

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

October 23, 2001

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on October 23, 2001. Governor-Chairman, John Hoeven, called the meeting to order at 1:30 PM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

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

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

announced the agenda approved as presented.

There being no additional items for
the agenda, Governor Hoeven an-

**CONSIDERATION OF DRAFT
MINUTES OF AUGUST 16, 2001
STATE WATER COMMISSION
MEETING - APPROVED**

The draft minutes of the August 16, 2001 State Water Commission meeting were considered, with the following corrections:

Page 5, paragraph 3 million should be inserted following \$23

Page 21, paragraph 1 Should read as follows: These funds were North Dakota's remaining contribution for the period July ~~2~~, 1, 2000 to June 30, 2001.

It was moved by Commissioner Olin, seconded by Commissioner Halcrow, and unanimously carried, that the draft minutes of the August 16, 2001 State Water Commission meeting be approved as corrected.

**FINANCIAL STATEMENT -
AGENCY PROGRAM BUDGET
EXPENDITURES**

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

Budget Expenditures for the period ending September 30, 2001, reflecting 13 percent of the 2001-2003 biennium. All expenditures are within the authorized budget amounts. ***SEE APPENDIX "A"***

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

David Laschkewitsch stated the oil extraction tax deposits into the Resources Trust Fund are currently

\$246,000, or 21 percent lower than the projections. Because the State Water Commission carried over a larger than expected balance from the 1999-2001 biennium, Mr. Laschkewitsch explained the available balance in the Resources Trust Fund could exceed the agency's spending authority by approximately \$3.8 million.

The Projects-Contract Fund spreadsheet, attached hereto as ***APPENDIX "B"***, is based on the agency's current authorized funding appropriation from the Resources Trust Fund, and provides information on the committed and uncommitted funds in the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds.

**FINANCIAL STATEMENT -
WATER DEVELOPMENT
TRUST FUND**

deposits are scheduled to be made into the fund until January, 2002. The 1999 Legislature placed a restriction on the funds the State Water Commission may obligate from the Water Development Trust Fund. That restriction allows the commitment of 75 percent of the appropriated amount, which is \$28,223,763. The remaining 25 percent may be obligated to the extent that uncommitted funds are available in the Water Development Trust Fund.

David Laschkewitsch stated that no deposits have been made into the Water Development Trust Fund in the 2001-2003 biennium, and that no

**APPROVAL OF NON-FEDERAL
FUNDS IN 2001-2003 BIENNIUM
FOR CITY OF WAHPETON FLOOD
CONTROL PROJECT, UNDER
AUTHORITY OF 1999 SENATE
BILL 2188
(SWC Project No. 1907-01)**

River. The most significant damage occurred in April, 1997 when the temporary levee systems at Breckenridge failed and caused catastrophic flood damages. The damages resulting from the 1997 flood adversely affected Wahpeton dramatically. After the 1997 flood, city officials requested the Corps of Engineers to conduct flood control studies, with the hope that such studies would lead to a federal flood protection project. In response to the request, the Corps completed a federal interest study in 1998, which led to a more detailed feasibility study, documented in a report by the Corps, dated September, 2000.

The city of Wahpeton, North Dakota, is located in Richland county on the west bank of the Red River of the North and Bois de Sioux River at the confluence of the Otter Tail River. This community has a long history of significant flooding from the Red River of the North and the Otter Tail

Secretary Frink explained that as a result of the 1997 flood, the Wahpeton flood control project was included in Senate Bill 2188, passed in the 1999 Legislative session, which provided up to 50 percent of state funds for the non-federal share of the cost for Wahpeton to construct a flood control or reduction project. Senate Bill 2188 provided up to \$3,500,000 of state funds for the Wahpeton flood control project. According to the Corps' feasibility study and environmental assessment, the plan identified for Wahpeton is a multi-featured project that would provide reliable permanent flood control protection for all areas of flowage easements to maintain a flood flow breakout channel between the Bois de Sioux and the Wild Rice Rivers.

At its December 8, 2000 meeting, the State Water Commission approved 50 percent of the non-federal funds, in the amount of \$601,940.50, under the authority of 1999 Senate Bill 2188, for the Wahpeton flood control project. The city was paid \$601,940.50 in the 1999-2001 biennium.

The city of Wahpeton estimates costs of \$2,615,000 for the 2001-2003 biennium, of which 50 percent would be eligible for funding from the State Water Commission under the authority of 1999 Senate Bill 2188. The request before the State Water Commission is to consider 50 percent of the non-federal funds in the amount of \$1,307,500.

It was the recommendation of the State Engineer that the State Water Commission approve 50 percent of the non-federal funds in the amount of \$1,307,500, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Wahpeton flood control project, contingent upon the availability of funds. Affirmative action by the State Water Commission will increase the total state expenditure for the Wahpeton flood control project to \$1,909,440.50.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve 50 percent of the non-federal funds in the amount of \$1,307,500, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Wahpeton flood control project. This motion is contingent upon the availability of funds.

This action increases the total state expenditure for the Wahpeton flood control project to \$1,909,440.50 under the authority of 1999 Senate Bill 2188.

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

**APPROVAL OF FUNDING
FOR NORTH DAKOTA CLOUD
MODIFICATION PROJECT
(SWC Files ACT/RES & AS/SWC/ARB)**

Modification project (NDCMP). The NDCMP is an operational summertime cloud seeding program designed to increase rainfall and decrease hail damage. Counties presently participating in the program are Bowman, McKenzie, Mountrail, Ward, Williams, and a portion of Slope.

In considering the funding needs for North Dakota water projects, the 2001 Legislature identified \$350,000 in the 2001-2003 biennium to meet the state's cost share of the North Dakota Cloud

Local funds for the program are generated through county tax levies. In recent years, the local share of the multi-county program has grown to about 80 percent. Until last biennium, state cost share funds were appropriated only by the Legislature from the general fund. On

September 13, 1999, the State Water Commission approved \$125,000 from the Resources Trust Fund to generate the cost share dollars required for the six counties now participating. The 2001 Legislature approved an additional \$225,000 for cost share and an outside review of North Dakota's operations and safeguards.

Independent evaluations of the cloud seeding program indicate an increase in rainfall on the order of 10 percent (up to one inch over a typical growing season), increases in wheat yields of 6 percent, and decreases in crop-hail damage of 45 percent. Studies conducted by the North Dakota State University in 1998 estimated the total economic benefit-to-cost ratio of the program at greater than 45:1.

It was the recommendation of the State Engineer that the State Water Commission approve funding not to exceed \$225,000, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the North Dakota Cloud Modification project, contingent upon the availability of funds.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve funding not to exceed \$225,000, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the North Dakota Cloud Modification project. This motion is contingent upon the availability of funds.

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

RURAL FLOOD CONTROL COST SHARE POLICY (SWC File AS/SWC/POL)

At its meeting on August 16, 2001, the State Water Commission discussed the rural flood control cost share policy. Because of concerns expressed by the Commission members relating primarily to cost share carryover into subsequent bienniums, Governor Hoeven appointed a committee consisting of Commissioners Halcrow, Hillesland, Swenson and Thompson to work with the Commission staff and others to develop a comprehensive plan for rural flood control projects.

Secretary Frink reported the committee has not had an opportunity to meet because of harvest and other commitments. A committee meeting is scheduled for November 19, 2001.

**DRAFT POLICY CRITERIA/
GUIDELINES FOR FUTURE
COST SHARE REQUESTS
RELATING TO PROMOTION
OF ECONOMIC DEVELOPMENT
(SWC File AS/SWC/POL)**

teria/guidelines are being drafted and will be presented for the State Water Commission's consideration at a future meeting.

At its meeting on August 16, 2001, the State Engineer and the Commission staff were directed to develop draft policy criteria/guidelines for future cost share requests relating to the promotion of economic development. Secretary Frink reported the policy cri-

teria/guidelines are being drafted and will be presented for the State Water Commission's consideration at a future meeting.

**RURAL FARMSTEAD AND
RESIDENTIAL RING DIKE
PROJECT DESIGN STANDARDS
(SWC Project No. 1753)**

width and the freeboard criteria, Governor Hoeven directed the State Engineer and staff to continue discussions with those Commission members who have concerns relating to the design criteria standards.

At its meeting on August 16, 2001, the State Water Commission discussed the cost share policy regarding rural farmstead ring dike projects. Because of concerns expressed relating to the top

In response to Governor Hoeven's directive, the following discussion and recommended changes to the current cost share policy relating to rural ring dike projects were presented for the Commission's consideration:

- 1) In order to protect a greater number of North Dakota citizens threatened by flooding, the scope of the current cost share policy should be expanded to include all occupied rural properties in addition to occupied farmsteads. Occupied homes should take funding priority over granaries, machine sheds, etc, and all rural homeowners, including those in rural subdivisions, should be allowed to participate in the program. The source of flooding, be it from a natural source (such as the Red River) or man-made in origin (such as a legal drain) should have no bearing on a project's eligibility for state cost share assistance.

1) Recommended change to rural ring dike cost share policy:

Expand the current rural ring dike cost share policy to include all existing occupied rural homes having a history of repeated flooding from either natural or man-made sources

- 2) The value of the home and property protected should be considered in the expenditure of public monies. Therefore, information pertaining to a home's value should be obtained from all program participants prior to consideration, and no single rural ring dike project should be cost shared in excess of the value of the property it is protecting. Funding for rural ring dikes should also be restricted to those constructed to protect existing homes so as not to encourage "at-risk" development.

2) *Recommended change to rural ring dike cost share policy:*

Require information on the value of occupied property protected

- 3) For dikes constructed within a mapped floodplain, an analysis of potential hydraulic impacts, including a statement of no significant impact or quantified impact statement from a professional engineer licensed in the State of North Dakota may be required to ensure that a dike will not flood or adversely affect adjacent upstream or downstream property.

North Dakota state law mandates that ring dikes capable of retaining, obstructing, or diverting more than 12.5 acre-feet of water cannot be constructed within any district without first obtaining a permit from the State Engineer. In granting a permit, the State Engineer is prohibited, by law, from allowing the construction of any unsafe dike that threatens to harm life or property.

3) *Recommended change to rural ring dike cost share policy:*

May require an analysis of potential hydraulic impacts, including a statement of no significant impact or quantified impact statement from a professional engineer licensed in the State of North Dakota

- 4) In order to make the construction of rural ring dikes more affordable for North Dakota property owners, while at the same time effectively safeguarding the lives and property of those protected by a ring dike, the minimum top width design standards should be modified as follows: a 4-foot top width for dikes less than 5 feet in height, and a 6-foot top width for dikes between 5 feet and 14 feet in height; and

4) *Recommended change to rural ring dike cost share policy:*

Modify the ring dike top width construction standards to reflect a 4-foot minimum top width for dikes less than 5 feet in height; and a 6-foot minimum top width for dikes between 5 feet and 14 feet in height

The rural ring dike cost share policy and the recommended changes were discussed at length. Because of concerns expressed by the Commission members relative to recommended **changes 1, 2 and 3**, Governor Hoeven appointed a committee consisting of Commissioners Hillesland, Swenson and Thompson to work with the Commission staff and others to refine the cost share policy relating to rural ring dikes for the Commission's consideration at its next meeting.

It was the recommendation of the State Engineer that the State Water Commission approve recommended **change 4** relating to the minimum top widths as presented.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve the following modifications to the design criteria standards relating to the minimum top width for construction of rural ring dikes:

1) dikes less than 5 feet in height: a 4-foot minimum top width

2) dikes between 5 feet and 14 feet in height: a 6-foot minimum top width

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

**APPROVAL OF REQUEST FROM
RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARE IN CONSTRUCTION OF
RURAL FARMSTEAD RING DIKES
(SWC Project No. 1301)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost share participation for engineering and construction of four farmstead ring dikes in Summit and Fairmount townships near the Bois de Sioux River.

Todd Sando, Assistant State Engineer, presented the request. The individual cost estimates range from \$24,800 to \$50,100. All of the ring dikes require a construction permit from the State Engineer. Three of the projects are located in the 100-year floodplain and will require a non-structural floodplain development permit. The total estimated cost of the four ring dikes is \$187,600, including \$30,000 for contingencies and an estimated \$6,000 for engineering costs.

Under the State Water Commission's policy and guidelines for rural farmstead ring dike projects, funding is limited for any single rural farmstead dike to 50 percent of the eligible costs, not to exceed \$25,000 in state cost share participation per individual ring dike. The request before the State Water Commission is to cost share in 50 percent of the eligible costs in the amount of \$93,800.

It was the recommendation of the State Engineer that the State Water Commission approve a cost share of 50 percent of the eligible items not to exceed \$93,800, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Richland county farmstead ring dikes.

It was the consensus of the State Water Commission that because the four applications for farmstead ring dikes in Richland county were submitted prior to the Commission's action of this date, which modified the design criteria relating to the minimum top widths, these specific applicants shall have the option of constructing the ring dike's top width according to the original design criteria standards and/or according to the modified design criteria subsequently adopted by the Commission.

It was moved by Commissioner Hanson and seconded by Commissioner Halcrow that the State Water Commission approve:

- 1) a cost share of 50 percent of the eligible items, not to exceed \$93,800, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Richland county rural farmstead ring dikes;***
- 2) a limit of \$25,000 state cost share participation per individual ring dike; and***

3) notification to these specific four applicants in Richland county of their option to construct the ring dike's top width according to the original design criteria standards and/or according to the modified design criteria subsequently adopted by the State Water Commission on October 23, 2001.

This motion is contingent upon the availability of funds; and upon approval of the required construction permits prior to construction and payment of state funds.

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

APPROVAL OF REQUEST FROM RICHLAND COUNTY WATER RESOURCE DISTRICT FOR COST SHARE FOR CONSTRUCTION OF RURAL RESIDENTIAL RING DIKES (SWC Project No. 1301)

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost share participation for engineering and construction of 17 rural residential ring dikes in Center township in Richland county.

The request was presented by Todd Sando stating that two of the dikes will require construction permits. Several of the projects are located in the 100-year floodplain and will require a non-structural floodplain development permit from either the appropriate county or township floodplain administrator. Mr. Sando stated that it has been determined all of the dikes being considered in this request are outside of the city limits.

The individual cost estimates range from \$6,100 to \$45,000. The total estimated cost of the 17 residential ring dikes is \$347,950, including \$55,000 for contingencies and \$25,500 for engineering costs. Under the State Water Commission's policy and guidelines for rural ring dike projects, funding is limited for any single rural residential dike to 50 percent of the eligible costs, not to exceed \$25,000 in state cost share participation per individual ring dike. The request before the State Water Commission is to cost share in 50 percent of the eligible costs in the amount of \$173,975.

It was the recommendation of the State Engineer that the State Water Commission approve a cost share of 50 percent of the eligible items not to exceed \$173,975, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Richland county rural residential ring dikes.

It was the consensus of the State Water Commission that because the 17 applications for rural residential ring dikes in Richland county were submitted prior to the Commission's action of this date, which modified the design criteria relating minimum top widths, these 17 specific applicants shall have the option of constructing the ring dike's top width according to the original design criteria standards and/or according to the modified design criteria subsequently adopted by the Commission.

It was moved by Commissioner Swenson and seconded by Jeff Olson representing Commissioner Roger Johnson that the State Water Commission approve:

- 1) a cost share of 50 percent of the eligible items, not to exceed \$173,975, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the Richland county residential ring dikes;***
- 2) a limit of \$25,000 state cost share participation per individual ring dike; and***
- 3) notification to these specific 17 applicants in Richland county of their option to construct the ring dike's top width according to the original design criteria standards and/or according to the modified design criteria subsequently adopted by the State Water Commission on October 23, 2001.***

This motion is contingent upon the availability of funds; and upon approval of the required construction permits prior to construction and payment of state funds.

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

**APPROVAL OF ALLOCATION
OF \$1 MILLION TO BANK OF
NORTH DAKOTA AGPACE
PROGRAM FOR IRRIGATION
DEVELOPMENT IN NORTH DAKOTA
(SWC Project No. 1389)**

The State Water Commission budget includes a tentative allocation of \$3,290,000 for irrigation development in North Dakota. In previous bienniums, the Commission has allocated funds for studies, engineering, and construction of irrigation projects.

At its meeting on August 16, 2001, Secretary Frink informed the Commission that he supported using a portion of the agency's allocation for this purpose, but he did pursue discussions with the North Dakota Irrigation Caucus on other possibilities for enhancing irrigation development in North Dakota.

A request was presented on behalf of the North Dakota Irrigation Caucus for the State Water Commission's consideration to allocate \$1 million for the 2001-2003 biennium to expand the Bank of North Dakota's AgPACE Irrigation Loan program to increase the interest buy down to \$40,000.

Secretary Frink explained that the AgPACE program provides low interest financing to on-farm businesses. The funds are used to buy down the interest rate on loans that have been approved by a local lender and the Bank of North Dakota. It may be used for any business, except traditional production agriculture, which is integrated into the farm operation and is used to supplement farm income. The development of irrigation qualifies for the program.

A qualified borrower will receive an interest rate equal to 5 percent below the yield rate with a minimum of 1 percent. Currently, the program is limited to spending \$20,000 on any one project and the borrower is limited to a lifetime cap of \$20,000. This amount allows the development of one or two quarter section size center pivot systems depending on the term of the loan.

Developing new irrigated acreage and the production of high value crops is an important component of growing North Dakota's economic base. Secretary Frink stated that increasing the interest buy down limit to \$40,000 would allow for the development of multiple irrigation systems. The added acreage will provide a greater production base that will increase the incentive for the development of processing plants to add further value to the crops produced. Meetings have been held with representatives of the Bank of North Dakota and they have indicated support of this proposal.

It was the recommendation of the State Engineer that the State Water Commission supplement the AgPACE program administered by the Bank of North Dakota to increase the interest buy down to \$40,000. The Commission's portion of the program should be limited to the infrastructure required for the capture, conveyance, and application of the water for irrigation.

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission allocate \$1 million, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, to supplement the AgPACE program administered by the Bank of North Dakota to increase the interest buy down to \$40,000 for the development of new irrigation in North Dakota. This motion is contingent upon the availability of funds.

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

**ALLOCATION APPROVAL OF
\$50,000 FOR EACH OF YEARS 2002
AND 2003 TO NORTH DAKOTA
IRRIGATION CAUCUS FOR
STRATEGIC PLAN FOR INCREASING
IRRIGATED ACREAGE IN NORTH
DAKOTA
(SWC File AOC/IRR)**

Michael Dwyer, Executive Director of the North Dakota Irrigation Caucus, appeared before the State Water Commission to explain the efforts and the recommendations developed to date to strengthen and expand irrigation development in North Dakota. The mission of the North Dakota Irrigation Caucus is to strengthen and

expand irrigation in North Dakota to build and diversify the state's economy.

Mr. Dwyer explained that the efforts to develop tools and programs to support irrigation will be ongoing for the next several years. The implementation outline for the strategic plan for irrigation development in North Dakota was presented, which focuses on the significant components of the overall effort including communication and coordination, irrigation development and projects, funding and financing, irrigation research, and hydropower and affordable energy. Mr. Dwyer said "all of these work tasks must be continued and achieved if we are to be successful in our objective of strengthening and expanding irrigation in North Dakota."

Mr. Dwyer presented a request on behalf of the North Dakota Irrigation Caucus for the State Water Commission's consideration to allocate \$50,000 each year for the years 2002 and 2003 for the

Irrigation Caucus to provide a foundation to successfully undertake all of the previously-mentioned efforts. The North Dakota Irrigation Caucus is committed to working in partnership with the State Water Commission, the Garrison Diversion Conservancy District, local economic development authorities, and other stakeholders to be effective in accomplishing the tasks. It is a statewide effort of irrigation districts and irrigation interests including growers.

It was the recommendation of the State Engineer that the State Water Commission allocate \$50,000 each year for the years 2002 and 2003 to the North Dakota Irrigation Caucus to carryout the activities outlined in its Strategic Plan for increasing irrigated acreage in North Dakota.

The mission, objectives, and funding resources of the North Dakota Irrigation Caucus were discussed at length. The Commission reiterated its support for irrigation efforts and economic development in the state. Concerns and comments were expressed by the Commission members relative to the allocation of state funds for lobbying efforts, the reactivation of irrigation districts, and the organization of a North Dakota Irrigation Association in an effort to expand the benefits to all of the irrigators in the state.

It was moved by Commissioner Hanson and seconded by Jeff Olson representing Commissioner Roger Johnson that the State Water Commission allocate \$50,000 for each year (2002 and 2003), from the funds appropriated to the State Water Commission in the 2001-2003 biennium, to the North Dakota Irrigation Caucus to carryout the activities outlined in its Strategic Plan for increasing irrigated acreage in North Dakota. This motion is contingent upon the availability of funds.

Commissioners Hanson, Hillesland, Hofstad, Olin, Jeff Olson representing Commissioner Roger Johnson, and Governor Hoeven voted aye. Commissioners Halcrow, and Thompson voted nay. Commissioner Swenson abstained from voting. Recorded vote was 6 ayes; 2 nays; and 1 abstention. Governor Hoeven announced the motion carried.

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

Secretary Frink reported on the current efforts relating to the continued appropriations under the Garrison Diversion Unit including appropriations for ongoing maintenance of the existing facilities, and for the state MR&I program, the Indian MR&I program, and the Red River Valley Water Supply study.

**GARRISON DIVERSION PROJECT -
WILLIAMS RURAL WATER PROJECT;
APPROVAL OF REVISED FISCAL
YEAR 2001 MR&I BUDGET
(SWC Project No. 237-03)**

Secretary Frink presented the following revised proposed funding budget for Fiscal Year 2001 MR&I Water Supply program for the Commission's consideration:

Project	Activity	FY 2001	
		Approved	Proposed
All Seasons System V (Pierce)	D&C	\$ 5,710,000	\$ 5,710,000
NAWS - Rugby	D&C	805,000	805,000
Glenfield Water Supply/Storage	D&C	55,250	55,250
McKenzie County Rural Water	F	32,500	32,500
McLean-Sheridan Rural Water	F	37,050	37,050
Ramsey Rural Water District	F&D	80,500	80,500
Williams Rural Water Administration	F	-	40,000
		89,700	49,700
Total		\$6,810,000	\$6,810,000

- F Feasibility Study
- D Design
- C Construction

The State Water Commission considered a funding request from the Williams Rural Water District for a feasibility study for an expansion to serve an additional 147 rural water users. The preliminary project cost is \$2.3 million. Williams Rural Water funded \$31,000 on a previous study and has requested an additional \$40,000 to update and expand the study, for a total feasibility study cost of \$71,000. A 65 percent MR&I grant of \$71,000 would amount to \$46,150, but it was recommended by the State Engineer that funding be approved up to the remaining cost of the additional study, or \$40,000.

It was the recommendation of the State Engineer that the State Water Commission approve the revised proposed Fiscal Year 2001 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions. The proposed Fiscal Year 2001 budget reduces the 'Administration' funding by \$40,000 to provide funding to the Williams Rural Water project. (**Note:** The Garrison Diversion Conservancy District executive board of directors approved the revised proposed budget for Fiscal Year 2001 at its meeting on October 11, 2001.)

Commissioner Swenson referenced the MR&I Water Supply program policy and guidelines for funding projects, which currently provides a 65 percent funding for projects. He expressed objection that the request from the Williams Rural Water and the recommendation before the State Water Commission would provide funding to the project sponsor for its

previous expenditure of \$31,000 for the project's feasibility study. He said this is not the intent of the program policy, and that program funding of 65 percent should be considered only on the additional request of \$40,000 and not on the total amount of the feasibility study (\$71,000).

Dave Koland, Executive Program Director, North Dakota Rural Water Systems Association, explained the MR&I Water Supply program, which is jointly administered by the State Water Commission and the Garrison Diversion Conservancy District. From 1986 to about 1994, the projects were ranked according to a priority rating system. The projects with the highest point totals were funded first. This process was changed because of the large number of eligible applicants and a ground-swell of public opinions to distribute the remaining funds (approximately \$88 million) of the original funding authorization of \$200 million more geographically even. As a result, funding for the Southwest Pipeline Project was capped at around \$70 million, and there was a strong desire to allocate a portion of the remaining funds for the Northwest Area Water Supply (NAWS) project. After considerable debate, it was agreed to set \$32 million aside for NAWS. The Williston area was originally a part of the NAWS project, but they since opted out of the project.

Mr. Koland explained that the need was much greater than the original federal \$200 million MR&I allocation. Williams Rural Water was one of the projects that did not receive these MR&I funds. The project is an expansion of their existing system, and the priority point system gave fewer points to an existing system rather than to new systems. As a result, the Williams Rural Water sponsors were advised that the shortage of MR&I funding would make it likely that most projects would not obtain all of the MR&I funds needed until additional federal funding was obtained through congressional approval.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve the recommendation of the State Engineer of the revised allocation of \$6.81 million Fiscal Year 2001 MR&I Water Supply program budget as presented. This motion is contingent upon the availability of federal funds and is subject to future revisions.

Commissioners Halcrow, Hanson, Hillesland, Hofstad, Olin, Jeff Olson representing Commissioner Roger Johnson, Thompson, and Governor Hoeven voted aye. Commissioner Swenson voted nay. The recorded vote was 8 ayes; 1 nay. Governor Hoeven announced the motion carried.

**APPROVAL OF ALLOCATION
OF \$15 MILLION FOR FUNDING
FOLLOWING MR&I PROJECTS -
LANGDON RURAL WATER;
MCKENZIE RURAL WATER;
RAMSEY RURAL UTILITIES;
TRI-COUNTY RURAL WATER
(SWC Project No. 237-03)**

On September 26, 2001, the State Water Commission and the Garrison Conservancy District MR&I committees met to address concerns relative to the MR&I program. The committees discussed project status, funding percentage, and the funding of four MR&I projects using \$15 million of state funds from the State Water Commission.

The Commission's budget tentatively includes \$15 million for funding MR&I projects. The intent is that the state would be reimbursed for the \$15 million using future federal MR&I grant funding authorized under the Dakota Water Resources Act of 2000. The projects would have to satisfy federal requirements during the entire process. The following is a summary of the four MR&I projects:

Langdon Rural Water/Munich Expansion: The estimated project cost is \$10.05 million with service to 212 rural users and service to Calvin, Clyde, Eglund, Munich, and Wales. The project includes reservoir/pumping facilities, pipelines, and improvements at the city of Langdon's water treatment plant.

McKenzie County Rural Water New System: The proposed McKenzie Rural Water system would serve the area around Watford City. Watford City would provide water service to the proposed rural system. The project would serve 90 rural users, with a cost of \$1.7 million for the rural system and \$0.9 million to serve Alexander. The feasibility study's estimated cost is \$57,000, with an approved 65 percent MR&I grant of \$32,500.

Ramsey Rural Utilities Rural Water Expansion: The proposed expansion covers portions of Eddy, Foster, and Ramsey counties. Service includes the cities of Glenfield, Grace City, and McHenry. An engineering review was made of the service areas involving the potential for Carrington to provide bulk water service to 102 rural users surrounding Carrington. The remaining 170 users in Eddy and Foster counties and 91 users in Ramsey county would be served by Ramsey's existing water treatment plant. The current cost estimate is \$9.4 million.

The MR&I committees previously recommended future MR&I funding of 70 percent, not to exceed \$6,050,000. The funding is subject to the satisfactory completion of any required studies, contingent upon the availability of federal funds, and subject to future revisions as necessary. This fall, Ramsey Rural Utilities is conducting studies for the proposed expansion at a cost of \$115,000. The studies will cover mapping, system hydraulic review, preliminary design/reports, and negotiations with the city of Carrington on potential water service. A 70 percent MR&I grant of \$80,500 was approved.

Tri-County Rural Water Expansion: The existing Tri-County Rural Water system is planning an expansion to its project. Phase 1 is funded by USDA, Rural Development and, when completed this fall, will add 75 users. Phase 2 has an estimated cost of \$3.6 million and includes service to an additional 68 water users, correct water pressure problems, and the construction of a water tower to eliminate six ground storage/pump stations in the existing water system. The tower design will save costs for operation and maintenance. The city of Michigan is interested in connecting if the pipeline comes within the 1/2 mile as proposed in Phase 2. The city's connection would be 2.5 miles of pipeline without the Phase 2 project.

It was the recommendation of the MR&I committees that the State Engineer and the Garrison Conservancy District Manager work with the four project sponsors to ready them for construction award in accordance with the standards normally required of an MR&I project at the earliest possible time, at a total amount not to exceed \$15 million.

MR&I projects are required to satisfy all federal and state laws, which include the Safe Drinking Water Act, the National Environmental Policy Act, and the National Historic Preservation Act. The projects are reviewed and approved by the Bureau of Reclamation. The feasibility study is reviewed by the State Engineer, the plans and specifications are reviewed by the State Department of Health, and the project is then bid and contracts awarded after the non-federal funding sources provides approval.

It was the recommendation of the State Engineer that the State Water Commission approve an allocation of up to \$15 million, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, to enhance the following MR&I projects: Langdon Rural Water/Munich Expansion; McKenzie County Rural Water New System; Ramsey Rural Utilities Water Expansion; and Tri-County Rural Water Expansion. Affirmative action by the State Water Commission is contingent upon the availability of funds. (**Note:** The Garrison Diversion Conservancy District executive board of directors approved the request as presented at its meeting on October 11, 2001.)

It was moved by Commissioner Hanson and seconded by Commissioner Hillesland that the State Water Commission approve an allocation of up to \$15 million, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, to enhance the following MR&I projects:

- 1) Langdon Rural Water/Munich Expansion***
- 2) McKenzie County Rural Water New System***
- 3) Ramsey Rural Utilities Water Expansion***
- 4) Tri-County Rural Water Expansion***

This motion is contingent upon the availability of funds.

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

The Commission discussed the purpose of the State Water Commission and Garrison Conservancy District MR&I committees, and suggested the committees revisit the priority rating system for ranking projects for MR&I funding. Secretary Frink reiterated the intent is that the state would be reimbursed for the \$15 million using future federal MR&I grant funding authorized under the Dakota Water Resources Act of 2000.

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

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

Contract 2-4C - Twin Buttes Service Area Main Transmission Pipeline: This contract is for approximately 32.5 miles of mostly 10-inch pipe and includes service to the city of Scranton. The contractor, Nygard Construction, has completed about 11 miles of pipeline installation. The contract has a completion date of July 1, 2002. The contractor has indicated intentions to get service to Scranton this fall, but there are about 10.5 miles of pipeline remaining to install as well as installation and startup of the Scranton booster.

Contract 5-3A - Second New England Reservoir: Work began on contract 5-3A the week of October 8, 2001. This contract is for a 1,240,000 gallon potable water reservoir 67 feet in diameter and 48 feet high, located about 4 miles north of New England. The contractor has completed work on the subgrade piping, and has since shut down operations for the winter. The completion date for this contract is August 26, 2002.

Contract 5-8 - Twin Buttes Reservoir: Work began on contract 5-8 the first week of October, 2001. The contractor, Maquire Iron, Sioux Falls, South Dakota, has completed work on the subgrade piping, foundation, and site work. This contract is for a 249,000 gallon potable water reservoir 42 feet in diameter and 25 feet high, located about 1.5 miles north of Bowman. The contractor has shut down operations for the winter. The contract has an intermediate completion date of November 17 for completion of the foundation and underground piping, and a final completion date of July 1, 2002.

Contract 7-6B - Rural Distribution System, Coffin Buttes Service Area:

This contract is for approximately 137 miles of pipeline serving about 85 rural water connections. All of the pipeline installation work has been completed on this contract. The contractor is currently filling, testing, chlorinating, and flushing pipelines. The contract has an intermediate completion date of October 12, 2001 for service to 30 users, and a final completion date of December 12, 2001. Eighteen (18) users were turned over to the Southwest Water Authority by October 12, 2001, and 22 have now been turned over.

Contract 7-7A - Rural Water Distribution System, Twin Buttes Service Area:

This contract is for approximately 124 miles of 6-inch pipeline through 1 1/2-inch rural water distribution pipelines serving about 99 rural water connections. The contractor began work the first week of October, 2001, and has completed about 6 miles of pipeline. The contract has an intermediate completion date of July 15, 2002 for 40 rural users, and a substantial completion date of September 1, 2002.

Coteau Crossing: This contract was awarded on September 14, 2001 to Swingen Construction. The contract has a completion date of November 11, 2001. The contractor has excavated both the Antelope Valley Station (AVS) pipeline and the Southwest pipeline (SWPP) and has completed the footings for the AVS pipeline bridge. The contractor is progressing with the bridge foundations and slabs for both the SWPP and the AVS pipeline.

Bowman-Scranton Regional Service Area - Funding: On September 13, 2001, a meeting was held with USDA, Rural Development officials to discuss funding for the Bowman-Scranton phase. Initially, it was hoped to get \$1,590,000 in USDA funding for 2001 construction and \$1,880,000 in 2002. USDA funds were depleted in 2001 and funding beyond that already received for the Coffin Buttes service area was available to the Southwest Pipeline project. USDA, Rural Development officials in Bismarck agreed to support the concept of adding the 2001 and 2002 funding together for 2002.

The previous, but not used, funding package for Bowman-Scranton phase funding is as follows:

**Bowman-Scranton Phase Funding
(in million dollars)
not used**

Year	State Grant	USDA Grant	USDA Loan	Yearly Total
2001	\$ 3,140,000	\$ 715,000	\$ 875,000	\$ 4,730,000
2002	\$ 3,710,000	\$ 845,000	\$ 1,035,000	\$ 5,590,000
Totals	\$ 6,850,000	\$ 1,560,000	\$ 1,910,000	\$ 10,320,000

The new funding package for Bowman-Scranton phase funding, as tentatively agreed to, is as follows:

**Bowman-Scranton Phase Funding
(in million dollars)**

Year	State Grant	USDA Grant	USDA Loan	Total
2001-2002	\$ 6,636,000	\$ 1,513,800	\$ 1,850,200	\$ 10,000,000

A new application for funding, as shown in the previous table, has been submitted to USDA, Rural Development. The State Water Commission currently has commitments for approximately \$4,370,000 in awarded contracts under the Bowman-Scranton phase.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF CAPITAL REPAYMENT
RATES, AND REPLACEMENT AND
EXTRAORDINARY MAINTENANCE
RATE FOR 2002
(SWC Project No. 1736)**

Under the Agreement for the Transfer of Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project, the Southwest Water Authority is required to submit a budget to the Secretary of the State Water Commission by December 15 of each year. The budget is deemed approved unless the Secretary of the Commission notifies the Authority of its disapproval by February 15. The Southwest Water Authority is currently preparing its budget.

On October 19, 1998, the State Water Commission approved an amendment to the Transfer of Operations Agreement, which changed the Consumer Price Index date used for calculating the project's capital repayment rates from January 1 to September 1. This amendment was necessary to bring the Transfer of Operations Agreement into line with the water service contracts and to streamline the budget process.

The contract specifies that the water rates for capital repayment be adjusted annually based on the Consumer Price Index. The State Water Commission has the responsibility of adjusting the capital repayment rates annually.

The rate for replacement and extraordinary maintenance was approved by the State Water Commission at its February 9, 1999 meeting at \$0.35 per thousand gallons. The original rate of \$0.30 per thousand gallons was approved in 1991. The rate of \$0.35 per thousand gallons is satisfactory and, therefore, no change was recommended at this time.

The following projected capital repayment rates for 2002 were presented for the Commission's consideration:

Contract Users:	\$ 0.85	per thousand gallons
Rural Users:	\$ 26.03	per month
Replacement and Extraordinary Maintenance:	\$ 0.35	per thousand gallons

Secretary Frink explained that normally the Commission also sets the debt service credit for the coming year for the city of Dickinson. At its March 6, 2001 meeting, the State Water Commission discontinued granting debt service credit to the city after being successful in getting relief from making payments on the bascule gates at Lake Patterson.

It was the recommendation of the State Engineer that the State Water Commission approve the projected capital repayment rates for 2002 for the Southwest Pipeline Project of \$0.85 per thousand gallons for contract users; \$26.03 per month for rural users; and a rate for replacement and extraordinary maintenance of \$0.35 per thousand gallons.

It was moved by Commissioner Olin and seconded by Commissioner Hofstad that the State Water Commission approve the following capital repayment rates, and the replacement and extraordinary maintenance rate for 2002 for the Southwest Pipeline Project:

- 1) Contract Users: \$ 0.85 per thousand gallons***
- 2) Rural Users: \$ 26.03 per month***
- 3) Replacement and Extraordinary Maintenance Rate:
\$ 0.35 per thousand gallons***

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

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

On January 19, 2001, the Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of

the State Department, determined that the Northwest Area Water Supply Project met the requirements of the Boundary Waters Treaty of 1909. The document listed several commitments that the project would include to prevent interbasin biota transfer. This determination satisfied the requirements within the 1986 Garrison Diversion Reformulation Act for MR&I projects transferring water from the Missouri River into the Hudson Bay basin.

The Bureau of Reclamation completed the final environmental assessment and the environmental decision document - the Finding of No Significant Impact (FONSI) for the Northwest Area Water Supply project, which was executed on May 18, 2001. On June 4, 2001, the U.S. State Department formally presented the project to the Government of Canada and allowed 30 days for comments. On June 18, 2001, the Canadian government requested a copy of a Comparative Risk Analysis report, which had been completed as supporting documentation to federal officials. The Canadian government also requested the computer model used in developing the Comparative Risk Analysis. If 30 days were allowed after receipt of that report, the comment period would have expired on July 18, 2001.

Two parties appealed the FONSI signed by the Bureau of Reclamation, Dakota Area Manager. Environment Canada and the Province of Manitoba combined to appeal this decision. Gary Pearson, Jamestown, North Dakota, also appealed the FONSI. Both parties requested a meeting with the Bureau of Reclamation's Regional Director to discuss the FONSI. On September 10, 2001, the two appeals of the FONSI were denied by the Bureau of Reclamation, Great Plains Regional Director, Maryanne Bach, Billings, Montana.

Canada has expressed concerns about the project to the U.S. Department of State. On September 27, 2001, the Director of Canadian Affairs sent a letter to the Canadian Embassy indicating the NAWS project has undergone a careful and complex planning and development process, and is now ready to move forward. The United States offered to meet with Canada, if requested, as soon as possible but not later than October 19, 2001.

Secretary Frink stated that in a recent telephone conversation with an official in the State Department, he was informed that Canada had not provided a formal response by October 19, 2001 for a meeting, although informal verbal discussions had occurred.

Governor Hoeven directed the State Engineer to draft a letter (to be executed by Governor Hoeven) to the Secretary of State which reviews the current language of the September 27, 2001 letter to the

Canadian Embassy; inquire if a formal response from the Canadian Embassy had been received prior to October 19, 2001; and indicate that North Dakota would like to move forward with the project and intends to proceed accordingly to advertise for bids on the first 7.5 miles of the project.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
APPROVAL OF FUNDING
FOR EASEMENTS COSTS
(SWC Project No. 1736)**

The first phase of construction on the Northwest Area Water Supply project (contract 2-1A) entails about 7.5 miles of 36-inch and 30-inch main transmission pipeline stretching from the Minot water treatment plant south and east

to the intersection of U.S. Highway 83 and Ward County Road 16.

James Lennington explained the pipeline alignment segments on public property and private land. To determine compensation for those easements on private land, an appraisal of the land crossed by the alignment was conducted in 1999.

The pipeline parcels will consist of a permanent easement 60 feet wide and a temporary construction easement 40 feet wide. Mr. Lennington explained that it has been the policy on the Southwest Pipeline Project, that landowners will be compensated for easements at 80 percent of the appraised value of their land. The estimated cost for easements for the first 7.5 miles of construction is approximately \$160,000. He said it was intended to use MR&I funding for 65 percent of the eligible cost of the NAWS project, however, MR&I program administrative rules state that program funds cannot be used for the purchase of pipeline easements (Chapter 89-12-01-02). The city of Minot has agreed to contribute 35 percent of the costs of purchasing the easements. A request was presented for the Commission's consideration to provide funding of the remaining 65 percent (\$104,000). Mr. Lennington stated that additional funding will be required for future pipeline segments.

It was the recommendation of the State Engineer that the State Water Commission approve up to \$104,000, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the purchase of easements for the Northwest Area Water Supply project.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve up to \$104,000, from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the purchase of easements for the Northwest Area Water Supply project. This motion is contingent upon the availability of funds.

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

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

Secretary Frink reported the current elevation of Devils Lake is 1447.14 feet msl. Devils Lake peaked at the end of July at approximately 1448.1 feet msl.

Since August, the Devils Lake basin has received below normal precipitation and large amounts of evaporation, which have resulted in about a one-foot drop in elevation for Devils Lake. Approximately 130,000 acre-feet of water have evaporated from the lake and, at the current elevation, Devils Lake covers 125,000 acres and is storing 2.4 million acre-feet of water.

Due to the drier weather and evaporation, the amount of storage in the upper basin is also increasing. If this upper basin storage can remain until freeze-up, Secretary Frink said it will benefit Devils Lake during the spring runoff by reducing the volume of water that reaches the lake. However, conditions are subject to change and there is still some time before freeze-up occurs. Next year's runoff is dependent upon the amount of precipitation the basin receives this fall and winter.

Secretary Frink stated that approximately 4 cubic feet per second of water is flowing from Devils Lake through the Jerusalem channel to Stump Lake. This is down from the mid-summer peak flow of 35 cfs. If Devils Lake continues to lower in elevation, the flows could cease entirely. The current elevation of Stump Lake is 1411.9 feet msl. At this elevation, Stump Lake covers 7,800 acres and is storing 124,000 acre-feet of water. Stump Lake has lowered about 0.4 of a foot since its peak of 1412.3 feet msl.

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

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

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

The engineer has initiated field work, including the wetlands delineation, to select an alignment for the project. The alignment is in the vicinity of Peterson Coulee south of Minnewaukan. The field work is anticipated to be completed by the end of October, 2001. Once the alignment has been determined, the preliminary design can be completed and a more accurate cost estimate prepared. The state's intent is to have preliminary engineering plans completed by January, 2002, construction to begin in May, 2002, with completion in late fall of 2002.

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

of the Corps to have a draft EIS by February, 2002, a final EIS by July, 2002, and the Record of Decision by September, 2002. This schedule would potentially allow for construction of an outlet to begin in October, 2002. Concurrent with the EIS, the Corps will proceed with the design of the outlet to be prepared for construction if the EIS supports an outlet.

The Corps of Engineers is continuing with the environmental impact statement (EIS) for a permanent outlet project for Devils Lake. It is the intent

The Corps of Engineers held a technical team meeting on August 15, 2001 in Fargo to discuss the alternative selection. The technical team is composed of staff members from various local, state, tribal, and federal agencies. The purpose of the technical team is to provide advice and technical input during the preparation of the EIS and preconstruction engineering and design work for a permanent Devils Lake outlet.

Following the August 15, 2001 meeting, the Corps of Engineers reviewed additional alternatives involving pumping water out of Pelican Lake north of Highway 19 to attain better quality water to meet downstream water quality objectives and standards along the Sheyenne and Red Rivers. These alternatives, along with several prior alternatives, are being reviewed to determine the most applicable alternative. After the review, an alternative will be selected and the design of the project will commence.

The Corps of Engineers held another round of public meetings in five cities located in the Red River basin to give the public an opportunity to provide comments on the Draft Preliminary Planning Report. This report, which is scheduled to be completed in October, 2001, will recommend an alternative to proceed with the design. Many concerns were documented at the public meetings including water quality issues, stage effectiveness, and various other downstream interests.

Secretary Frink informed the Commission members that a legal action may be filed against the state and/or the State Water Commission by the People to Save the Sheyenne River if an attempt is made to construct an outlet from Devils Lake into the Sheyenne River without the completion of a NEPA environmental impact statement that approves such outlet construction; together with approval by the Corps of Engineers of a cost benefit analysis that shows the benefits of the outlet far out weigh the cost that will be incurred to the people who live on or near the Sheyenne River.

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

Todd Sando reported the Missouri River basin is in the second year of drought. The Corps of Engineers is pre-

dicting only 89 percent of the normal runoff above Sioux City by the end of 2001. The forecast for runoff into the Fort Peck reservoir for the year is only 52 percent of normal and into Lake Sakakawea only 59 percent of normal. Lake Sakakawea was at an elevation of 1837.6 feet msl on October 12, 2001, which is 12.1 feet lower than it was last year on that date and almost 9 feet below its average elevation for this time of year.

The Corps of Engineers recently released the Revised Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. The draft EIS does not identify a preferred alternative, but it does describe six alternative operating plans. The first alternative is in the current water control plan, which is used as a future without project alternative. The U.S. Fish and Wildlife Service stated this alternative will jeopardize the continued existence (jeopardy opinion) of endangered species along the river. The second alternative is identified as the conservation alternative and contains the recommendations made by the Missouri River Basin Association (MRBA). This alternative would conserve water in the upper basin reservoirs earlier in a drought. The four remaining alternatives include all of the conservation measures and add a range of changes in releases from Gavins Point Dam to benefit endangered species. The Gavins Point modifications include a spring rise one year out of three, and annual lower summer flows to more closely mimic the natural hydrograph. Mr. Sando commented that any of the proposed alternatives are a major improvement over the current operations.

The Corps of Engineers is hosting a series of public workshops and hearings throughout the basin. The meetings in North Dakota are scheduled for Bismarck on October 23 and New Town on October 24, 2001. Governor Hoeven will provide testimony on behalf of the state at the Bismarck hearing.

The Annual Operating Plan (AOP) for 2002 was released by the Corps of Engineers. Although the Corps acknowledges the basin drought conditions in the AOP, it does not identify conservation measures beyond those contained in the current Master Manual to address the drought. A public meeting to review the draft AOP was held on October 15, 2001 in Williston. State Water Commission staff attended this meeting and provided testimony on behalf of Governor Hoeven.

**NEXT STATE WATER
COMMISSION MEETING**

The North Dakota Joint Water Convention and Irrigation Expo is scheduled for December 5-7, 2001 at the

Radisson Inn in Bismarck. The State Water Commission will meet on December 7 beginning at 8:30 AM at the Radisson Inn.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 4:15 PM.

John Hoeven, Governor
Chairman, State Water Commission

SEAL

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