, the Buford-Trenton, and the North Little Muddy. The investigation concluded it may be feasible to develop irrigation in the Nesson Valley and Buford-Trenton areas, and recommended conducting a feasibility study.

On July 19, 1995, the State Water Commission approved cost sharing for a feasibility study of irrigation development in the Nesson Valley area.

Secretary Sprynczynatyk stated that Kadrmas Lee and Jackson, Inc., and Cochrane Engineering have completed the draft of the Nesson Valley Irrigation Pilot Project Engineering Report. The proposed project will irrigate 7,877 acres divided between 83 parcels, of which 18 are currently being irrigated. The 18 parcels being irrigated contain approximately 2,200 acres. One operator has an intake in Lake Sakakawea and irrigates approximately 480 acres. The remaining 1,720 acres are irrigated using ground water. The ground-water quality is poor for irrigation as it is causing sodium build-up in the soils. The overall project cost is estimated to be \$9,877,373, or \$1,240 per acre. Additional information relative to the proposed pilot project is contained in a State Water Commission staff memorandum attached hereto as *APPENDIX "C"*.

The Upper Missouri Lake Sakakawea Planning Committee sponsored an irrigation and value-added crops tour of the Hermiston, Oregon area in July, 1996. Bruce Engelhardt of the State Water Commission staff attended the tour. An attached memorandum, *APPENDIX "D"*, summarizes the tour and compares and contrasts the development seen on the tour with proposed irrigation development in northwestern North Dakota.

**MOUNT CARMEL  
DAM COMPLETION  
AND DEDICATION  
(SWC Project No. 1346)**

On August 8, 1996, a dedication ceremony was held for the new spillway and additional storage at the Mount Carmel Dam in Cavalier County.

Secretary Sprynczynatyk stated the people in the area are greatly appreciative of the financial and technical involvement of the State Water Commission.

**SPIRITWOOD LAKE  
(SWC Project No. 461)**

Secretary Sprynczynatyk briefed the Commission members relative to flooding problems occurring at

Spiritwood Lake in Stutsman County. The State Water Commission staff is providing technical assistance to the Stutsman County Water Resource District, the city of Spiritwood Lake, and the local people relative to emergency flooding assistance. Secretary Sprynczynatyk explained a reconnaissance-level plan to use the southwest alignment to outlet water from Spiritwood Lake.

**RED RIVER BASIN BOARD  
STATUS REPORT**

The Red River Basin Board was organized to develop, and cause to be implemented, a comprehensive water

management plan for the Red River basin; and to establish a mechanism to address inter-jurisdictional issues. Representatives of the board include North Dakota, South Dakota, Minnesota, and the Province of Manitoba. Secretary Sprynczynatyk stated the Board is scheduled to meet on September 26, 1996 in Grand Forks. The Board will make a recommendation to The International Coalition at its annual meeting in Winnipeg on November 13-15, 1996.

**BUFORD-TRENTON  
IRRIGATION DISTRICT  
(SWC Project No. 222)**

Secretary Sprynczynatyk presented a letter of request from the Buford-Trenton Irrigation District to assist with cost sharing in a major

rehabilitation program within the district. The 10,000-acre irrigation project has 1940 technology using flood irrigation. The district's objective is water conservation, with more land being developed for high-value crops. There was no action on the request taken by the State Water Commission at this meeting.

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

Secretary Sprynczynatyk indicated that Mainline Construction has completed the work on Southwest Pipeline Contract 7-1B, however, there are many remaining issues which need to be resolved. He said Mainline Construction has submitted several claim totalling more than \$1.5 million, plus interest, to the State Water Commission. The State Water Commission has denied all of these claims and, at this point, has been unable to resolve the issues raised in the claims.

**North Dakota Century Code §44-04-**

**19.1. Open records and open meetings - exemptions for attorney work product and attorney consultation, states, in part:**

**That portion of a meeting of a public agency during which an attorney consultation occurs may be closed, by a majority vote of the public agency in an open meeting for the purpose of having the attorney consultation. The remainder of the meeting, where no attorney consultation occurs, is an open meeting unless a specific exemption is otherwise applicable.**

**“Attorney consultation” means any discussion between a public agency and its attorney in instances in which the public agency seeks or receives, the attorney’s advice concerning pending civil or criminal litigation or pending adversarial administrative proceedings.**

It was the recommendation of the State Engineer that since this portion of meeting will include attorney consultation, the State Water Commission close the meeting because of the attorney consultation.

***It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission close the State Water Commission meeting because of the attorney consultation relative to Southwest Pipeline Contract 7-1B.***

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

Following attorney consultation relative to Southwest Pipeline Contract 7-1B, Chairman Schafer re-opened the State Water Commission meeting.

It was the recommendation of the State Engineer that the State Water Commission proceed with non-binding mediation with Mainline Construction on Southwest Pipeline Contract 7-1B.

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission proceed with non-binding mediation with Mainline Construction on Southwest Pipeline Contract 7-1B.*

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

*There being no further business to come before the State Water Commission, it was moved by Commissioner Vogel, seconded by Commissioner Olin, and unanimously carried, that the State Water Commission meeting adjourn at 12:30 PM.*

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

SEAL

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

