

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

October 11, 1988

The North Dakota State Water Commission held a meeting on October 11, 1988, in the lower level conference room of the Old State Office Building, Bismarck, North Dakota. Lt. Governor, Lloyd Omdahl, called the meeting to order at 9:30 a.m., and requested State Engineer and Secretary, Vernon Fahy, to call the roll and present the agenda.

MEMBERS PRESENT:

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

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 25 persons interested in agenda items

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

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

CONSIDERATION OF MINUTES
OF JULY 10, 1988 MEETING -
APPROVED

The minutes of the July 10, 1988 meeting were approved by the following motion:

It was moved by Commissioner Backes, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the July 10, 1988 meeting be approved as circulated.

CONSIDERATION OF MINUTES
OF JULY 28, 1988 MEETING -
APPROVED

The minutes of the July 28, 1988 meeting were approved by the following motion:

It was moved by Commissioner Backes, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the July 28, 1988 meeting be approved as circulated.

CONSIDERATION OF MINUTES
OF AUGUST 31, 1988 TELEPHONE
CONFERENCE CALL MEETING -
APPROVED

The minutes of the August 31, 1988 telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Backes, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the August 31, 1988 telephone conference call meeting be approved as circulated.

BRIEFING OF STATE WATER
COMMISSION CENTENNIAL
PROJECTS
(SWC Project No. 1831)

Dennis Nelson, Water Resource Planner for the State Water Commission, reviewed three projects that the State Water Commission will offer to the Centennial Commission for sanction:

- 1) The travelling display titled "North Dakota's Water: A Historical Perspective" was developed in 1986 and exhibited at major public events. The goal of this project is to rework the traveling display into a permanent exhibit at the State Water Commission.
- 2) The State Water Commission is developing a trunk for the Historical Society's Suitcase Exhibit for North Dakota (SEND) program, which will be developed to meet all SEND program design and content criteria. The water trunk will be used by schools and libraries. The trunk includes artifacts, photographs and historically significant documents and films, and a background report and suggested classroom lesson plans. It is the intent of the State Water Commission to develop three identical trunks - two for the SEND program and one for use by the State Water Commission, which will be highlighted at the Water Education for Teachers (WET) workshops.
- 3) The State Water Commission publishes a monthly newsletter called The Oxbow. The goal of this project is to dedicate one issue to the 1989 Centennial, which will include a variety of water history topics that relate to the creation of the State Water Commission and the management of North Dakota water resources.

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It was moved by Commissioner Narlock, seconded by Commissioner Rudel, and unanimously carried, that the State Water Commission approve the three projects presented and submit to the North Dakota Centennial Commission for sanction.

RECOMMENDATIONS OF NORTH
DAKOTA WATER COALITION
FOR FUNDING AND ALLOCATION

Since 1984, water organizations and major water projects in North Dakota have come together in an effort to provide a united front to achieve funding for water development projects and programs. This gathering of the various groups and project areas has been called the North Dakota Water Coalition, which is chaired by Robert Dorothy. In the past the Coalition has submitted recommendations to the State Water Commission concerning water funding priorities and allocations.

Mr. Dorothy presented the following recommendations developed by the North Dakota Water Coalition for the Commission's consideration in its budget process:

- 1) The North Dakota Water Coalition supports the manner in which the revenues in the Resources Trust Fund were appropriated to the State Water Commission by the Legislature (SB 2029) in 1987. The entire amount of the Resources Trust Fund, plus collections and some other revenue, were appropriated in one line item entitled grants. The Coalition believes this method provides the Water Commission with the necessary flexibility to prioritize and allocate funds for water development projects and programs and recommends this manner be used for the next Legislative Session.
- 2) The allocation by the State Water Commission of funds appropriated in 1987 included \$2 million for the Sheyenne River Flood Control Project, and \$1 million for the Souris River Flood Control Project. SB 2029 also contained an amendment that:

Section 54-44.1-11 of the North Dakota Century Code shall not apply to appropriations made for grants in this act. However, this exclusion shall only be in effect for the two-year period after June 30, 1989.

The Water Coalition recommended that the State Water Commission, under the provisions of this amendment, carry over to the next biennium the amount allocated for the Souris and Sheyenne River Flood Control Projects.

- 3) The Water Coalition recommended that the funds appropriated by the 1985 Legislature for the Souris River Flood Control Project (\$862,000) be carried over for the 1989-1991 biennium.

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- 4) The Water Coalition recommended that all other unexpended funds in the Resources Trust Fund appropriated by the 1987 Legislature, up to the total appropriation of \$9.5 million, be expended for the Southwest Pipeline Project.
- 5) While the Water Coalition recommended the single line item appropriation for the Resources Trust Fund, it recommended an allocation of funds as follows:

<u>Project</u>	<u>Amount</u>
Sheyenne-Maple Flood Control Project	\$1.5 million
Garrison MR&I Water Supply Program	2.40 million
State Water Commission Contract Fund	2.05 million
Southwest Pipeline Project	.75 million
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TOTAL	\$6.70 million
Souris River Flood Control Project	\$862,000

- 6) The Coalition encourages the State Water Commission to include in its budget request an amendment similar to the amendment included in SB 2029 (1987) which appropriated additional funds from the Resources Trust Fund if revenues were received. It provided:

"Section 7. RESOURCES TRUST FUND APPROPRIATION ADJUSTMENT. In the event the resources trust fund contains moneys in excess of the \$6,704,165 in section 2 of this Act, any excess, up to \$2,795,835, or so much thereof as is necessary, is hereby appropriated and shall be transferred by the office of management and budget from the resources trust fund to the state water commission for the biennium beginning July 1, 1987 and ending June 30, 1989."

- 7) The Water Coalition stated that SB 2035 is an important part of the overall water development picture in North Dakota. Not only does SB 2035 provide an opportunity for new drainage in North Dakota, which is important in some areas, but it also provides a mechanism to work towards the Mid-Dakota Reservoir in place of the Sykeston Canal. It also has an impact on funding of North Dakota water projects. If SB 2035 is repealed in 1989, support for Garrison Diversion Unit funding could be lost. With Garrison Municipal, Rural and Industrial funding, the demands on the Resources Trust Fund would prohibit most projects. SB 2035 is a no lose situation. Not one person has been or will be negatively affected by SB 2035, but many people, and all of North Dakota, stand to benefit.

Mr. Dorothy noted that the Water Coalition recommended to change the Sheyenne River Flood Control Project to the Sheyenne-Maple River Flood Control Project because the proposed phase for a dam on the Maple River is a part of the overall project.

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Secretary Fahy indicated staff has met with the Water Coalition and is in agreement with their figures and recommendations for the 1989-1991 biennium. It was the recommendation of the State Engineer that the State Water Commission support the recommendations of the North Dakota Water Coalition.

It was moved by Commissioner Byerly and seconded by Commissioner Gust that the State Water Commission authorize the State Engineer to follow the recommendations of the North Dakota Water Coalition in the budget process for the 1989-1991 Legislative Session.

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

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

Dale Frink, Manager of the Southwest Pipeline Project, indicated that in addition to the federal funds already received from the

Bureau of Reclamation, another \$10.5 million was released by the Bureau to the Southwest Pipeline Project in September, 1988. The majority of these funds will be used for 1989 construction.

Mr. Frink said that due to the large unexpected amount of FY 1988 MR&I funds received in September, the Southwest Pipeline Project will receive a smaller portion of the FY 1989 MR&I funds. Mr. Frink said the \$10.5 million puts the pipeline project back on a good construction schedule and will allow the majority of the 1989 funds to be used on other MR&I projects.

At the end of August, 1988, the Southwest Pipeline Project was 27 percent complete. Mr. Frink indicated that approximately \$30.3 million has been spent on the pipeline to date and the current estimated cost is \$112 million. Of the \$30.3 million, \$12.2 million was federal MR&I and \$18.1 million was state funds. The \$12.2 million of MR&I consisted of \$6.3 million in 1987 and \$5.9 million in 1988. This does not include the \$10.5 million additional funds in 1988.

Mr. Frink said approximately 63 miles of pipe will have been laid by the end of 1988, which leaves 21 miles between Lake Sakakawea and Dickinson.

Relative to the future construction schedules, Mr. Frink said with the \$10.5 million of MR&I funds recently received, raw water should be delivered to Dickinson by late 1990. The 1989 construction season will be extremely busy with nine contracts anticipated for construction in 1989. Construction past Dickinson is dependent upon future funding for the Southwest Pipeline Project, however, Mr. Frink said it is anticipated some contracts will be awarded for areas south of Dickinson in 1990.

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SOUTHWEST PIPELINE PROJECT -
WATER TREATMENT COMMITTEE REPORT
(SWC Project No. 1736)

In August, 1988, Governor Sinner appointed Commissioners Spaeth, Gust and Rudel to serve on a committee to review the water treatment aspects of the Southwest Pipeline Project.

Commissioner Spaeth stated the committee met on September 15, 1988, and after considerable discussion, it was decided that a series of regional meetings be held in southwestern North Dakota to update the communities on the progress of the project and to obtain input on their water treatment plant preference and other concerns. The meetings schedule was discussed by Commissioner Spaeth. Following the meetings, the committee will prepare a summary report for submission to the Governor and the State Water Commission in December.

SOUTHWEST PIPELINE PROJECT -
OPERATIONS AND MAINTENANCE BUILDING
(SWC Project No. 1736)

The Southwest Pipeline Project will include an operations and maintenance center located in Dickinson. Mr. Frink said it was originally planned to construct a new building to provide office and shop space requirements, however, due to the depressed prices of real estate in Dickinson, several existing buildings have been evaluated for this purpose.

Mr. Frink stated that as a result of this evaluation, an offer of \$85,000 has been made on the Gearhart Building in the West Industrial Park area of Dickinson. The offer to purchase is contingent upon receiving State Water Commission approval. Mr. Frink described the building and made mention of concerns which will need to be resolved prior to purchase.

It was the recommendation of the State Engineer that the State Water Commission approve the purchase of the Gearhart Building for \$85,000 with the following conditions:

- 1) A satisfactory title opinion and deed.
- 2) A satisfactory determination of the items listed in the seller's addendum to the purchase agreement.
- 3) State Water Commission staff inspection determines that the building is in good working condition with no major problems.

Commissioner Lardy expressed concerns relative to building specials which could be assessed in the future.

Secretary Fahy responded that the State Water Commission should pay the special assessments if and when special improvement work is done that increases the value of the building.

It was moved by Commissioner Spaeth and seconded by Commissioner Jones that the State Water Commission approve the purchase of the Gearhart Building in Dickinson at a purchase price of \$85,000 for the Southwest Pipeline Project

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operations and maintenance center. This motion shall be contingent upon the availability of funds and the conditions recommended by the State Engineer.

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

SOUTHWEST PIPELINE PROJECT -
CONSIDERATION OF REQUEST FROM
WEST RIVER JOINT RESOURCE BOARD
FOR STUDY OF INTEGRATION OF RURAL
WATER SUPPLY AND DISTRIBUTION
(SWC Project No. 1736)

Herb Urlacher, Chairman of the West River Joint Resource Board, appeared before the State Water Commission to discuss a proposal developed and adopted by the West River water groups on July 20, 1988, for southwest water delivery to improve

the management, operation and efficiency of the project and enhance the objective of providing a good quality and quantity of water for all of the people in southwestern North Dakota.

Mr. Urlacher said one of the issues addressed is the integration of the southwest rural water system into the main pipeline. He said it appears there may be some savings in construction costs, operation and maintenance costs, and other efficiencies which may be realized if the rural water systems are incorporated into the main pipeline. Mr. Urlacher said there are many questions which must be addressed concerning this issue and have determined a study of the concept of integrating the rural water delivery systems into the Southwest Pipeline Project should be conducted.

Since Bartlett and West/Boyle Engineering is the engineer for the Southwest Pipeline Project, Mr. Urlacher said they would be best able to conduct the study of integrating the rural water systems in the Southwest Pipeline Project and determine if the advantages would outweigh the disadvantages. Mr. Urlacher indicated they have met with the consulting engineers for the rural water systems and they have expressed total willingness to cooperate and work with Bartlett and West/Boyle in conducting this study.

The cost estimate for this concept study is approximately \$6,000, of which the West River Joint Board has agreed to pay 50 percent of the cost of the study. A request was presented for the Commission's consideration of contract fund cost sharing in the remaining 50 percent of the study and to request permission of the State Water Commission to retain Bartlett and West/Boyle Engineering to conduct the study.

Mr. Urlacher commented that if the study establishes there would be material advantages to integrating the rural water systems into the Southwest Pipeline Project, in a similar manner as the WEB project in South Dakota is constructed and operated, and that advantages outweigh any disadvantages, it would then be the desire of the West River Joint Board to introduce an amendment into the 1989 Legislative Assembly which would authorize the State Water Commission to

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further investigate and implement such integration, in the manner and at such time as the Commission may deem appropriate. Mr. Urlacher reviewed draft legislation which would accomplish this purpose.

It was the recommendation of the State Engineer that the State Water Commission support the concept study retaining the engineering services of Bartlett and West/Boyle Engineering, and to cost share from the contract fund in 50 percent of the costs for the study, not to exceed \$3,000.

It was moved by Commissioner Lardy and seconded by Commissioner Rudel that the State Water Commission approve the request of the West River Joint Water Resource Board to retain Bartlett and West/Boyle Engineering to conduct a study of the concept of integrating the rural water delivery systems into the Southwest Pipeline Project, and to approve 50 percent cost sharing from the contract fund in the study, not to exceed \$3,000. This motion shall be contingent upon the availability of funds.

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

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

Randall Binegar, Project Manager for the Northwest Area Water Supply Study, reported the study work has consisted of developing various

water supply alternatives and cost estimates for the nine-county area. After the cost estimates for the various alternatives were developed, each alternative was evaluated and the two most preferred alternatives were then selected for the development of estimated operation and maintenance costs.

The Advisory Committee met in Minot on September 29, 1988 to review the various alternatives and cost estimates. The committee approved the two most preferred alternatives developed by the Consulting Engineer. The Advisory Committee also recommended that the study include an investigation of the Sunde Aquifer as a supplementary source of water supply.

Hank Transgrud, Consulting Engineer for the Northwest Area Water Supply Study, presented the Commission members with a report of the study activities and discussed in detail the two preferred alternatives, Regional System No. 1 and 2.

Mr. Transgrud said Regional System No. 1 involves approximately 700 miles of pipe at an estimated development cost of \$150 million. There are four branch systems within Regional System No. 1: 1) the Eastern System is the largest branch system and will serve the eastern portion of the study area; 2) the Parshall System will utilize the City of Parshall's existing facilities using water from Lake Sakakawea;

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3) the New Town-Stanley System will consist of a new intake system in the area of the Four Bears Bridge; and 4) the Western System will utilize the facilities at Williston expanding the intake and treatment plant and will involve approximately 231 miles of pipe.

Regional System No. 2 involves approximately 644 miles of pipe at an estimated development cost of \$145 million. Regional System No. 2 is basically similar to Regional System No. 1 with the exception on the Western System rather than utilizing Williston's existing facilities a ground-water source would be developed at Grenora.

Mr. Transgrud indicated the Northwest Area Water Supply Study draft report will be completed in October, 1988. The draft will then be distributed to the Advisory Committee, the State Water Commission and the Garrison Diversion Conservancy District for review and consideration.

Governor Sinner present at meeting.

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

David Sprynczynatyk, Director of Engineering for the State Water Commission, briefed the Commission members on the status of the Souris

River Flood Control Project, which is an undertaking within the Province of Saskatchewan involving the construction of two dams in Canada in the Souris River watershed.

The proposed Rafferty Dam near Estevan will provide water for a coal-fired electric power generating plant, flood control, recreation and some irrigation. Mr. Sprynczynatyk said the Province of Saskatchewan has expended, or obligated approximately \$20 million for the design and construction of the Rafferty Dam, Alameda Dam and Shand Power Plant. Construction of the Rafferty Dam began in the spring of 1988 and is scheduled for completion in 1990.

The proposed Alameda Dam near Oxbow is scheduled for construction in 1990 and completion in 1991. The dam will provide irrigation, recreation and flood control.

Mr. Sprynczynatyk indicated the Shand Power Plant in Estevan is currently under construction and the target date for completion is 1992.

Mr. Sprynczynatyk stated the United States Government has agreed to contribute \$41.1 million toward the purchase of flood control storage in the dams. Negotiations are presently continuing between the Canadian Government and the United States Government to finalize an international agreement concerning the construction, operation and maintenance of the project. On October 14, 1988, a meeting

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is scheduled with the federal and state agencies involved and interested in the project to consider the most recent Canadian draft of the agreement. Mr. Sprynczynatyk indicated it is hoped the draft agreement can be developed and agreed to in November, 1988.

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

Mr. Sprynczynatyk stated the two countries are continuing negotiations to resolve questions and concerns relative to water quality and water quantity.

GARRISON DIVERSION PROJECT -
PROJECT UPDATE ON MUNICIPAL,
RURAL AND INDUSTRIAL WATER
SUPPLY PROGRAM
(SWC Project No. 237-3)

David Sprynczynatyk provided the Commission members with a status report on the Garrison Municipal, Rural and Industrial Water Supply Program. The final allocation of the \$7.69 million FY '88 program

appropriation was made at the July 7, 1988 Garrison Diversion Conservancy District meeting and at the July 28, 1988 State Water Commission meeting. Mr. Sprynczynatyk indicated since that time, an additional \$10.518 million became available in FY '88 for the program and was approved for allocation to the Southwest Pipeline Project.

Mr. Sprynczynatyk stated the FY '89 MR&I appropriation is estimated to be \$7.3 million. As a result of the additional FY '88 MR&I funds and an anticipated high level of funding in FY '90, the Garrison Diversion Conservancy District and the State Water Commission relaxed the moratorium on the funding of MR&I project feasibility studies from emergency to urgent. Mr. Sprynczynatyk said that due to the recent developments in the MR&I Program funding, it is appropriate to begin funding additional MR&I projects through the feasibility study phases.

There are currently 14 projects which have received approval for MR&I funding and are making progress through the MR&I Program: 5 projects are within the design-construction phases, 8 projects are currently in the feasibility study phase, and the Northwest Area Water Supply Study is within the preliminary engineering report phase and is receiving MR&I funding.

GARRISON DIVERSION PROJECT -
CONSIDERATION OF MR&I WATER
SUPPLY PROGRAM FUNDING FOR
WATER SUPPLY PROJECTS
FEASIBILITY STUDIES
(SWC Project Nos. 237-19 - 237-33)

Randall Binegar, MR&I Water Supply Program Coordinator, presented the following MR&I water supply projects for the Commission's consideration which requested MR&I Water Supply Program funding for the feasibility study for each of these

projects. The total estimated costs of the water supply projects are \$171,000, of which the MR&I federal share is 75 percent of this figure, or \$128,325:

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1) City of Edgeley	\$ 4,875
2) Golden Lake Resort	6,000
3) City of Gwinner	18,750
4) City of Hankinson	6,000
5) City of Hannaford	5,625
6) City of Harvey	6,075
7) City of Killdeer	9,000
8) City of Lehr	5,250
9) Missouri West River Water Supply	23,625
10) Old Settlers Park	5,250
11) City of Rolla	6,000
12) City of Rugby	10,500
13) City of Streeter	5,625
14) City of Wishek	6,750
15) City of New Town	9,000

On October 4, 1988, the Garrison Diversion Conservancy District met and approved MR&I Water Supply Program funding for feasibility studies for all of the above listed projects, with the exception of the request from the City of New Town, which was tabled pending an investigation of Bureau of Indian Affairs funding.

In discussion of MR&I funding for feasibility studies, the Commission members expressed concern relative to the urgency of some of the requests being considered, and also inquired if a feasibility study is a legal requirement for a project.

Secretary Fahy responded when an application for cost sharing is filed, there is generally only a limited amount of information provided relative to the project at that time. Therefore, a feasibility study is an essential phase of any project to obtain detailed information in determining if a project is feasible and should proceed onto design and construction. Secretary Fahy said the feasibility study will also set forth the project's urgency and provide a prioritization of the water quality and water quantity needs.

The Commission members discussed increasing the local cost sharing for feasibility studies, but objection was also expressed that the local cost sharing ratio should not be changed in the "middle of the game". A suggestion was made that would require the locals to assume the full responsibility for the feasibility study costs and the State Water Commission would then become involved in cost sharing for the design and construction phases.

David Sprynczynatyk explained the criteria used for determining a project's eligibility for the feasibility study phase. He also informed the Commission members that because of Bureau of Reclamation requirements communities must follow the criteria in State law for the selection of an engineer.

Governor Sinner indicated the feasibility study for any project is essential, but wondered "does the feasibility study provide the assurance of a complete overview required in terms of time, human need involved, and dollars?"

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Governor Sinner mentioned there is a general understanding that the \$200 million Garrison authorization will be indexed so that as time goes on the real value of the projects would be considered. The Governor stated that it is incomprehensible that given funding delays the real value commitment to North Dakota will not be honored.

Chairman Omdahl said feasibility is required to make a judgement of priority, and the Commission may have to develop a mechanism for review and prioritization of projects for MR&I funding.

Commissioner Gust suggested developing a point system for the prioritization of water supply projects that request MR&I funding for feasibility studies. This type of a system would provide a uniform set of standards for each project being considered. Because of the large number of applications being submitted for consideration of MR&I funds, Commissioner Gust said the Commission is at the point where it needs to review and possibly revise, if necessary, its priority system in order to maintain manageability of the system in the future.

Commissioner Lardy indicated he supports a priority point system. Although water supply is critical, Commissioner Lardy said the Commission must direct itself to the goals of the State to maintain and expand its population by providing water to areas to encourage economic development.

Governor Sinner said it appears from the general MR&I funding discussion the Commission is in agreement that a point system for project prioritization of water supply projects requesting MR&I funding for feasibility studies be investigated, and suggested a committee of two Commission members be appointed to develop a point system for the Commission's consideration for determining MR&I funding of feasibility studies of absolute urgency.

Governor Sinner leaves the meeting.

It was moved by Commissioner Spaeth and seconded by Commissioner Backes that the local cost sharing for MR&I Water Supply Program funding of feasibility studies for MR&I water supply projects be changed from 25 percent to 50 percent of the feasibility study costs.

In discussion of the motion, Commissioner Lardy said he is in opposition to this motion because of the fact the Commission has already approved MR&I funding of feasibility studies for several projects at the 25 percent local cost sharing level, and said the Commission would be penalizing those communities requesting MR&I funding in the future for feasibility studies if we now increase the local cost share.

Commissioner Narlock said if the local cost share is increased there may be communities with emergency needs who will be unable to afford their project.

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Commissioner Narlock shared with the Commission members recommendations he had received from Clark Cronquist, President of the Agassiz Water Users, Inc., relative to MR&I funding. Mr. Cronquist stated in his letter of October 7, 1988 to Commissioner Narlock that the feasibility studies should be prioritized so that a substantial amount of the MR&I funds are not spent on feasibility studies which could end up delaying much needed construction. Mr. Cronquist suggested phases of projects should be prioritized in order to spread the money over a greater number of systems to get the most needed work done. Mr. Cronquist suggested that if projects are delayed for lack of MR&I funds and parts of the project must go forward because of need, it would be helpful if that part of the project that the system must complete could be considered as part of their 25 percent requirement.

Commissioners Backes, Gust, Spaeth and Chairman Omdahl voted aye. Commissioners Byerly, Lardy, Narlock and Rudel voted nay.

Roll call vote was 4 ayes and 4 nays. The Chairman declared the motion lost for a lack of majority.

It was moved by Commissioner Gust and seconded by Commissioner Byerly that the Governor appoint two members of the State Water Commission to a committee to develop a point system for prioritizing MR&I water supply projects that have requested MR&I Water Supply Program funds for feasibility studies.

In discussion of the motion, Commissioner Lardy suggested that as the committee undertakes its study in developing a point system for priority of feasibility study projects that it keep in mind project urgency is an important criterion for determining points, but as the Commission plans for emergencies it should not be done to the exclusion of all other considerations.

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

(Note: Governor Sinner appointed Commissioners Gust and Lardy to the committee on October 26, 1988.)

It was moved by Commissioner Byerly, seconded by Commissioner Lardy, and unanimously carried, that the State Water Commission defer action

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on the MR&I water supply projects presented for the Commission's consideration for MR&I Water Supply Program funding of feasibility studies.

STATUS REPORT ON
CONTRACT FUND
(SWC Project No. 1)

David Sprynczynatyk briefed the Commission members on the status of the Contract Fund and suggested since there are eight months remaining in the current biennium that approximately \$300,000 of unobligated funds be retained in the Contract Fund for emergency and unexpected needs next spring. Mr. Sprynczynatyk said this has been done in the past and by mid-April we should be aware of any problems which might occur and could then release the unobligated funds.

It was moved by Commissioner Lardy, seconded by Commissioner Spaeth, and unanimously carried, that the State Water Commission approve retaining \$300,000 of unobligated funds in the Contract Fund for the 1989 spring emergency and unexpected needs.

CONSIDERATION OF REQUEST FROM
WELLS COUNTY WATER RESOURCE
DISTRICT FOR ADDITIONAL COST
SHARING IN WELLS COUNTY DRAIN NO. 1
(SWC Project No. 1483)

A request received from the Wells County Water Resource District was presented for the Commission's consideration for additional cost participation in Wells County Drain No. 1. The purpose of the project is to provide an orderly removal of water, provide temporary storage of water, reduce flooding of additional lands of five major slough areas, and maintain wildlife values within the watershed. The project is located in west central Wells County, west and south of Fessenden, ND. Construction was recently completed on the project.

David Sprynczynatyk stated the State Water Commission had previously approved cost sharing for 40 percent of the eligible costs, not to exceed \$138,176 on April 8, 1987. The project costs are \$503,289, with \$424,495 as the eligible costs, and 40 percent of those costs being \$169,798. The amount of the additional eligible costs is \$79,055 with 40 percent being \$31,622. Mr. Sprynczynatyk explained the increased costs were from increased excavation costs, additional rock removal in the channel, and the relocation of utilities, which under present State Water Commission guidelines would be considered eligible for cost assistance.

It was the recommendation of the State Engineer the State Water Commission grant 40 percent of the additional eligible costs, not to exceed \$31,622 for the construction of the Wells County Drain, contingent upon the availability of funds.

Commissioner Rudel stated he has been involved in the Wells County Drain No. 1 project since the beginning of the project, and as a member of the State Water Commission expressed his intentions to refrain from voting.

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Stephen Hoetzer, American Engineering, commented the work basically involved improvement to some of the features of the project. He also said approximately 70 percent of the landowners were in favor of the project and that little opposition was expressed.

It was moved by Commissioner Byerly and seconded by Commissioner Gust that the State Water Commission approve additional cost participation in 40 percent of the additional eligible costs, not to exceed \$31,622 for Wells County Drain No. 1. This motion shall be contingent upon the availability of funds. Approval of the additional funds will bring the total contract for this project to \$169,798.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Spaeth, and Chairman Omdahl voted aye. Commissioner Rudel refrained from voting. There were no nay votes. The Chairman declared the motion carried.

CONSIDERATION OF REQUEST FROM
MERCER COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING IN
CONSTRUCTION OF SPRING CREEK
BANK STABILIZATION PROJECT
(SWC Project No. 1291)

A request received from the Mercer County Water Resource District was presented for the Commission's consideration for cost participation in the construction of the Spring Creek Bank Stabilization Project. The project's purpose is to control severe erosion on the bankline of Spring Creek within the City of Zap, ND.

David Sprynczynatyk stated the City of Zap has experienced severe erosion and the loss of bank material is endangering a sewer line and several homes in the city, with one house being lost already. The Mercer County Water Resource District requested the State Water Commission investigate the problem with the intent of entering a cost sharing agreement. A preliminary investigation agreement was signed and the preliminary engineering report, which discussed three alternatives, was completed in April, 1988. Since the completion of the engineering report, the city has completed an investigation and determined the sewer line is not in a severe erosion situation and selected alternative No. 1, which would correct the most severe erosion along the bank for approximately a distance of 277 feet.

Mr. Sprynczynatyk stated the estimated costs for alternative No. 1 is \$37,482, with all costs eligible under present State Water Commission guidelines. The project is eligible for 40 percent cost participation, which is \$14,993.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in the Spring Creek Bank Stabilization project for 40 percent of the eligible costs not to exceed \$14,993, contingent upon the availability of funds.

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Walter Sailer, Chairman of the Mercer County Water Resource Board, and Albert Sailer, Mayor of the City of Zap, were in attendance, and commented on the project.

It was moved by Commissioner Spaeth and seconded by Commissioner Lardy that the State Water Commission approve cost sharing in the Spring Creek Bank Stabilization Project for 40 percent of the eligible costs, not to exceed \$14,993, contingent upon the availability of funds.

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

CONSIDERATION OF REQUEST FROM
RAMSEY COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN CONSTRUCTION OF HAMMER-
SULLIVAN TOWNSHIP DRAIN NO. 1,
PHASE I
(SWC Project No. 1832)

A request received from the Ramsey County Water Resource District was presented to the Commission for its consideration of cost participation in the construction of Hammer-Sullivan Township Drain No. 1, Phase I. The purpose of the project is to provide for more orderly flow of

water, increase the hydraulic capacity removal rate which will decrease flood durations, and provide agricultural water management. The design of the project is based on a 10-year event, using 4:1 side slopes and culverts sized to control the flow of water downstream. The project is located in the Starkweather Coulee Basin which is part of the Devils Lake Basin. The project area includes 30,390 acres with approximately 27,260 as contributing.

David Sprynczynatyk said the project began with the Starkweather Watershed Project. Hammer-Sullivan Drain, formerly known as Channel "C", consists of 32 miles of channel, with Phase I covering the lower 7 miles. The district will be responsible for operation, maintenance, and control of the project, with an assessment district being the source of funding for the project. The district applied for a drain permit No. 1753 in December, 1984, and was declared of statewide significance. The drain permit was approved by the State Engineer in December, 1987, with conditions attached. Construction is anticipated to begin on the project in October, 1988.

Mr. Sprynczynatyk indicated the total estimated cost for the project is \$800,000 and Phase I is to be constructed at a cost of \$223,545. The current policy of the State Water Commission allows for cost participation for 40 percent of the eligible costs, which were estimated to be \$193,400, and 40 percent being \$77,360.

It was the recommendation of the State Engineer that the State Water Commission approve cost participation in the Hammer-Sullivan Township Drain No. 1, Phase I, for 40 percent of the eligible costs, not to exceed \$77,360, contingent upon the availability of funds and subject to the conditions of the permit application.

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Michael Gunsch, American Engineering, briefly discussed the project and noted the vote was 100 percent in favor of the project.

It was moved by Commissioner Gust and seconded by Commissioner Rudel that the State Water Commission approve cost participation in the Hammer-Sullivan Township Drain No. 1, Phase I, for 40 percent of the eligible costs, not to exceed \$77,360. This motion shall be contingent upon the availability of funds and subject to the conditions on the permit application.

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

CONSIDERATION OF REQUEST FROM SOUTHEAST CASS WATER RESOURCE DISTRICT TO ENTER INTO CONTRACT REGARDING FUNDING FOR THE CONSTRUCTION OF WEST FARGO/RIVERSIDE DIVERSION FLOOD CONTROL PHASE OF SHEYENNE RIVER FLOOD CONTROL PROJECT (SWC Project No. 1344)

A request received from the Southeast Cass Water Resource District on August 8, 1988, was presented to the Commission for its consideration to enter into a contract with the District regarding the West Fargo portion of the Sheyenne River Flood Control Project. The project was discussed at the March 17, 1988 State Water Commission meeting and

the Commission deferred action on the request for funding assistance until a later date.

David Sprynczynatyk said the District has entered into a local cooperative agreement with the Corps of Engineers for the project. Congress has approved funding for the final design of the project and the District anticipates several hundred thousand dollars to be expended by the end of this year. It anticipates \$2 million will be spent in calendar year 1989. Mr. Sprynczynatyk commented the project provides much needed flood control and receives very strong local and federal support.

It was the recommendation of the State Engineer that the State Water Commission fund 100 percent of the eligible non-federal costs, not to exceed \$2 million, for the construction of the West Fargo/Riverside Diversion Flood Control Project, contingent upon the availability of funds in the Resources Trust Fund. The State Engineer stated that because of the current schedule for expenditures, this will likely require a carry-over of appropriated funds, which the Commission has been able to do in the past.

Fred Selberg, Robert Brodshaug and Daniel Twichell, Southeast Cass Water Resource Board, and Jeff Volk, Moore Engineering, were present to discuss the project.

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It was moved by Commissioner Backes and seconded by Commissioner Narlock that the State Water Commission approve funding of 100 percent of the eligible non-federal costs, not to exceed \$2 million, for the construction of the West Fargo/Riverside Flood Control Project, contingent upon the availability of funds in the Resources Trust Fund.

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

RED RIVER DIKES -
PROJECT UPDATE
(SWC Project No. 1638)

David Sprynczynatyk reviewed the background of the Red River dikes, making specific reference to the Order issued by the Federal Dist-

RICT Court in 1986 whereby all parties to the Agreement were required to have their dikes in compliance with the stipulations set forth in the Order by October 31, 1987. To date, Mr. Sprynczynatyk said there are five areas in North Dakota and at least one in Minnesota that are not in compliance with the stipulations set forth in the Order. It is the intent to bring the North Dakota areas into compliance by October 31, 1988, which is the date scheduled for a status conference in the Federal District Court.

RED RIVER DIKES -
REQUEST FOR RECONSID-
ERATION OF AGREEMENT
(SWC Project No. 1638)

Rosellen Sand, Assistant Attorney General for the State Water Commission, discussed the background of the dike payment agreements. She stated that on December 9, 1987,

the State Water Commission approved revised Agreement A, which allowed payment of Red River dike modification work for farmers that had not previously signed an agreement with the State Water Commission. Agreement A was effective until February 1, 1988. Approximately 20 landowners signed Agreement A and the Agreement offered previously.

At the request of the landowners in the Red River Valley who had not signed an agreement with the State Water Commission, Ms. Sand presented draft Dike Agreement B for the Commission's consideration. Ms. Sand reviewed the differences of the two agreements. Agreement A and the proposed Agreement B are attached hereto as APPENDIX "A".

Ms. Sand made specific reference to paragraph IV of Agreement B. She said the purpose of this provision was to release the State and its employees from all claims the landowners might have against them which arose out of work performed prior to the date of the agreement.

David Sprynczynatyk referred to the Red River dikes fiscal impact and stated that at the December 9, 1987 State Water Commission meeting the Commission approved the expenditure of funds from the Contract Fund, not to exceed \$52,000, for landowner claims for Red

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River diking modification under the new agreements and for construction claims not yet received under present agreements. He said to date approximately \$7,000 has been paid out with approximately \$45,000 remaining which has been earmarked for the Red River dikes. Mr. Sprynczynatyk also noted approximately \$20,000 in 1987 back taxes and penalties were assessed against landowners in Walsh County, which became recoverable when the State Water Commission approved revised Agreement A on December 9, 1987.

If proposed Agreement B is approved by the State Water Commission, Mr. Sprynczynatyk said the additional expense would be approximately \$14,000 which would bring the total amount paid out from the Contract Fund to approximately \$34,000, of which \$20,000 is recoverable from tax assessments.

It was moved by Commissioner Narlock and seconded by Commissioner Gust that the State Water Commission approve Agreement B, effective until October 28, 1988, to provide payment of Red River dike modification work for farmers who had previously not signed an agreement with the State Water Commission.

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

Maurice Bushaw, Grand Forks, discussed with the Commission members his personal views relative to flooding and diking in the Red River Valley.

CONSIDERATION OF AGENCY FINANCIAL STATEMENT

Matt Emerson, Assistant Secretary for the State Water Commission, presented and reviewed the Program

Budget Expenditures, as of August 31, 1988; and the Programs/Projects Authorized, dated September 30, 1988.

It was moved by Commissioner Gust, seconded by Commissioner Narlock, and unanimously carried, that the State Water Commission financial statement be accepted as presented.

INVITATION FOR STATE WATER COMMISSION TO MEET IN WELLS COUNTY

Commissioner Rudel extended an invitation for the State Water Commission to meet in Wells County in

November to tour the proposed Mid-Dakota Reservoir site, portions of the McClusky Canal and some of the features of the Wells County Drain No. 1. The State Engineer was directed to work with Commissioner Rudel in making the arrangements for the tour. (Note: November 10, 1988 was the date scheduled for the tour in Wells County.)

October 11, 1988

CONSIDERATION OF REQUEST
FOR REIMBURSEMENT OF EXPENSES
FOR COMMISSIONERS NARLOCK AND
GUST TO ATTEND INTERNATIONAL
COALITION CONFERENCE IN
NOVEMBER, 1988

Commissioner Narlock requested the State Water Commission's approval to be reimbursed for his expenses to attend the International Coalition Conference to be held in Fargo in November, 1988. In discussion of the request, the Commission members agreed because the Conference is scheduled to be held in Fargo Commissioner Gust should also receive reimbursement for his expenses to attend the Conference.

It was moved by Commissioner Backes and seconded by Commissioner Rudel that the State Water Commission approve the expenditure of funds for reimbursement of expenses to Commissioners Narlock and Gust to attend the International Coalition Conference to be held in Fargo, ND in November, 1988.

DECEMBER, 1988 STATE
WATER COMMISSION MEETING

Secretary Fahy indicated that December 7, 1988 has been scheduled for the State Water Commission meeting at the Bismarck Holiday Inn in conjunction with the North Dakota Water Users Association and North Dakota Water Resource Districts Association Annual Joint Conference, which is scheduled for December 5 and 6, 1988.

It was moved by Commissioner Lardy, seconded by Commissioner Rudel, and unanimously carried, that the State Water Commission meeting adjourn at 2:45 p.m.


George A. Sinner
Governor-Chairman

ATTEST:


Vernon Fahy
State Engineer and Secretary

October 11, 1988

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE October 11, 1988 PLACE Bismarck, N.D.

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Bruce McCollom	Bismarck	BW/BEC Engineering
Ray Mount	Bismarck	Vice Pres. North Dakota State Water Systems
HANK TRANGSRUD	FARGO	HOUSTON ENGINEERING, INC.
ALBERT SAILER	2 A P	MAYOR
Walter E. Sailer	Hazen	Mercer County Water Resource Board
Frank Karsky	Dickinson	S.B.D Rural water
Bob Dorothy	Bismarck	N.D. Water User's Assoc.
Fletcher Poling	Bis	Basin Electric Power Co-op
Gene Krenz	BISMARCK	State Water Commission
MICHAEL H. GUSSEH	1100 INDUSTRIAL DRIVE Bismarck, ND	Ramsey County W.R.D.
Karen Kiel	Bismarck	U.S. Fish & Wildlife Service
DAN TWICHELL	WEST FARGO	S.E. CASS WPD
Jeffrey Volk	West Fargo	Moran Co-op - SE Cass
Fred Lilberg	HAMMOND ND	SE Cass W.P.D
Robert H. Brodeur	Fargo ND	SE Cass Water

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Milo Jager	Bismarck	ND Water Users
Howard Sage	Bismarck	OMB
Jim Shant	Bismarck	North Central Consultants
Gylf Skellern	Oso, Minn	Red River Diking
Carl K. Osowski	Oso, Minn.	Red River Diking
Malcolm E. Bushnell	Grand Forks	Red River Diking
John W. Zola	Oso, Minn	Red River Diking

AGREEMENT

I. PARTIES

This Agreement is entered into this ____ day of _____, 198__, between the North Dakota State Water Commission (Commission) acting through its Secretary, Vernon Fahy, and _____, (Landowner).

II. PAYMENT

The Commission agrees to pay the sum of \$_____ to Landowner for construction costs Landowner has incurred. The Commission also agrees to absorb construction costs incurred by the State Engineer, including those certified to the Walsh County Auditor by a letter dated September 21, 1987.

III. EASEMENT

The undersigned Landowner conveys to the Commission and the Walsh County Water Resource District (District), a right of entry and easement for the purpose of surveying and inspection of the property described below where dikes may have been located or are presently located. This right shall not extend to ring dikes around farmsteads which are not tied back into roadways or other dikes.

This Easement applies to the following described property located in the County of Walsh, State of North Dakota:

The Commission and District shall give the Landowner reasonable notice prior to exercising the rights provided in this Easement. The Commission and District exercise of their rights hereunder shall not unreasonably interfere with the Landowner's use of the property for agricultural purposes, dwelling or otherwise.

IV. OWNERSHIP AND RESPONSIBILITY FOR DIKES

Except as otherwise provided by law or paragraph III of this Agreement, all dikes on Landowner's property shall remain the property of Landowner. Landowner jointly and severally for himself, his heirs, and his assigns releases the State, its agencies, officials, and employees, and the Walsh County Water Resource District, its members, officers, agents, and employees from all suits commenced or claims made, which arise out of the modification of landowner's dikes or anyone else's dikes.

V. CERTIFICATION

Landowner hereby certifies that all claims made and paid under this Agreement are just and true and represent costs actually incurred for construction work performed to bring the

dikes into compliance with the State Engineer' Orders No. 86-____. If it is determined by the State Engineer the amount of claims paid or released under this Agreement were misrepresented or fraudulently made, Landowner agrees to reimburse the State within 90 days after the State Engineer makes such determination. Reimbursement shall be for all funds received or released pursuant to this Agreement, including any taxes paid. Landowner further agrees to pay 6% interest per year on the total amount paid or released. Interest shall be calculated from the date of the payment or release.

Landowner

Subscribed and sworn to before me this ____ day of _____, 198__.

Notary Public

AGREEMENT

I. PARTIES

This Agreement is entered into this ____ day of _____, 198__, between the North Dakota State Water Commission (Commission) acting through its Secretary, Vernon Fahy, and _____, (Landowner).

II. PAYMENT

The Commission agrees to pay the sum of \$_____ to Landowner for construction costs Landowner has incurred. The Commission also agrees to absorb construction costs incurred by the State Engineer, including those certified to the Walsh County Auditor by a letter dated September 21, 1987. Additionally, Commission agrees to reimburse Landowner for any assessments paid pursuant to the above certified tax assessments and/or any interest that has accrued on the above-mentioned certified tax assessments.

III. EASEMENT

The undersigned Landowner conveys to the Commission and the Walsh County Water Resource District (District), a right of entry and easement for the purpose of surveying and inspection of the property described below where agricultural dikes may have been located or are presently located.

This Easement applies to the following described property located in the County of Walsh, State of North Dakota:

The Commission and District shall give the Landowner ten (10) days notice prior to exercising the rights provided in this easement. Failure to follow proper notice procedure shall terminate said Easement. The Commission and District exercise of their rights hereunder shall not interfere with the Landowner's use of the property for agricultural purposes, dwelling or otherwise.

IV. OWNERSHIP AND RESPONSIBILITY FOR DIKES

Except as otherwise provided by law or paragraph III of this Agreement, all dikes on Landowner's property shall remain the property of Landowner. Landowner jointly and severally for himself, his heirs, and his assigns releases the State, its agencies, officials, and employees, and the Walsh County Water Resource District, its members, officers, agents, and employees from all suits commenced or claims made, which arise out of the modification of landowner's dikes prior to the date of this Agreement.

Landowner

Subscribed and sworn to before me this _____ day of _____, 198__.

Notary Public

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State State Commission Meeting

DATE December 7, 1988 PLACE Bismarck, ND

(1)

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Bruce F McCallum	Bismarck	BW/BEC (Engineer)
Cliff Haro	Lamoure N.D.	Central power
Harlock	Oels, ND	with Dan
Jeffrey Volk	W. Fargo	North Dakota Power
Robert Bradley	Fargo	S/E Cass Water
Jeffrey Mattern	Bismarck	SWC
Karen Kreil	Bismarck	U.S. Fish & Wildlife Service Missouri West Water Coop
Mike Kemnitz	Mandan	
Andy Moik	Mandan	Morton Co W R D
ALFRED UNDERDAHL	HEBRON	MORTON CO W R D
FRANK G MATIER	MOTT	HETTINGER W R D
Ken Lindskov	Bismarck	U.S. Geological Survey
L. Andy Moore	Bismarck	U.S. Geological Survey W R D
Tom Hanson	CARROLLTON	GDCD
Frank Kandy	DICKINSON	S B D Rural water

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT STATE WATER COMMISSION MEETING

DATE DEC 7, 1988 PLACE HOLIDAY INN

(2)

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
RONALD FRENCH	GRAND FORKS	KBM ENGINEERING
Fred Selberg	Harwood	S/E Cass
James Bell	Harvey	G O C D
O. J. Grubbs	P.O. 91 St. Michaels N.D. 58320	Devils Lake Firm
Sarah Vogel	State Capitol	Bismarck, N.D.
Gay Bachstrand	SWC	u y
Everett Iron Eyes	F. YATES, ND	STANDING ROCK SIOUX TRIBE
Jim Skaret	Bis	NORTH CENTRAL CONSULTANTS
Neill C BURNETT	400 N th 4 th BISMARCK	MONTANA-DAKOTA U.
David Spryden	Bismarck	SWC
Gregg J. Wick	Bismarck	USGS
A. J. Agard	BOX "D" 58538 Forkdale, N.D.	MRTI Coordinator Standing Rock Sioux Tribe
L. Veranes	Box 147 St. Gutes ND	Asst Envir. Spec.