



FROM THE NORTH DAKOTA STATE WATER COMMISSION

Part of tobacco settlement funds received

By Patrick Fridgen

On April 16, 1999, the North Dakota State Legislature passed a landmark measure with the intent of helping the State meet its future water needs. The Legislature authorized a statewide water development plan that dedicated 45 percent of the tobacco settlement funds to the Water Development Trust Fund.

As a result of the tobacco settlement, North Dakota received just over \$9 million on December 15, of which \$4.06 million was deposited in the Water Development Trust Fund. Most recently, on January 3, North Dakota received a second payment of \$7.8 million. Just over \$3.5 million of that also went into the Water Development Trust Fund.

The tobacco settlement, which was announced just over a year ago, reached final approval status November 12, 1999. This meant the Master Settlement Agreement completed a legal process and was formally court approved in at least 45 jurisdictions, including North Dakota. With final approval, tobacco industry payments were transferred from interest-bearing escrow accounts to state treasuries. All states that have been approved to receive tobacco settlement funds received their first payment in early December.

In April, North Dakota is expecting another tobacco settlement payment in the amount of \$12.8 million. Approximately \$5.8 million of that will be deposited in the Water Development Trust Fund. ■

Furthermore, Mr. Frink indicated that the Commission has been continuing its efforts toward an approximate \$36 million bond sale, anticipated for February 2000. The bond sale will provide \$25 million to Grand Forks, \$4.5 million to the Southwest Pipeline Project, \$500,000 for Wahpeton. Costs of approximately \$6 million for bond issuance, reserve fund, and capitalized interest will be included.

A request from the Sheyenne River Joint Water Resources District was presented for the Commission's consideration for cost-share of a five-foot raise at Baldhill Dam. The pool raise would potentially store an additional 30,700 acre-feet of water. The construction portion of the pool raise primarily includes raising the existing gates, at an estimated project cost of \$16 million. The Joint Board estimates the total non-federal cost at \$3.5 million, which includes \$525,000 for construction and \$2,975,000 for land acquisitions, relocations, and administrative expenses.

The Baldhill Dam project meets the State Water Commission's policy and guidelines for cost-share up to 50 percent of the eligible costs for flood control projects. The estimated non-federal costs eligible for cost-share are \$3,210,000, of which the State's share would be \$1,605,000. Secretary Sprynczynatyk explained that because the project was not included in the Commission's 1998 Resource Trust Fund report to the Legislature, it would not be possible for them to provide \$1.6 million in the 1999-2001 biennium. Therefore, the Commission approved \$250,000 for the Baldhill Dam project in the 1999-2001 biennium, and approved a declaration of intent seeking additional funding in future bienniums, subject to legislative appropriation.

The Commission approved 25 percent cost-share, not to exceed \$25,000, to fund farmstead ring dikes



COMMISSION MEETING MINUTES

By Patrick Fridgen

The North Dakota State Water Commission (Commission), chaired by Governor Edward T. Schafer, acted on several items of business and was given status reports on continuing North Dakota water management projects and programs at its December 10, 1999 meeting.

Dale Frink, Assistant State Engineer, reported that revenue into

the Resources Trust Fund for the first four months of the 1999-2001 biennium was 40 percent higher than previously forecasted. This was a result of higher oil prices.

Mr. Frink also reported that new funding for general projects in the 1999-2001 biennium is \$2,731,112. As of August 13, 1998, the Commission adopted a policy to limit the funding for drainage projects to 5 percent of new funding for general projects per biennium for any specific project. Therefore, it was recommended that a \$136,000 (5 percent of the \$2.7 million) cost-share funding limitation be placed on each new drainage project during the 1999-2001 biennium.

in Turtle River Township, Grand Forks County.

The State Water Commission also approved \$100,000 for the Red River Basin Board (RRBB) in Fiscal Year 2000 to continue its basin-wide water management plan, and to provide a forum to resolve water management conflicts that exist or may arise between Minnesota, North Dakota, South Dakota, Manitoba, and local entities. The Minnesota Legislature has appropriated \$200,000 for the 1999-2001 biennium to the RRBB, contingent upon an equal match from North Dakota.

Cost-share of 40 percent, not to exceed \$1 million from the Contract Fund in the 1999-2001 biennium was approved for the construction of the irrigation supply works for the Elk/Charbon Irrigation project in McKenzie County. This is contingent upon the availability of funds and receipt of a Section 404 permit from the Corps of Engineers.

Also related to the Elk/Charbon Irrigation project, Commissioner Thompson questioned the recommendation to approve 40 percent cost-share of this project. Thompson stated that although he supports statewide irrigation development, he has some concerns that the project will cost approximately \$1,551 per acre and will only benefit a few farmers. He was further concerned that this approval might send the wrong message to those farmers who have financed irrigation systems on their own.

Secretary Sprynczynatyk said the current cost-share policy has been in place for approximately 25 years, and there has never been a policy adopted by the Commission based upon cost per acre. It was also stated that the decisions made by the Commission in the past have been based upon the overall net economic development and return to the state as a result of the project being

constructed, including consideration of future business development.

The Commission approved \$23,000 for the continued cost-share support of the Devils Lake Basin Manager position and \$15,000 to help support the Devils Lake Outlet Awareness Project Manager's contract.

Related to the Southwest Pipeline Project, it was decided not to repair the New Hradec reservoir that was damaged during a severe windstorm last August 1999. Instead the Commission will accept the insured value (settlement) of \$187,000 from the North Dakota Fire and Tornado Insurance Fund and deposit the funds in the Office of Management and Budget's Insurance Recovery Fund until such time as the tank is replaced.

Secretary Sprynczynatyk presented a funding allocation breakdown for the Fiscal Year 2000 MR&I Water Supply program for the Commission's consideration. The Garrison Diversion Conservancy District executive committee had previously approved the proposed MR&I funding budget for Fiscal Year 2000 at its December 3, 1999 meeting. The Commission approved the \$10.28 million Fiscal Year 2000 MR&I Water Supply program budget as it was presented, contingent upon the availability of federal funds and subject to future revisions.

Secretary Sprynczynatyk gave a Devils Lake hydrologic update to the Commission. He reported the current level of Devils Lake is 1446.19. At this elevation, Devils Lake covers approximately 120,000

acres and holds approximately 2.3 million acre-feet of water. As a result of the recent dry weather, approximately 100,000 acre-feet of water have evaporated from the lake. This evaporation has lowered the lake approximately 0.8 feet since reaching its all time recorded daily high of 1447.1 this past summer.

Lee Klapprodt, Director of the State Water Commission's Planning and Education Division, presented the Commission with the progress of the 1999 State Water Management Plan update. As part of the overall water development package, the Legislature required that the State Water Commission develop a comprehensive statewide water development program with priorities based upon expected funds available from the Water Development Trust Fund. Over the next few months, the State Water Commission staff will be updating information about proposed large, and small-scale projects. Klapprodt said the ultimate goal of this process is to help focus and prioritize cost-share funding requests made to the State Water Commission and to address the Legislative requirements of Senate Bill 2188.

The Planning and Education Division has sent out information requests to all project sponsors identified in the 1999 State Water Management Plan planning process, requesting the sponsors to provide updated information regarding their projects. New projects may also be submitted. Mr. Klapprodt said it is anticipated that the information from the project sponsors will be received in January 2000, and an analysis of the information will be compiled in March of 2000. ■



North Dakota State Water Commission
David A. Sprynczynatyk, State Engineer
900 East Boulevard • Bismarck, ND 58505 • (701)328-2750
<http://www.swc.state.nd.us/>

Brett Hovde, Editor

The State Water Commission does not discriminate on the basis of race, color, national origin, sex, age, or disability in employment or the provision of services.



THE WATER PRIMER

Managing North Dakota's Water Resources

This is the first in a series of articles explaining the roles of various state agencies and offices involved in the management of North Dakota's water resources. The first to be outlined are the North Dakota State Water Commission and the Office of the North Dakota State Engineer.

Most view the duties of the Office of the State Engineer and the State Water Commission as a whole, to be one in the same or even synonymous. However, they are independent agencies, each having specific roles and authority.

A commonality that the Office of the State Engineer and the State Water Commission *do* share is their mission, which is "to enhance the quality of life and strengthen the economy of North Dakota by managing the water resources of the state for the benefit of its people."

The State Water Commission consists of the Governor as Chairman, the Commissioner of Agriculture as an ex officio member, and seven members who are appointed by the Governor to provide regional representation. The seven members serve six-year, overlapping terms. The State Engineer is appointed to serve the dual role as Secretary, and Chief Engineer to the State Water Commission, in addition to being the sole individual employed under the Office of the State Engineer. The State Engineer manages a staff as needed to carry out the aims of the State Water Commission, and the statutory responsibilities required of the Office of the State Engineer. The State Water Commission staff is

divided into five separate divisions, the Administrative and Support Services, the Atmospheric Resource Board, Planning and Education, Water Appropriations, and Water Development.

The Office of the State Engineer was created in 1905 to regulate and administer matters concerning the allocation of the state's water and related land resources. Later, in 1937, additional duties were added to this office when the State Engineer was designated chief technical advisor to the newly created State Water Commission, which was developed in response to the severe drought conditions of the 1930s.

Presently, the State Engineer:

- is in charge of regulation, administration, and allocation of North Dakota's water resources;
- has authority related to water rights allocation, drainage control, dike and dam safety, and floodplain management;
- is responsible for issuing water right permits, drainage permits for projects of state or regional significance, permits involving dams and dikes and other water storage facilities such as wastewater holding ponds, and sovereign lands permits; and
- must review all technical documentation associated with proposed development in regulatory floodways as a result of the recent passage of House Bill 1167.

The powers and duties of the State Water Commission are quite lengthy, however, a general summary of those responsibilities include:

- managing stream flows for

various purposes;

- developing, stabilizing, and restoring the waters of the state for domestic, agricultural, and municipal needs;
- promoting and providing drainage of lands susceptible to injury from excessive rainfall; and
- overseeing and financing the construction, establishment, operation, and maintenance of public and private water works deemed necessary to fulfill the basic water needs of the state.

For a more detailed explanation of the powers and duties of the State Water Commission, or the State Engineer, please refer to the North Dakota Century Code, which is available on the State Water Commission web site (see address below).

Water management involves many disciplines and levels of government. Consequently, the State Water Commission and the Office of the State Engineer routinely work in cooperation with other agencies to develop and operate projects and programs affecting water management in North Dakota. Today, the State Engineer and the State Water Commission form a partnership in protecting the public's interest in water, while enhancing the opportunities for social and economic growth and expansion.

For additional information on the State Water Commission or the Office of the State Engineer, please call or visit the State Water Commission offices. If you have access to the Internet, you can check out the Commission's Home Page at <http://www.swc.state.nd.us>. ■