

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

April 6, 1993

The North Dakota State Water Commission held a meeting at the Doublewood Inn, Bismarck, North Dakota, on April 6, 1993. Acting Chairman, Commissioner Sarah Vogel, called the meeting to order at 10:30 AM, and requested State Engineer and Chief Engineer-Secretary, David Sprynczynatyk, to call the roll. The acting Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
Joyce Byerly, Member from Watford City
Elmer Hillesland, Member from Grand Forks
Daniel Narlock, Member from Grand Forks
Jack Olin, Member from Dickinson
Norman Rudel, Member from Fessenden
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David Sprynczynatyk, State Engineer and Chief Engineer-Secretary, North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 30 people in attendance 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.

**INTRODUCTION OF
ROBERT THOMPSON,
PAGE, ND, TO
STATE WATER COMMISSION**

Robert Thompson, Page, ND, was introduced. Mr. Thompson was appointed by Governor Schafer to serve as a member of the State Water Commission, replacing

Jerome Spaeth. His term is effective March 1, 1993 and expires on July 1, 1995.

**INTRODUCTION OF
ELMER HILLESLAND,
GRAND FORKS, ND, TO
STATE WATER COMMISSION**

Elmer Hillesland, Grand Forks, ND, was introduced. Mr. Hillesland was appointed by Governor Schafer to serve as a member of the State Water Commission, replacing

Jacob Gust. His term is effective March 1, 1993 and expires on July 1, 1995.

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**INTRODUCTION OF
JACK OLIN,
DICKINSON, ND, TO
STATE WATER COMMISSION**

Lorry Kramer. His term is effective March 1, 1993 and expires on July 1, 1997.

Jack Olin, Dickinson, ND, was introduced. Mr. Olin was appointed by Governor Schafer to serve as a member of the State Water Commission, replacing

**INTRODUCTION OF
HARLEY SWENSON,
BISMARCK, ND, TO
STATE WATER COMMISSION**

placing Marjorie Farstveet. His term is effective March 1, 1993 and expires on July 1, 1997.

Harley Swenson, Bismarck, ND, was introduced. Mr. Swenson was appointed by Governor Schafer to serve as a member of the State Water Commission, re-

APPROVAL OF AGENDA

in North Dakota and Montana be discussed under Other Business. The agenda was approved and the acting Chairman requested it be presented by Secretary Sprynczynatyk.

Commissioner Byerly requested a proposed irrigation project

**CONSIDERATION OF MINUTES
OF DECEMBER 9, 1992 MEETING -
APPROVED**

The minutes of the December 9, 1992 meeting were approved by the following motion:

It was moved by Commissioner Byerly, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the December 9, 1992 meeting be approved as circulated.

**CONSIDERATION OF MINUTES
OF DECEMBER 24, 1992 TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the December 24, 1992 telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Byerly, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the December 24, 1992 telephone conference call meeting be approved as circulated.

**AGENCY FINANCIAL STATEMENT -
AGENCY OPERATIONS; AND RESOURCES
TRUST FUND/CONTRACT FUND**

1993, reflecting 83.3 percent of the current biennium.

Charles Rydell, Assistant State Engineer, presented and discussed the Program Budget Expenditures, dated March 18,

Dale Frink, Director of the State Water Commission's Water Development Division, reviewed and discussed the Contract Fund expenditures for the 1991-1993 biennium.

**AGENCY FINANCIAL STATEMENT -
1993-1995 PROPOSED
BIENNIUM BUDGET**

scheduled to be considered by Committee on April 14, 1993.

Charles Rydell discussed the status of HB 1015, which is the agency's 1993-1995 proposed biennium budget. The bill is an Appropriations Conference

Governor-Chairman Schafer enters the meeting.

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

Tim Fay, Manager of the Southwest Pipeline Project, provided a status report on the following construction contracts:

Contracts 2-3E and 2-3F: Contracts 2-3E and 2-3F are transmission lines extending from Dickinson to the junction of Highways 21 and 22. The contracts have been in progress since June, 1992.

Contract 2-3E extends from the Dickinson pump station site to the New England reservoir. It includes 1,765 feet of 20-inch ductile iron pipe, 9,951 feet of 12-inch ductile iron pipe, and 103,855 feet of 16-inch ductile iron pipe. All of the 12-inch and 20-inch pipe has been installed. Approximately 57 percent of the 16-inch pipe (about 11 miles) is installed.

Contract 2-3F extends from the New England reservoir to the junction of Highways 21 and 22. It includes 43,459 feet of 14-inch ductile iron pipe, and 32,004 feet of 12-inch ductile iron pipe. Approximately 42,642 feet of this piping is installed. The Cannonball River was crossed at New England on March 16 and 17, 1993.

Contract 2-7B: This main transmission line extends from the Davis Buttes reservoir to Richardton. It includes 121,721 feet of 12-inch PVC pipe and approximately 200 feet of 12-inch ductile iron pipe to cross the Green River. It includes three prefabricated steel vaults and connections to the cities of Gladstone, Taylor and Richardton. The 12-inch PVC piping has begun arriving and the contractor has begun distributing it along the alignment. Construction is expected to begin in late March.

Contract 2-6A: This main transmission line extends from the intersection of Highways 21 and 22 to Mott. It includes 151,963 feet of 12-inch PVC pipe, four prefabricated steel vaults, and connections to the cities of New England, Regent and Mott. The contractor has delivered some equipment and materials to Mott, where he plans to begin by crossing the Cannonball River within the next two weeks.

Contract 3-1B: Contract 3-1B is the second raw water reservoir located eight miles north of Zap. This contract is for construction of a 1 million gallon welded steel reservoir. The reservoir foundation, piping, valving and shell are complete. The remaining work includes painting and landscaping, although the painting must await warmer weather for proper curing.

Contracts 5-3 and 5-13: Contract 5-3 is for a 1.5 million gallon welded steel reservoir located north of New England. Contract 5-13 is for a 1 million gallon welded steel reservoir located northeast of Dickinson. These contracts will be constructed by the same firm. Field construction work has not yet begun on either contract.

Contract 4-3: This contract is for the Dickinson pump station, which is comprised of three separate contracts: one each for the mechanical, electrical and general construction work. Field work on these contracts has not yet begun.

Mr. Fay discussed future development work on the Southwest Pipeline Project. Work is progressing on Contract 2-7C, which is the main transmission line extending from Taylor north to the cities of Dunn Center, Halliday,

Dodge and Golden Valley. The route will extend through some areas with high concentrations on archaeological sites. Mr. Fay said it appears that close coordination with the State Historical Society and the Department of Transportation will produce an acceptable route.

Rural water systems encompassing most of Stark County north of Interstate 94 and part of Dunn County have been delineated. These service areas are now in design for construction in 1994. One area centers around a reservoir near New Hradec, one around the Davis Buttes reservoir, and one around the Taylor reservoir. The Taylor service area will include the area to be developed by the Soil Conservation Service under PL-566.

**SOUTHWEST PIPELINE PROJECT -
PL-566 PILOT PROJECT WITH SOIL
CONSERVATION SERVICE TO CONSTRUCT
LIVESTOCK WATERING SYSTEMS
WITHIN PROJECT AREA
(SWC Project No. 1736)**

The PL-566 program that will be designed and constructed by the Soil Conservation Service was discussed. Tim Fay stated that the preliminary information is being transferred from Bartlett & West/Boyle Engineering to the

Soil Conservation Service for this effort. The SCS hopes to have the planning, authorization and design completed so construction can begin in early 1994.

**SOUTHWEST PIPELINE PROJECT -
CONSIDERATION AND APPROVAL OF
WATER SERVICE AGREEMENT FOR
CITY OF BELFIELD
(SWC Project No. 1736)**

Tim Fay presented a request for the Commission's consideration for water service from the Southwest Pipeline Project from the City of Belfield. The city has requested sole source ser-

vice. Mr. Fay explained that under this type of service, the agreement is amended to state that if the city uses no other water source, they are billed each month according to actual use rather than the monthly minimum as described in the agreement. The State Water Commission approved this type of service at its meeting on April 2, 1992. Mr. Fay said sole source agreements are currently in place for the cities of Dickinson and Mott.

It was the recommendation of the State Engineer that the State Water Commission approve the water service agreement with the City of Belfield to provide sole source service.

It was moved by Commissioner Byerly and seconded by Commissioner Swenson that the State Water Commission approve the water service agreement with the City of Belfield to provide sole source water service from the Southwest Pipeline Project.

Commissioners Byerly, Hillesland, Narlock, Olin, Rudel, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried. (SEE APPENDIX "A")

**SOUTHWEST PIPELINE PROJECT -
CONSIDERATION AND APPROVAL OF
WATER SERVICE AGREEMENT FOR
ASSUMPTION ABBEY
(SWC Project No. 1736)**

Abbey has requested sole source service. Mr. Fay said that in addition, the Abbey wishes to have demand service. On June 24, 1991, the State Water Commission approved a group of user categories to deal with users who had no storage or distribution systems. Mr. Fay explained a demand user is one who has a distribution system, but no storage. This type of user would pay double the capital repayment rate for water service.

Tim Fay presented for the Commission's consideration a request for water service from the Southwest Pipeline Project from the Assumption Abbey of Richardton. The Assumption

It was the recommendation of the State Engineer that the State Water Commission approve the water service agreement with the Assumption Abbey to provide sole source service and demand service.

It was moved by Commissioner Byerly and seconded by Commissioner Swenson that the State Water Commission approve the water service agreement with the Assumption Abbey of Richardton to provide sole source service and demand service from the Southwest Pipeline Project.

Commissioners Byerly, Hillesland, Narlock, Olin, Rudel, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried. (SEE APPENDIX "B")

**SOUTHWEST PIPELINE PROJECT -
1992 ANNUAL OPERATIONS REPORT
(SWC Project No. 1736)**

Tim Fay presented and discussed the 1992 Annual Operations Report for the Southwest Pipeline Project. The report is attached hereto as APPENDIX "C".

**SOUTHWEST PIPELINE PROJECT -
CONSIDERATION AND APPROVAL OF
WATER SERVICE RATE FOR 1993
(SWC Project No. 1736)**

The water service agreements for the Southwest Pipeline Project require that the operation and repayment costs and charges be reviewed annually

and that the water user rates be adjusted accordingly. Tim Fay explained that the water service agreements require the cities and other users to pay all operational costs. They are also required to pay a capital repayment charge to the state for reimbursement of construction costs. The capital repayment charge is adjusted annually in accordance with the consumer price index.

Mr. Fay stated a review of the operating costs for 1992 is complete. All costs, except treatment, were taken from the state accounting SAMIS records. Known treatment costs for November and December, 1992, which had not yet appeared on SAMIS, were manually added. A summary of the review is explained in the memorandum, dated February 26, 1993, which is attached hereto as APPENDIX "D".

Mr. Fay also reported that the capital repayment rate, adjusted for inflation, should be \$0.68 per thousand gallons. He also pointed out that the schedule of debt service credits, approved by the State Water Commission on October 21, 1991, calls for a credit of \$12,552 per month to be applied to the city's capital repayment fee.

Based on the review of the 1992 operating costs for the Southwest Pipeline Project, it was the recommendation of the State Engineer that the combined water service rate for 1993 be \$2.04 per thousand gallons comprised of the following:

O&M	\$0.50
Replacement	0.30
Treatment	0.56
Capital Repayment	0.68
Total	<u>\$2.04</u>

It was moved by Commissioner Narlock and seconded by Commissioner Byerly that the State Water Commission approve the Southwest Pipeline Project combined water service rate for 1993 of \$2.04 per thousand gallons comprised of the following:

O&M	\$0.50
Replacement	0.30
Treatment	0.56
Capital Repayment	0.68
Total	<u>\$2.04</u>

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

**CONSIDERATION AND APPROVAL
OF RESOLUTION OF APPRECIATION
TO ROY PUTZ
(SWC Resolution No. 93-4-453)**

The Commission members considered a draft resolution of appreciation to Roy Putz. Mr. Putz retired as an employee of State Water Commission staff on

March 31, 1993, after more than 45 years of service to the state.

It was moved by Commissioner Olin, seconded by Commissioner Rudel, and unanimously carried, that the State Water Commission approve Resolution No. 93-4-453, In Appreciation to Roy Putz. (SEE APPENDIX "E")

The meeting recessed at noon to give the Commission members and staff an opportunity to attend the retirement luncheon held in honor of Roy Putz. The Commission meeting reconvened at 1:30 PM.

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

Warren Jamison, Manager of the Garrison Diversion Conservancy District, was introduced. Mr. Jamison was hired to fill the

Manager position when C. Emerson Murry retired in January, 1993. Mr. Jamison was the Project Manager for the Garrison Diversion Project for the Bureau of Reclamation in Bismarck in the late 1970's, and more recently he worked for the Western Area Power Association.

Mr. Jamison provided a status report on the Garrison Diversion Project. He briefed the Commission members on the appropriation hearings before the House and Senate Subcommittees on Energy and Water Development on March 29, 1993 in Washington, DC, requesting \$41.9 million for the Garrison project for Fiscal Year 1994. He indicated that the President's budget is expected to be released on April 8, 1993.

Mr. Jamison discussed future project development in accordance with the 1986 Reformulation Act. He presented a proposed seven-year project development plan, goals and objectives. The plan goal, according to Mr. Jamison, is that

by the year 2000, the principal water supply works be completed to deliver Missouri River water to the Sheyenne and James Rivers and to Devils Lake, concurrent with the development of other project components in the 1986 Reformulation Act.

Mr. Jamison said it is the intent of the Garrison Diversion Conservancy District and the State of North Dakota that the following objectives will be accomplished by the year 2000 in accordance with the 1986 Reformulation Act, the Statement of Principles, the Boundary Waters Treaty, National Environmental Policy Act, and the Indian trust responsibilities:

- 1) Completion of the major water delivery systems
- 2) Provide Missouri River water for municipal, rural and industrial users
- 3) Provide mitigation and enhancement of fish and wildlife
- 4) Enhance water-based recreation and fulfill the Indian trust responsibilities
- 5) Provide Missouri River water for irrigated agriculture

In conclusion of his presentation, Mr. Jamison stressed the importance of the development of water conservation plans for projects. Across the nation, water conservation programs have helped in many instances to alleviate water supply problems. An important goal of conservation is to reduce the per capita demand for water by implementing feasible and cost effective water conservation measures. Mr. Jamison recommended that the State Water Commission consider a requirement that all North Dakota water supply development program projects include a water conservation plan as part of the project development.

Mr. Jamison extended an invitation to the State Water Commission to hold a joint meeting with the Garrison Conservancy District Board in July, 1993.

**GARRISON DIVERSION PROJECT -
TURTLE LAKE IRRIGATION PROJECT
(SWC Project No. 237)**

Secretary Sprynczynatyk discussed the Bureau of Reclamation's demonstration project involving approximately 13,000 acres of irrigation in the Turtle Lake area. The State Water Commission is participating in the joint study as well as agriculture, fish and wildlife and community interests. Secretary Sprynczynatyk said the purpose of the project is to formulate and present an innovative, conceptual, land-use development plan which enhances the Turtle Lake project area equally for wildlife, irrigated agriculture and economic development. A draft conceptual plan has been developed, which includes the following recommendations:

- 1) To develop irrigation and enhance wildlife, fish and recreation. Economic growth would result from all aspects of the project;
- 2) The project will be developed in three blocks, with each block including irrigation and wildlife features; and
- 3) Development within each block should proceed within a farm unit. The phased development would provide an opportunity to demonstrate and evaluate the benefits of irrigation and wildlife features and would allow for adjustments.

Secretary Sprynczynatyk stated that he wanted to present these objectives to the State Water Commission to determine its position on the objectives. The Commission felt the project should go forward as discussed.

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

Secretary Sprynczynatyk provided the Commission members the Executive Summary of "A" Special Study by the State of North Dakota to Evaluate all

Reasonable Alternatives for Connecting the McClusky and New Rockford Canals", dated March 1, 1993, and prepared by the State of North Dakota. The Executive Summary is attached hereto as APPENDIX "F".

The report has been provided to the Bureau of Reclamation as part of the scoping process on the Sykeston Canal Alternative Study mandated by the Fiscal Year 1993 appropriations bill. Secretary Sprynczynatyk said it is hoped that the report will be useful to the Bureau in doing that study and that the Secretary of the Interior will find it helpful in making decisions about the Garrison Diversion Project. The study will also assist in making a presentation to the Legislature on the most practical and feasible alternative for completing the principal water supply works for the project.

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

Jeffrey Mattern, MR&I Water Supply Program Coordinator, indicated that the MR&I Water Supply Program received Fiscal

Year 1993 grant funding allocation of \$14,475,000. Funding will be provided for the following projects:

Garrison Rural Water - \$1,300,000: A new water supply system will serve 230 rural users in the Garrison area. The system will also serve Fort Stevenson State Park. The project will be completed this year.

Missouri West Rural Water, Phase I - \$2,497,235: A new water supply system will supply water to New Salem, Crown Butte subdivision, Riverview Heights subdivision, and 270 rural users in northern Morton County. This project will be completed this year.

Ramsey County Rural Water - \$2,340,000: The project has been funded for Phase II, which includes a new well field, raw water transmission pipeline, and a water treatment plant. The system will serve over 700 rural users, Graham Island State Park, and Shelters Grove State Park. The system will be completed this year.

Southwest Pipeline Project - \$7,675,000: Funding will allow the triple pump station to be completed by the end of 1994. With the completion of the pump station, the pipeline will be able to provide water service to ten more communities in 1994. The State Water Commission has started developing the rural water system of the pipeline with construction scheduled to begin in Fiscal Year 1994.

Mr. Mattern discussed Fiscal Year 1994 funding for the Garrison MR&I Water Supply Program and projects that could be eligible to receive funding in Fiscal Year 1994.

Mr. Mattern indicated that on July 1, 1993, communities are required to be in compliance with the Environmental Protection Agency's Safe Drinking Water Act rules and regulations relating to surface water treatment. Approximately 20-30 communities in North Dakota could be affected by the new rules. Mr. Mattern stated requests for funding addressing upgrading water treatment plants have been received from the cities of Grand Forks and Langdon. He said the State Water Commission and the State Health Department are working with the communities to address this matter and to assist them to solve their problems.

Chairman Schafer commented that compliance with the guidelines of the Safe Drinking Water Act is not unique to North Dakota. At the recent National Governors Association conference, he said many of the governors expressed concern that their state will have difficulty in complying with the guidelines.

Secretary Sprynczynatyk commented that North Dakota does have an advantage over other states in that there are funds available in the Garrison MR&I Water Supply Program to help the communities correct their problems.

It was requested by the Commission members that staff provide a position paper on this issue at a future Commission meeting.

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

Jeffrey Mattern presented the background information relating to the Garrison MR&I Water Supply Program. He said since

the MR&I program was authorized by the US Congress in 1986, 125 applicants have requested funding assistance for water supply projects. Of the \$200 million authorized appropriation, \$81.8 million will have been received through federal Fiscal Year 1993. Up to a 75 percent federal grant may be provided for projects under the program, which is administered as a joint effort between the State Water Commission and the Garrison Diversion Conservancy District.

Mr. Mattern explained the priority ranking system, which was based on discussions between the Commission and the District, but has only been adopted by the Commission. The priority system was intended as a tool to assist the Commission in the funding process.

Considering the high interest in water supply development, the continuing struggle with congressional appropriations and limited resources, the Commission and the District developed the North Dakota Water Supply Development Program. This program provides for a 65 percent MR&I grant and a 35 percent state loan through the State Water Commission. Mr. Mattern explained that the advantage provided by the combined grant-loan program is a single funding source for the project sponsors.

The loan pool was intended to create a self-sustaining funding source for future water projects, and someday to replace the federal grant funds after the federal program expires. Mr. Mattern said that, to date, loans totalling \$8.7 million have been provided for nine projects. The term of these loans is 25 years, and the interest rate varies from 3 5/8 to 7 percent, depending on the percent of the total project cost borrowed from the state. In 1993, the total repayment to the Resources Trust Fund will be \$353,100, and in 1994, it will increase to \$460,000, reflecting maximum repayment from each project. Mr. Mattern said that unfortunately there are no more loan funds available for projects because of reduced revenues to the Resources Trust Fund from the oil and gas production tax. Projects funded in federal Fiscal Year 1994 will be required to secure the 35 percent non-federal funding from another source.

Mr. Mattern reviewed the current North Dakota Water Supply Development Program Policies and Objectives. Policy No. 7 involves reserve requirements for emergencies and extensions and capital replacement. The reserve for emergencies and extensions is based on six months of O&M costs

for the project. He said the sponsor has five years to accumulate this reserve. The sponsor is also required to build up a reserve for capital replacement that is based on a percentage of total project costs to be determined by the State Engineer.

The percentage for capital replacement has varied from 10 to 15 percent, depending on the type of project and the complexity of the project. Mr. Mattern indicated the sponsor has 10 years to accumulate this reserve. The reserve for capital replacement has been extended to 15 years instead of 10 years, allowing the system users to more easily bear the cost but still build a reserve in time for needed replacement. The capital replacement reserve is important in 15 to 20 years after construction so that the sponsor will have the capital to meet the system replacement needs without being dependent on federal or state assistance.

Mr. Mattern stated that reserve requirements have previously been applied only to projects that received a grant and loan. He said since funding is not available for loans at this time, the reserve requirement should still be applied to projects that receive only the 65 percent grant. This will help projects fund emergencies and capital replacement in the future without having to be dependent on the state or federal government. The other funding sources for the 35 percent non-federal match do not carry these reserve requirements, therefore, there will not be a duplication.

It was the recommendation of the State Engineer that the State Water Commission change Policy No. 7 to require all North Dakota Water Supply Development Program projects receiving MR&I grant funds to have emergency and extension and capital reserve funds. If approved by the Commission, Policy No. 7 would read as follows:

7) Sponsors will be required to budget for and establish an account for emergencies and extension and capital replacement costs. The account will contain funds for emergencies and extensions with the amount required equivalent to a portion of O&M costs (e.g. one to six months O&M costs) to be determined by the State Engineer. The account will also contain money for capital replacement costs, with the amount required to be a percentage of total project costs (e.g. 10-20 percent), as determined by the State Engineer. Sponsors will have 5 years to accumulate the necessary money in the account for emergency and extension funds and 15 years for capital replacement funds.

Mr. Mattern stated a policy that should be addressed for the program is the development of water conservation plans for projects. Across the nation, water conservation programs have helped in many instances to alleviate water supply problems. An important goal of conservation is to reduce the per capita demand for water by implementing feasible and cost effective water conservation measures. Mr. Mattern said this issue has become part of what the US Congress looks for in projects seeking federal funding. The MR&I Program currently requires engineering reports that help evaluate the water supply demands of a project area. An additional requirement for that report could be a water conservation plan for the project. Conservation measures could include metering, leak detection, efficient irrigation of public lands, low water use landscaping, public awareness, education, low-flow plumbing fixtures, pricing structure, upgrade plumbing fixtures, etc.

It was the recommendation of the State Engineer that the State Water Commission add Policy No. 10 to require all North Dakota Water Supply Development Program projects to include a water conservation plan as part of project development. If approved by the Commission, Policy No. 10 would read as follows:

- 10) Sponsors will be required to develop a water conservation plan and to provide it to the State Water Commission before construction of the project begins.

It was moved by Commission Olin and seconded by Commissioner Byerly that the State Water Commission approve the amendment to Policy No. 7, and add Policy No. 10 to the North Dakota Water Supply Development Program as recommended by the State Engineer.

Commissioners Byerly, Hillesland, Narlock, Olin, Rudel, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried. (SEE APPENDIX "G")

**CONSIDERATION AND APPROVAL
OF REQUEST FROM RAMSEY COUNTY
WATER RESOURCE DISTRICT FOR
COST PARTICIPATION IN GRAND
HARBOR DRAIN #1
(SWC Project No. 1804)**

A request was presented from the Ramsey County Water Resource District for the Commission's consideration to cost share in the Grand Harbor Watershed Management Project in Ramsey County.

Cary Backstand, State Water Commission Water Development Division, presented the request. He said there is a long history of flooding problems within the watershed that resulted in damages to the roadway system and cropland. This project was started years ago as a private drain by a group of landowners. Since then, an assessment district has been created by the Ramsey County Water Resource District. The landowners have done much of the work themselves in order to cut costs. The project was partially completed when they ran into the Swampbuster provision of the 1985 Farm Bill, which requires mitigation for loss of wetlands.

The project has 7.3 miles of channel with the Kenner Marsh in the middle. The marsh was purchased by the Wetlands Trust and is part of the mitigation for the project. At the low end of the channel is a pump station to convey water into the natural channel south of US Highway 2, northwest of Grand Harbor, ND.

The total project cost is \$206,945, with total eligible costs of \$189,998. The total State Water Commission cost share would be \$79,326, based on 40 percent of construction costs and 50 percent for engineering costs, less previous payments for engineering of \$10,500, or \$68,826. At the State Water Commission meeting on March 19, 1990, the Commission agreed to fund 50 percent of the engineering study costs, not to exceed \$5,000 from the grant fund; and on April 2, 1992, the Commission agreed to cost share in 50 percent of the overrun of the engineering study costs, not to exceed \$5,500. Mr. Backstrand explained that 50 percent was recommended because of the uniqueness and potential this project may have in demonstrating the workability of the no-net loss concept.

It was the recommendation of the State Engineer that the State Water Commission approve 40 percent of the eligible construction costs and 50 percent for engineering costs, not to exceed \$68,826, for the Grand Harbor Watershed Management Project. Approval of the request would be contingent upon the availability of funds.

Robert Garske, Chairman of the Ramsey County Water Resource Board, introduced the members of the Board and requested the Commission's favorable consideration of the funding request for the project.

It was moved by Commissioner Rudel and seconded by Commissioner Thompson that the State Water Commission approve cost sharing of 40 percent of eligible construction costs and

50 percent of engineering costs, not to exceed \$68,826 from the Contract Fund, for the Grand Harbor Watershed Management Project in Ramsey County. This motion shall be contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FOR COST PARTICIPATION
IN CORPS OF ENGINEERS SECTION
22 PROGRAM
(SWC Project No. 1730)**

The State Water Commission has participated with the St. Paul District of the Corps of Engineers in the Section 22 program for several years. Dale Frink explained that Section 22 provides technical assistance to the states. He said that initially, the program was 100 percent federally funded, but a 50 percent non-federal cost share is now required. As a result, the number of Section 22 projects has decreased in recent years.

Mr. Frink stated that one of the projects the state is still supporting is the hydraulic modelling studies on the Red River north of Grand Forks. This area was involved in significant legal action concerning the construction of agricultural dikes in 1975 on both sides of the river. The State of Minnesota is also participating in this effort; therefore, the cost share arrangement is 50 percent federal and 25 percent each from the two states.

Significant progress has been made toward developing a detailed computer model in this complex area. In 1992, the model was completed between Grand Forks and Drayton. Mr. Frink said the plan for 1993 is to add the agricultural levies at various heights to the model and determine the corresponding impacts to flood levels along the Red River. The Corps estimates the total cost of these production runs to be about \$40,000. As a result, North Dakota's share would be \$10,000. Minnesota has indicated they are willing to cost share up to \$10,000 for 1993.

It was the recommendation of the State Engineer that the State Water Commission approve an allocation of \$10,000 from the Contract Fund for Section 22 in 1993.

It was moved by Commissioner Vogel and seconded by Commissioner Narlock that the State Water Commission approve an allocation of \$10,000 from the Contract Fund for the Corps of Engineers' Section 22 Program in 1993. This motion shall be contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
FOR COST PARTICIPATION IN
GARRISON DIVERSION
WETLANDS TRUST
(SWC Project No. 1826)**

In 1986, the Garrison Diversion Project was reformulated by US Congress. Two new features of the project were the MR&I Water Supply Program and the Wetlands Trust. Both features are wide-

spread programs benefitting much of the state.

Secretary Sprynczynatyk said the Wetlands Trust is a program that provides for the preservation, enhancement, restoration and management of wetlands and associated wildlife habitat in the state. The Wetlands Trust will operate off the interest from a trust fund that will eventually reach \$13.2 million. Of the \$13.2 million, \$12 million is to come from the federal government and \$1.2 million is to come from the state. He said, thus far, the federal government has contributed \$8.8 million and the state has contributed \$150,000 to the Trust, for a total of about \$9 million. The funds that have been contributed by the state through 1992 were provided by the State Game and Fish Department.

Secretary Sprynczynatyk indicated he recently met with the Director of the Game and Fish Department and the Manager of the Garrison Conservancy District to discuss the future state funding for the Wetlands Trust. He said it was agreed that the intent of the Trust was clearly for the state water development interests to commit to a long-term wildlife enhancement feature of the project. He said that although the State Game and Fish Department contributed the initial state funding for the Trust, it is not in a position to shoulder the state's financial commitment on its own, both for fiscal reasons as well as the fact that there is a view among some environmental organizations that the water interests should share some of the burden.

He said it was agreed that an equal sharing of future state contributions by the State Game and Fish Department, the Garrison Conservancy District and the State Water Commission to the Wetlands Trust would be appropriate. Considering the direct funding the State Water Commission has received for the Southwest Pipeline Project, Secretary Sprynczynatyk said this is especially true, because without the Garrison Diversion MR&I Program, water would still not be delivered to Dickinson.

The state has negotiated a payment schedule for the next 20 years. Secretary Sprynczynatyk said the payment schedule is based on a payment of 0.15 percent of the federal Garrison appropriation each year, with a minimum of \$30,000 this year, indexed to increase 5 percent for each year thereafter. The maximum payment would be \$75,000 if the state were tremendously successful in getting annual appropriations for the project exceeding \$50 million.

It was the recommendation of the State Engineer that the State Water Commission approve the concept of cost sharing equally with the Garrison Conservancy District and the State Game and Fish Department for the annual state contribution for the Wetlands Trust. Recognizing the fact that the Commission cannot obligate itself beyond the current biennium, consideration will have to be given each biennium by the Commission to obligate itself for the biennium. For this biennium ending June 30, 1993, it was the recommendation of the State Engineer that the State Water Commission obligate \$10,000 for one third of the state Fiscal Year 1993 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Conservancy District and the State Game and Fish Department, and contingent upon the availability of funds.

It was moved by Commissioner Rudel and seconded by Commissioner Hillesland that the State Water Commission approve the concept of cost sharing equally with the Garrison Conservancy District and the State Game and Fish Department for the annual state contribution for the Wetlands Trust; and that the State Water Commission obligate \$10,000 for one third of the state Fiscal Year 1993 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Conservancy District and the State Game and Fish Department, and contingent upon the availability of funds.

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

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

James Lennington, Northwest Area Water Supply Project Coordinator, provided background information and a status report on the Northwest Area Water Supply Project (NAWS).

In response to questions related to the Three Affiliated Tribes, Secretary Sprynczynatyk explained that part of the Garrison Diversion Reformulation Act of 1986 was a promise to the Three Affiliated Tribes of the Fort Berthold Indian Reservation of development of a reservation-wide MR&I water supply system to meet their needs. A study of reservation water needs was completed, which estimated the cost of a reservation-wide MR&I system at between \$50 and \$60 million. The Tribes were successful in gaining an appropriation of approximately \$8 million for some components of this system.

In 1988, the NAWS project sponsors and the Tribes recognized the potential benefits of cooperating in development of an integrated system to meet the needs of the NAWS project area and the reservation. Integrating the systems would result in substantial cost savings due to the elimination of redundant facilities and the economies of scale. The State of North Dakota and the Three Affiliated Tribes completed the study of the integrated NAWS.

In 1991, legislation was introduced in Congress by Senator Kent Conrad to authorize the Na chiin Huun - Dakota Project, to serve all of northwest North Dakota, including a portion of the Fort Berthold Indian Reservation. In 1992, the bill was not re-introduced because of the higher priority JTAC legislation. In 1992, the state decided to move forward to provide a water supply for its citizens, and the prefinal design for the NAWS project was initiated.

In the early months of 1992, Tribal representatives decided that pursuit of an integrated project might jeopardize \$50 million in compensation the Tribe was seeking under the Joint Tribal Advisory Committee legislation. Efforts to preserve Tribal support of the integrated project were unsuccessful.

Don Morgan, Natural Resources Coordinator for the Three Affiliated Tribes and a member of the NAWS Advisory Committee, discussed the water supply needs and concerns on the reservation and work that is currently underway on the intakes and treatment plants. He said the Three Affiliated Tribes supports the NAWS project and is willing to work with the state to provide a water supply for all of the citizens of northwest North Dakota.

Chairman Schafer requested that because questions of including the Fort Berthold Indian Reservation have again been raised, the State Engineer contact the Chairman of the Three Affiliated Tribes to see if it is willing to join with the state in seeking authorization for the Na chiin Huun - Dakota Project. He said if the Three Affiliated Tribes agrees to do so, it is very important for the Tribe and the State of North Dakota to work closely together in obtaining authorization for the project.

On October 1, 1992, the Garrison Conservancy District approved \$533,000 of funds for the prefinal design of the NAWS system. It was further agreed that the State Water Commission would oversee the development of the prefinal design.

On December 24, 1992, the engineering team of Houston Engineering, Fargo; American Engineering, Bismarck; and James Montgomery, Boise, Idaho, was selected to complete the prefinal design. Work commenced on the prefinal design in February, 1993, and is expected to be complete with a final report available on July 1, 1994.

Mr. Lennington indicated that the goal of the prefinal design is to move the project to a point where final design can begin. The prefinal design will concentrate on identifying user needs, the execution of water service agreements with communities and rural water associations, and preparation of drawings and design reports defining the selected project configuration. To get the prefinal design phase off to a successful start, a series of 10 meetings were held the week of March 22-26 in the ten-county area identified in earlier studies. Upon completion of the prefinal design contract, the next step will be final design and construction based upon specifications prepared by the engineering team.

**NORTHWEST AREA WATER SUPPLY -
CONSIDERATION AND APPROVAL OF
RURAL COMMITMENT FEE
(SWC Project No. 237-4)**

\$1.00 per meter with a maximum fee of \$2500 for operational rural water associations.

At the March 22, 1993 Northwest Area Water Supply Advisory Committee meeting, a resolution was adopted recommending the commitment fee be reduced to

James Lennington indicated the current commitment fee is \$0.50 per capita for all entities and is consistent with the policy adopted for the Southwest Pipeline Project. The maximum fees were \$2500 for both cities and operational rural water associations. Undeveloped rural water associations had a maximum fee of \$300. The rural water associations felt that \$0.50 per capita was too high.

Some of the existing rural water associations in the NAWS project area supply water to cities with central distribution systems. As a bulk user, the city has just one meter used for recording the water usage.

It was the recommendation of the State Engineer that the NAWS Project Agreement of Intent commitment fee for operational rural water systems be \$1.00 per meter with a minimum of \$300.

It was moved by Commissioner Byerly and seconded by Commissioner Rudel that the Northwest Area Water Supply Project Agreement of Intent commitment fee for operational rural water systems shall be \$1.00 per meter with a minimum of \$300.

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

**BALDHILL DAM SAFETY PROJECT
(SWC Project No. 300)**

A meeting was held on December 2, 1992 in Valley City with the State Water Commission staff and representatives of the cities of Valley City, Lisbon, West Fargo, Fargo and Grand Forks to discuss the dam safety modifications to Baldhill Dam with the original contributors and to present proposals for cost sharing on the non-federal cost share requirements. To date, Mr. Frink said all

Dale Frink provided background information and a status report on the Baldhill Dam Project.

cities except Fargo have indicated in writing that they would be willing to accept the cost share alternatives discussed and that they would participate in the project. The City of Fargo is still considering various options.

The State Water Commission staff has held several discussions with the Corps of Engineers concerning a local cooperation agreement for the project. Commission staff and attorneys are reviewing the second draft of the agreement. Mr. Frink said the State Water Commission will need to approve the final Corps agreement, as well as the local cost share arrangements between the Commission and the five cities. He said if these negotiations can be completed in a timely manner, the Corps intends to complete the plans and specifications by 1994 and for construction to begin in 1995. A three-year construction period is anticipated.

**DROUGHT DISASTER LIVESTOCK
WATER ASSISTANCE PROGRAM
(SWC Project No. 1851)**

Cary Backstrand presented background information and a status report on the Drought Disaster Livestock Water Assistance

Program. To date, 196 applications have been received, of which 163 applications have been approved. Thirty-two (32) applications have been withdrawn or denied, and 66 names remain on the waiting list. The producers' total project costs to date are \$669,429. Cost sharing of \$289,679 has been approved and \$251,100 has been paid on 158 completed projects.

**STATE WATER MANAGEMENT
PLAN UPDATE
(SWC Project No. 322)**

LeRoy Klapprodt, State Water Commission Planning and Education Division, provided background information on the 1992 State Water Management Plan. He

said the 70-page document is a water management guide for state legislators, water managers and private citizens. The Plan was written to help people better understand the nuts and bolts of water management in North Dakota as well as offer insights into issues and future development.

Mr. Klapprodt said the 1992 Plan offers a comprehensive list of over 200 water management proposals recommended by citizens during the extensive public involvement process. Locations, brief descriptions, estimated costs, participating agencies and recommended times for implementation are listed for each proposal. Water management-related topics such as education, finance, economics and special issues are also addressed in the 1992 Plan.

Mr. Klapprodt indicated the staff is currently incorporating the information and recommendations identified as a result of the statewide planning effort into a computer data base. The data base currently includes 172 water resource management projects, representing geographic distribution and different types and scale of projects.

**NORTH DAKOTA COMPREHENSIVE
WETLAND CONSERVATION PLAN UPDATE
(SWC Project No. 1489-5)**

LeRoy Klapprodt, assigned to administer an Environmental Protection Agency grant which financially supports develop-

ment of a North Dakota Comprehensive Wetland Conservation Plan, provided background information concerning the development of the Plan. The grant was approved in September, 1992 and totals \$606,300 with a requirement for a 75/25 percent federal/state cost share. The grant supports a number of tasks required in formulating a workable state wetland conservation plan. Mr. Klapprodt indicated the centerpiece of North Dakota's wetland conservation initiatives and one of the primary goals in developing the North Dakota Comprehensive Wetland Conservation Plan is the overall no-net loss of wetlands. This goal is consistent with the recommendations of the National Wetlands Policy Form.

Mr. Klapprodt provided background information and the following status report on the current efforts under the Fiscal Year 1992 grant:

Establishment of a North Dakota Wetlands Institute and continuation of wetland education efforts: An agreement has been signed between the State Water Commission and the North Dakota Water Users Association to continue development of the state's wetlands education program.

Fully evaluate the possibility of assuming regulatory authorities contained in Section 404 of the Clean Water Act: The North Dakota Attorney General has assigned an attorney to work on four specific tasks to identify and initiate necessary administrative changes associated with assuming the Section 404 permit program: 1) legal research to determine legislation required to assume Section 404 as a state program; 2) draft legislation to be introduced to the North Dakota State Legislature; 3) draft agreements required for state assumption; and 4) draft administrative rules.

Task one has been completed. Legislation has been drafted, under Task Two, and submitted to the North Dakota State Legislature as a State Water Commission agency bill (HB 1142). The bill draft has been

introduced and referred to the House Natural Resource Committee. A committee hearing was held on the bill on January 22, 1993. Supportive testimony was given by the State Engineer, the North Dakota Water Users Association, and the North Dakota Water Resource Districts Association. No person or agency testified against the bill. A representative from the North Dakota Chapter of the Wildlife Society provided testimony outlining a number of their concerns. If the proposed legislation receives favorable consideration from the North Dakota State Legislature and is signed by the Governor, Tasks Three and Four will be initiated. (On April 9, 1993, Governor Schafer signed HB 1142 into law.)

Wetland Identification and inventories are major issues that need to be resolved: The State Water Commission's objective in this task is to evaluate the ability to enhance wetland regulatory programs with computer mapping and geoprocessing capabilities, also known as a geographic information system (GIS). Specifically, this will provide the ability to improve tracking wetland losses and gains which would result in better and more objective decision-making in the management of wetlands.

A State Water Commission staff member has been assigned to this task. The State Water Commission needs have been identified and assessed, and existing wetland management program data bases and how they should be incorporated has been determined. Computer hardware and software components for the GIS system have been acquired.

The State Water Commission has identified other GIS users in North Dakota including state and federal agencies, universities and private engineering firms. A full assessment of their application of GIS technology and system capabilities is underway. This effort is expected to limit duplication in digitizing spatial data and provide a background of knowledge in installing a GIS system.

Wetland Water Quality Standards: This effort invokes water quality considerations for those situations where a 404 permit is required. An agreement has been signed between the State Water Commission and the North Dakota Department of Health and Consolidated Laboratories who will conduct this work.

The Department has assigned a staff person to the project, who is currently doing a literature search on wetland water quality data. Hard copies of pertinent

information will be summarized and kept on file. Interviews with wetland experts at Northern Prairie Research Center and North Dakota State University are being conducted.

Two watershed demonstration projects were included in the grant proposal - Grand Harbor and implementation of the Devils Lake Basin Conceptual Water Management Plan: A three-way agreement has been signed between the State Water Commission, the North Dakota Wetland Trust and the Ramsey County Water Resource Board to continue negotiations on developments of the Grand Harbor Water and Wetlands Management Project. The goal is to develop a management plan and sign a Memorandum of Understanding (MOU) prior to conducting wetland enhancements in the Grand Harbor Watershed. The Wetland Trust is responsible for the leadership in performing the work associated with this task.

A technical committee is continuing its efforts in resolving remaining issues of the project. A plan has been tentatively agreed upon by all parties of the technical committee. A final plan will be developed and implemented as funding approval is obtained from the parties involved.

The State Water Commission has contracted with Ray Horne, who is serving as the Coordinator to work with the Devils Lake Task Force, in implementing the Devils Lake Basin Conceptual Water Management Plan.

The Coordinator has been instrumental in restructuring of the Devils Lake Joint Water Resource Board, which is critical to managing water, particularly wetland restoration, throughout the Basin. The Conceptual Water Management Plan has been distributed widely in the Basin and interviews held to obtain reactions from many key people throughout the Basin. A draft final report is being prepared and the Coordinator is working with local and state interests to formulate a specific, emergency action plan to preserve the fishery values in Devils Lake.

Providing incentives to landowners/operators to protect wetlands and related habitat is important to protecting wetland values while maintaining profitable agriculture: The Delta Waterfowl Foundation will work with the Devils Lake Coordinator this spring in selecting local, farm-scale demonstration projects.

An ongoing effort to provide landowners/farm operators with incentives to protect wetland values is the Private Lands Initiative administered by the State Game and Fish Department: An agreement has been signed between the State Water Commission and the State Game and Fish Department who will conduct this work to coordinate the numerous private lands programs for the various agencies in the project area, including the new \$186,000 North American Waterfowl grant for wetlands projects on private lands.

Mr. Klapprodt discussed North Dakota's Fiscal Year 1993 proposal to continue efforts to develop the North Dakota Comprehensive Wetland Conservation Plan. The Environmental Protection Agency has indicated it will fund North Dakota's proposal in the amount of \$190,000 for Fiscal Year 1993.

It was the recommendation of the State Engineer that the State Water Commission authorize receipt of the pending grant award of \$190,000 for Fiscal Year 1993 for the work tasks and authorize expenditure of funds necessary for the continuation of efforts to develop the North Dakota Comprehensive Wetland Conservation Plan.

It was moved by Commissioner Rudel and seconded by Commissioner Narlock that the State Water Commission authorize the receipt of the pending grant award of \$190,000 for Fiscal Year 1993 for the work tasks and authorize expenditure of funds necessary for the continuation of efforts to develop the North Dakota Comprehensive Wetland Conservation Plan.

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

**STATE WATER MANAGEMENT
COMMUNICATIONS PLAN UPDATE
(SWC Project No. 1864)**

At the February 4, 1992 meeting, the State Water Commission approved the expenditure of \$15,000 from the Contract Fund for the development of a State Water Management Communications Plan. The Plan is designed to sharpen agency understanding of communication needs in order to use dollars dedicated to information/education activities more effectively.

Eugene Krenz, Director of the State Water Commission's Planning and Education Division, provided background information and an update on three components of the State Water Management Communications Plan: 1) an adult education program; 2) the Water Education for Teachers (WET) Program; and 3) the Communications Deficiency Plan.

Several recent surveys completed in North Dakota provide an indication of the importance teachers, students and adults place on water quality. A 1992 Environmental Education survey of teachers and students in North Dakota revealed that 72 percent of the respondent teachers include environmental pollution as an important component in their classroom curriculum. Water quality and water pollution were considered the most discussed issues within this curriculum topic.

An information and education needs survey was completed by the State Water Commission in 1992 indicating that five of the ten water-related issues considered most important to resolve by North Dakota adults were directly related to water quality.

A related survey that was sent to North Dakota Water Resource Districts indicated that questions about water quality issues received the most interest from their local constituents.

The results of these surveys are being used in developing the communications plan and to determine priority methods that will provide information the public wants in a format or media they will use.

Mr. Krenz said the draft strategy report is being finalized and will be available in the near future.

Commissioner Byerly indicated this effort is a vital part of the State Water Commission's operations. She extended compliments to Mr. Krenz and staff for their efforts in developing the State Water Management Plan. She said the goals, objectives, and recommendations of the Plan are essential and must be implemented for North Dakota citizens.

**WATER EDUCATION FOR TEACHERS
(WET) PROGRAM -
CONSIDERATION AND APPROVAL OF
FIVE-YEAR WATER EDUCATION PLAN
(SWC Project No. 1757)**

Bill Sharff, Program Director for the Water Education for Teachers (WET) Program, presented and explained a proposed Five Year WET Program Plan for July 1, 1993 through

June 30, 1998. The Plan is on file in the State Water Commission offices.

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Mr. Sharff stated that the proposed WET Five Year Plan is designed to be a reference tool for the State Water Commission, the WET Program Director and others involved in water education. He said it attempts to anticipate contemporary and future water education needs for North Dakota teachers and youth, and in response develop programs and associated costs which address those needs. The Plan offers a broad perspective on water education issues throughout the state and how those issues will be coordinated, monitored and evaluated. Mr. Sharff stated that implementation of this Plan is dependent upon many factors including the commitment of the State Water Commission, Water Education Foundation, the Environmental Protection Agency, facilitators, schools, teachers and youth.

It was the recommendation of the State Engineer that the State Water Commission adopt the proposed WET Program Five Year Plan as the official policy and direction for the WET Program over the designated time frame of the Plan.

It was moved by Commissioner Olin and seconded by Commissioner Rudel that the State Water Commission adopt the WET Program Five Year Plan as the official policy and direction for the WET Program from July 1, 1993 through June 30, 1998.

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

**WATER EDUCATION FOR TEACHERS
(WET) PROGRAM -
CONSIDERATION AND APPROVAL
OF EPA GRANT REQUEST
(SWC Project No. 1757)**

Education for Teachers (WET) Program from June 1, 1993 through September 30, 1996. Mr. Sharff stated that a PIP is required by the Environmental Protection Agency to access \$104,000 of Section 319 funds of the Clean Water Act as amended in 1982. The PIP addresses the critical water quality education needs for North Dakota's teachers and youth while also providing a useful tool for other entities interested in water quality education. The Plan also specifies how water quality education activities will be

Bill Sharff presented and explained a proposed water quality/non-point source pollution Project Implementation Plan (PIP) developed for the State Water Commission's Water

coordinated and evaluated. The PIP Plan has been incorporated into the WET Program Five Year Plan for July 1, 1993 through June 30, 1998. The proposed water quality/non-point source pollution Program Implementation Plan is on file in the State Water Commission offices.

Mr. Sharff discussed funding sources for the WET Program PIP, which include an Environmental Protection Agency Non-Point Source Pollution Grant, the State Water Commission and a host of North Dakota water-related local and state agencies, organizations and associations funneled through the North Dakota Water Education Foundation.

The State Water Commission has submitted a grant proposal requesting \$104,000 of Environmental Protection Agency Non-Point Source Pollution 319 funds to help develop and complete the activities described in the PIP. Local and state funds of 40 percent are required to match 60 percent Non-Point Source Pollution 319 funds.

It was the recommendation of the State Engineer that the State Water Commission approve the WET Program Project Implementation Plan grant proposal to the Environmental Protection Agency and authorize receipt of \$104,000 of federal EPA funds if the grant application is approved. The State Engineer also recommended that the State Water Commission authorize the development of contracts and agreements which must be completed under activities as stated in the Project Implementation Plan.

It was moved by Commissioner Byerly and seconded by Commissioner Vogel that the State Water Commission approve the Water Education for Teachers (WET) Program Project Implementation Plan for the period June 1, 1993 through September 30, 1996 grant proposal to the Environmental Protection Agency, and authorize receipt of \$104,000 of federal funds if the grant is approved. The State Water Commission shall authorize the development of contracts and agreements which are required under activities as stated in the Project Implementation Plan.

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

CONSIDERATION AND APPROVAL
OF RESOLUTION OF APPRECIATION
TO JACOB "JAKE" GUST
(SWC Resolution No. 93-4-454)

The Commission members considered a draft resolution of appreciation to Jacob "Jake" Gust.

It was moved by Commissioner Rudel, seconded by Commissioner Olin, and unanimously carried, that the State Water Commission approve Resolution No. 93-4-454, In Appreciation to Jacob "Jake" Gust. (SEE APPENDIX "H")

CONSIDERATION AND APPROVAL
OF RESOLUTION OF APPRECIATION
TO MARJORIE FARSTVEET
(SWC Resolution No. 93-4-455)

The Commission members considered a draft resolution of appreciation to Marjorie Farstveet.

It was moved by Commissioner Rudel, seconded by Commissioner Olin, and unanimously carried, that the State Water Commission approve Resolution No. 93-4-455, In Appreciation to Marjorie Farstveet. (SEE APPENDIX "I")

CONSIDERATION AND APPROVAL
OF RESOLUTION OF APPRECIATION
TO LORRY KRAMER
(SWC Resolution No. 93-4-456)

The Commission members considered a draft resolution of appreciation to Lorry Kramer.

It was moved by Commissioner Rudel, seconded by Commissioner Olin, and unanimously carried, that the State Water Commission approve Resolution No. 93-4-456, In Appreciation to Lorry Kramer. (SEE APPENDIX "J")

CONSIDERATION AND APPROVAL
OF RESOLUTION OF APPRECIATION
TO C. EMERSON MURRY
(SWC Resolution No. 93-4-457)

The Commission members considered a draft resolution of appreciation to C. Emerson Murry.

It was moved by Commissioner Rudel, seconded by Commissioner Olin, and unanimously carried, that the State Water Commission approve Resolution No. 93-4-457, In Appreciation to C. Emerson Murry. (SEE APPENDIX "K")

Governor Schafer and Commissioner Vogel leave the meeting. Commissioner Byerly assumes the chair.

**DEVILS LAKE STABILIZATION
PROJECT UPDATE
(SWC Project No. 1712)**

Secretary Sprynczynatyk provided a status report on the Devils Lake Stabilization Project. An appropriation of \$300,000 was made in 1992 to the Corps of Engineers along with directive language to initiate the feasibility study for the stabilization of Devils Lake, including an inlet to the lake and an outlet from it. The Assistant Secretary of the Army has directed the St. Paul District to proceed with the feasibility study for the stabilization of Devils Lake. The State Water Commission staff and the Corps of Engineers are negotiating the agreement.

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

Secretary Sprynczynatyk provided background information and a status report on the Souris River Flood Control Project. He reported that an out-of-court settlement has been reached on the Alameda Dam in Saskatchewan, Canada, which will allow for completion of the dam this year, and will fulfill all of the obligations of the international agreement for flood control for the Souris River in North Dakota. The Rafferty Dam was completed last year.

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

Secretary Sprynczynatyk provided background information on the Missouri River lawsuit and the Corps of Engineers study of the Master Manual for the Missouri River Basin system.

Secretary Sprynczynatyk indicated he has been informed by the Corps of Engineers that because of extensive comments received on the initial evaluation report for the Master Manual review for the operation of the Missouri River, a thorough technical review of the preliminary findings of the study by the states, federal agencies and Indian tribes participating in the effort will delay the planned April public release of the Environmental Impact Statement. In a letter from the Missouri River Division Engineer, Colonel Schaufelberger states, in part: "... I believe this additional technical review will improve the quality of the draft environmental impact statement (EIS) that will be released to the public for review and comment. The technical participation, cooperation, and input by the representative of the basin governors, the various Indian

tribes, and many federal agencies has been outstanding. This step will impact the quality of a tool that is critical to a thorough analysis of the benefits and impacts of alternative ways to manage the mainstem projects."

The review will culminate in a meeting of the agencies and Tribes this summer to discuss any outstanding technical issues before the information is circulated for public review and comment. Secretary Sprynczynatyk said that unless more data collection or analysis is required, the draft EIS should be available for distribution late this winter. Secretary Sprynczynatyk expressed concern that the Corps of Engineers delay in releasing the draft EIS will delay completion of the Master Manual review for at least another year.

Secretary Sprynczynatyk made reference to a letter sent to President Clinton on February 17, 1993, signed by 71 US Congressmen and Senators from the lower basin states, concerning the Master Manual review and asking the President to set up a special task force to review the changes the Corps is considering in the Master Manual review to the operation of the Missouri River system.

In response, nine members of Congress from the upper basin states sent a letter to President Clinton asking him to let the Corps' review process continue to completion.

LEGISLATION

Secretary Sprynczynatyk provided the Commission members with a legislative status report.

PROPOSED IRRIGATION PROJECT IN NORTH DAKOTA AND MONTANA (SWC Project No. 1400)

Commissioner Byerly made reference to a proposal to divert Missouri River water for irrigation in North Dakota and Montana.

Secretary Sprynczynatyk indicated he does not have specific information on the proposal at this time, but additional information will be provided at a future State Water Commission meeting.

NORTH DAKOTA WATER USERS ASSOCIATION AND NORTH DAKOTA WATER RESOURCE DISTRICTS ASSOCIATION SUMMER MEETING

The North Dakota Water Users Association and North Dakota Resource Districts Association have scheduled their summer meeting in Valley City on July 12, 1993.

There being no further business to come before the State Water Commission, it was moved by Commissioner Rudel, seconded by Commissioner Narlock, and unanimously carried, that the State Water Commission meeting adjourn at 4:00 PM.


Edward T. Schafer
Governor-Chairman

SEAL


David A. Spryczyński
State Engineer and
Chief Engineer-Secretary



North Dakota State Water Commission

900 EAST BOULEVARD • BISMARCK, ND 58505-0850 • 701-224-2750 • FAX 701-224-3696

Meeting To Be Held At
Doublewood Inn - Senate and Chamber Room
Bismarck, North Dakota

April 6, 1993
10:30 AM, Central Daylight Time

A G E N D A

- I. Roll Call
- II. Approval of Agenda
- III. Consideration of Minutes of Following Meetings:
 - a) December 9, 1992
 - b) December 24, 1993 Telephone Conference Call
- IV. Agency Financial Statement:
 - a) Agency Operations
 - b) Resources Trust Fund/Contract Fund
 - c) 1993-1995 Proposed Biennium Budget
- V. Southwest Pipeline Project:
 - a) Project/Construction Status Report
 - b) Water Service Agreement for City of Belfield
 - c) Water Service Agreement for Assumption Abbey
 - d) 1992 Operations Report/Audit
 - e) Annual Capital Repayment Rate
- VI. Garrison Diversion Project:
 - a) Project Update
 - b) Garrison Diversion Special Study
 - c) MR&I Water Supply Program Update
 - d) MR&I Program Policy
- VII. Consideration of Following Cost Sharing Requests:
 - a) Grand Harbor Project - Ramsey County
 - b) Section 22 Corps of Engineers
 - c) Garrison Diversion Wetlands Trust
- VIII. Northwest Area Water Supply Project:
 - a) Project Update
 - b) Rural Water Commitment Fee

AGENDA - PAGE 2

- IX. Baldhill Dam Safety Project:
 - a) Corps of Engineers Agreement
 - b) Local Cost Share
- X. Drought Disaster Livestock Water Assistance Program
- XI. State Water Management Plan
- XII. Comprehensive State Wetlands Conservation Plan Update
- XIII. Statewide Water Communications Plan
- XIV. Water Education for Teachers (WET) Program:
 - a) Five-Year Water Education Plan
 - b) Environmental Protection Agency Grant Request
- XV. Devils Lake Stabilization Update
- XVI. Souris River Flood Control Update
- XVII. Missouri River Update
- XVIII. Legislation
- XIX. Other Business:
 - a) Resolutions of Appreciation
- XX. Adjournment

* * * * *

If auxiliary aids or services such as readers, signers, or Braille material is required, please contact the North Dakota State Water Commission, 900 East Boulevard, Bismarck, North Dakota 58505; or call (701) 224-4940 at least five (5) days prior to the meeting.

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE April 6, 1993 PLACE Bismarck, ND

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
HANK TRINGSRUD	P.O. 5054 FARGO, ND	HOUSTON ENGR.
Ken Thompson	RT 1 BOX 707 Dickinson	SWA
Bill Ehrhoff	900 East Boulevard Bismarck	SWC
VERN FAHY	"	
Willie Mastek	1264-11 ^{Dickinson} St W	SWW Authority
Jim Lindbeck	900 E Boulevard BIS	SWC
Brian Kramer	Box 505 Turtle Lake, ND	ND Farm Bureau
Wayne Simon	RR 2 BOX 56 Hempden N.D. 58334	RCWRD
RONALD FRENCH	DEVILS LAKE	MIDWEST ENGINEERING
Ronald Garske	webster	RCWRD
William B. Webster	Churchs Ferry ND	Self-Grand Harbor project
Allen Lammoye	Churchs Ferry N.D.	Self-Grand Harbor Project
Al Husted Jr.	Denn ND	Self-Grand Harbor project
Ray Horne	Devils Lake	D.S. Basin Coordinator
Ken Vein	402 2nd Ave N. Grand Forks	City of Grand Forks

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
CHARLES S. VEIN	1204 So. 23rd St. Suite 1 GRAND FORKS, ND 58203	ADVANCED ENGINEERING & CITY OF GRAND FORKS
ROSS DUSHINSKI	Box 722, N. LAKE	G.O.P. N.D. WETLANDS TRUST
WARREN L. JAMISON	PO Box 140 Carrington, ND 58421	Gov. Div. Cons. Dist
Julie Krenz	Bismarck	Attorney General's Office
Jeffrey Matteson	Bismarck	SWC
GENE KRENZ	Bismarck	SWC
JIM LEENINGTON	BISMARCK	SWC
CHUCK RYDELL	BISMARCK	STATE WATER COMMISSION
DAVE KOLAND	RR1, Box 34C Bismarck	ND RURAL WATER SYSTEMS
LENOR DOLLINGER	BISMARCK	ATMOSPHERIC RESOURCE BOARD
BRUCE BOE	BISMARCK	ATMOSPHERIC RESOURCE BOARD
JOE BICKLER	BISMARCK	BARTLETT & WEST ENG.
BRUCE MCCOLLUM	Box 1077 Bismarck	" " "
Tim Fay	Bismarck	SWC STAFF
Cary Backstrand	Bismarck	SWC/SE

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
<i>W. H. Dunsch</i>	BISMARCK	AMERICAN ENGINEERING, P.C. RAMSEY COUNTY WATER RESOURCE DISTRICT
ROGER HOLLEVOLT	Box 908 DEVILS LAKE, N.D. 58301	U.S. FISH & WILDLIFE SERVICE
Mike McEnroe	1500 Capital Avenue BISMARCK, ND 58504	U.S. Fish & Wildlife Service
Fletcher Poling	Bismarck	Basin Electric Power Co-op
<i>Mike Dwyer</i>	Bismarck	ND Water Users

**SOUTHWEST PIPELINE PROJECT
WATER SERVICE CONTRACT**

Contract No: 1736-24

Water User Entity: CITY OF BELFIELD

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IX. MERGER CLAUSE

I. PARTIES

This contract is by and between the North Dakota State Water Commission, a state agency and public corporation created and existing pursuant to North Dakota Century Code chapter 61-02, hereinafter called the Commission, acting through the North Dakota State Engineer; and the city of Belfield, duly incorporated and existing as a municipality pursuant to the laws of the State of North Dakota, hereinafter referred to as the City.

II. INTRODUCTION

1. Under the authority of the Act of the North Dakota Legislative Assembly of 1981 (1981 N.D. Sess. Laws 613, §3), the Commission was directed to develop preliminary designs for a water supply pipeline facility for supplementation of the water resources of Dickinson and the area of North Dakota south and west of the Missouri River for multiple purpose, including domestic, rural water district, and municipal users. This water pipeline facility is known as the Southwest Pipeline Project.
2. The Southwest Pipeline Project was authorized by the North Dakota Legislative Assembly, substantially in accordance with Plan B of the Engineering Preliminary Design Final Report for the Southwest Pipeline Project, State Water Commission Project No. 1736, dated September 1982.
3. The Commission has the authority, pursuant to North Dakota Century Code chapter 61-02, to enter into water service contracts for the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.
4. The City desires to enter into a water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Southwest Pipeline Project for distribution by the City to its customers, for which the City will make payment to the Commission at the rates and pursuant to the terms and conditions set forth in this contract.

NOW THEREFORE, in consideration of the mutual covenants contained in this contract, it is mutually agreed by and between the parties to this contract as follows:

III. DEFINITIONS

1. "Additional water" means water purchased by the City in addition to its minimum annual water purchase.
2. "Base consumer price index" means the consumer price index, as defined herein, as of July 1, 1981, adjusted to account for any changes in base.

3. "Capital costs" means all costs incurred by the Commission which are properly chargeable, in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, and essential legal, administrative and financial work in connection therewith.
4. "Consumer price index" (CPI) means the consumer price index for all urban consumers, which is a monthly statistical measure of the average change in prices in a fixed market basket of goods and services. The consumer price index is based on the prices of food, clothing, shelter, fuel, drugs, transportation fares, doctors' and dentists' fees, and other goods and services that people buy for day-to-day living.
5. "Estimated water rate for operation, maintenance, and replacement" means the estimated rate per each one thousand (1,000) gallons of water for the operation and maintenance of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Commission estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand gallon units of water which the Commission estimates it will sell to water user entities during the same year.
6. "Manager" means the person employed by the Commission to be in charge of and supervise the operation and maintenance of the Project.
7. "Maximum flow rate" means the maximum number of gallons of water which may be delivered through the Project by the Commission to a water user entity during any one minute time period.
8. "Minimum annual water purchase" means the minimum gallons of water which a water user entity agrees to purchase and pay for during a year.
9. "Operation, maintenance, and replacement costs" means all operation costs incurred by the Commission, including all energy costs incurred by the Commission for pumping water through the Project, for the treatment of water, for the maintenance and administration of the Project, and for any amounts that the Commission determines are necessary to establish reserve funds to meet anticipated replacement costs and extraordinary maintenance of Project works. Operation, maintenance, and replacement costs shall be referred to in this contract as OM&R costs.

10. "Project" means Plan B of the Engineering Preliminary Design Final Report for the Southwest Pipeline Project, State Water Commission Project No. 1736, dated September 1982. Authorization of the Southwest Pipeline Project by the Legislative Assembly, substantially in accordance with Plan B of such Engineering Report, as recommended by the Commission, shall constitute the "Project" as it is defined herein.
11. "Qualifying water supply facilities" means water supply facilities determined by the Commission to qualify for a credit against payments for water by the city for capital costs and shall include such things as surface water reservoirs, wells, raw water pumps, water transmission pipelines from the source to the distribution system, water treatment plants, and pipelines and controls necessary to connect the City's distribution system to the delivery point for Project water.
12. "Total annual water sales" means the summation of all of the actual annual water deliveries, or the minimum annual water purchases, whichever is greater, for the water user entities which have executed a water service contract.
13. "Unallocated capacity" means the capacity of the pipeline which is not allocated and contractually committed to individual water user entities by virtue of water service contracts.
14. "Water rate for capital costs" means the rate per each 1,000 gallons of water to be paid by water user entities for capital costs of the Project.
15. "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Commission for the purchase of water from the Project.
16. "Year" means the period from January 1 through December 31, both dates inclusive.

IV. TERM OF CONTRACT

1. Effective Date.

This contract shall remain in effect for forty (40) years after the date of the first water delivery to the City, unless terminated sooner by mutual agreement of the parties.

2. Renewal.

Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years each.

V. TERMINATION BY NOT CONSTRUCTING

It is further agreed that if any segment of the Project is not constructed for whatever reason, even though authorized, thereby preventing delivery of water to the City, the Commission and the City shall be relieved of all obligations under this contract.

VI. WATER SERVICE: DELIVERY OF WATER

The Commission and the City agree that water will be delivered to the City in accordance with the following terms and provisions:

1. Quality of Water.

All water delivered to the City pursuant to this contract, or any renewal, extension, or modification thereof, shall be potable treated water which meets applicable water quality standards of the North Dakota Health and Consolidated Laboratories Department.

2. Quantity of Water and Flow Rate.

a. Minimum annual water purchase. The City hereby agrees to purchase and make payment for not less than 35,000,000 gallons per year (minimum annual water purchase) during the entire term of this contract.

b. Maximum flow rate. The maximum flow rate to be provided by the Commission to the City shall not exceed 109 gallons per minute.

3. Point of Delivery and Pressure.

The Commission will furnish water to the City at a pressure range of _____ psi to _____ psi at a point located _____.

If greater pressure than the range specified herein at the point of delivery is required by the City, the cost of providing such greater pressure shall be borne by the City.

4. Additional Water.

The Commission will deliver to the City any additional water which the City desires to purchase, at a flow rate not to exceed the flow rate specified in this contract. If there is unallocated capacity in the Project to the City's point of

delivery, the Commission may allow delivery of water at a flow rate greater than the maximum flow rate specified in this contract. The City shall have no contractual right to any unallocated capacity which it purchases as additional water, and delivery of such additional water shall not contractually or in any other way obligate the Commission to deliver water at a greater flow rate than the maximum flow rate specified in this contract. If the City desires to secure a contractual right to a greater maximum flow rate than specified in this contract, this contract must be amended to provide a greater minimum annual water purchase.

5. Water Shortages.

- a. No liability for shortages. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from any water shortages or other interruptions in water deliveries resulting from accident to or failure of Project works and facilities, whether or not attributable to negligence of officers, agents, or employees of the Commission, or from any other cause. The contractual obligations of the City under this contract shall not be reduced or altered by reason of such shortages or interruptions.
- b. Proportional sharing of water shortage. The Commission shall have the right during times of water shortage from any cause to allocate and distribute the available water supply to water user entities on a proportionate basis with respect to the proportion that the minimum annual water purchase of each water user entity bears to the total minimum annual water purchase of all water service contracts for the Project.

6. Curtailment of Delivery for Maintenance Purposes.

The Commission may temporarily discontinue or reduce the amount of water to be furnished to the City for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the facilities and works necessary for the furnishing of water to the City. To the extent possible, the Commission will give to the City reasonable notice in advance of any such temporary discontinuance or reduction. No advance notice will be required to be given in the case of an emergency. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

7. Measurement of Water.

The Commission shall furnish, install, operate, and maintain, at its own expense, at the point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the City. If the City believes the measurement of water delivered to the City to be in error, it shall present a claim of error, in writing, to the manager of the Project, either in person or by mailing by certified mail to the address of the manager. Upon presenting its claim of error in the measurement of water, the Commission will cause the meter to be calibrated, upon payment to the Commission by the City the actual cost of the calibration. However, if the meter is found to over-register by more than two percent (2%) of the correct volume, the City's payment for the cost of calibration will be refunded to the City. A claim of error presented after a claim has become delinquent shall not prevent discontinuance of service as provided in this contract. The City agrees to continue to make payments for water service after a claim of error has been presented, however, it may do so under protest, and such payments will not prejudice the City's claim of error.

If the calibration of any meter establishes that the previous readings of such meter over-registered by more than two percent (2%) the correct volume of water delivered to the City, the meter readings for that meter shall be corrected for the twelve (12) months previous to the calibration by the percentage of inaccuracy found in such tests. The amount of any overpayment by the City because the meter over-registered the amount of water delivered to the City, for the period of time for which the correction is applied, shall be applied first to any delinquent payments for water service, and any remaining amounts shall, at the option of the city, be refunded to the City or credited upon future payments for water service by the City in the ensuing years. If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Commission and the City shall agree upon a different amount. An appropriate official of the City shall have access to the meter at all reasonable times for the purpose of verifying its readings.

8. Responsibility for Distribution and Use of Water.

The City shall be responsible for the control, distribution, and use of all water delivered to the City by the Commission under this contract, beyond the point of delivery, and all services, maintenance, and repair of the City's distribution system. The City shall hold the Commission, its officers, agents, employees and successors, and assigns harmless from

every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, distribution, and use of water delivered under this contract, and the operation, maintenance, and replacement of the City's distribution system. The City's distribution system includes all works extending from the point of delivery of water to the City by the Project.

VII. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER

The City agrees to make payments for water and water service in accordance with the following terms and conditions:

1. Notice of First Delivery of Water and Beginning of Water Service Payments.

Ninety (90) days prior to completion of the Project to the point of delivery to the City, the Commission shall notify the City, in writing, by certified mail, the date when water will be first available to the City. The City will make payments for water and water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the City, whichever is later in time. The minimum payment for water for the first payment shall be pro-rated on a per day basis over a one month period, ending on the last day of the month in which water is first available to the City.

2. Payment for Water Service.

The City's water service payment for each month shall equal the sum of the following:

- a. The City's proportionate share of the operation, maintenance, and replacement costs; plus
- b. The City's payment for capital costs.

3. Minimum Annual Water Purchase: Minimum Payments.

The City will make payment for the minimum annual water purchase specified in this contract in accordance with the rates and terms for payment of water specified in this contract, regardless of whether or not the City actually uses the minimum annual water purchase.

4. Payment for Operation, Maintenance, and Replacement (OM&R).

The City will make monthly payments to the Commission for its share of the OM&R for the Project. The amount of such payment will be determined as follows:

- a. Prior to December 1 of each year, the Commission shall establish and adopt a budget for OM&R for the Project for the immediate ensuing year. The Commission shall have the authority to include in such budget for each year an amount to be accumulated and maintained in a reserve fund for the purpose of replacement and for extraordinary maintenance of project works. The reserve fund shall be accumulated and maintained in an amount to be determined by the Commission. The reserve fund shall be deposited and maintained in a separate account in accordance with the laws of the State of North Dakota.
- b. The Commission will then estimate the total annual water sales for the immediate ensuing year, and calculate the "estimated water rate for operation, maintenance, and replacement" for the Project by dividing the amount of the estimated budget for OM&R for the immediate ensuing year by the estimated total annual water sales for such ensuing year.
- c. The monthly payment to be made by the City to the Commission for OM&R shall be determined by multiplying the amount of water actually delivered to the City for each month, or the monthly minimum water purchase (minimum annual water purchase divided by 12), whichever is greater, times the estimated water rate for OM&R.
- d. At the end of each year, the Commission shall prepare a statement of the actual cost for OM&R for that same year.
- e. The Commission will then determine the adjustment to be applied to the City's payment for OM&R for the previous year. The adjustment shall be calculated by first dividing the amount of water actually delivered to the City by the Commission during the previous year, or the minimum annual water purchase, whichever is greater, by the previous year's total annual water sales to determine the City's proportionate share (fraction) of the OM&R costs for the previous year. This fraction shall then be multiplied times the actual total cost for OM&R for the previous year, which

shall be the amount of the City's proportionate share of OM&R costs for the previous year. The Commission shall then subtract the total amount of the City's proportionate share of OM&R costs for the previous year from the total amount actually paid by the City for OM&R during the previous year, which shall be the adjustment to be applied to the City's water service payments for the next ensuing year.

If the City's proportionate share of OM&R costs for the previous year is greater than the total amount actually paid by the City during the previous year for OM&R, the difference shall be owed by the City to the Commission. The amount due and owing to the Commission by the City as a result of such adjustment shall be applied to and added to the City's monthly payments for water for the next four (4) months of the immediate ensuing year in equal monthly installments.

If the City's proportionate share of OM&R costs for the previous year is less than the total amount actually paid by the City during the previous year for OM&R costs, the difference shall first be applied to any delinquent payments of the City for water service, and the remaining sum, if any, shall be credited against the City's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.

5. Payment for Capital Costs.

The City will pay to the Commission a water rate for capital costs of the Project. The revenues realized from this water rate shall be deposited by the Commission as directed by the Legislative Assembly.

- a. Base water rate for capital costs. The base water rate for capital costs shall be forty-four cents (\$0.44) per each one thousand (1,000) gallons of water.
- b. Adjustment of water rate for capital costs. The Commission shall have the authority to adjust the water rate for capital costs annually in accordance with the increase or the decrease in the Consumer Price Index (CPI). The formula for determining the adjustment to the water rate for capital costs for each year is as follows: The CPI for January 1 of each year shall be divided by the base CPI of two hundred seventy-four and four tenths (274.4). The result of this calculation shall be reduced by one (1), and then multiplied by the base water rate for

capital costs. The product of this formula is the adjustment to the water rate for capital costs, and shall be used to added to the base water rate for capital costs for the next year. Notwithstanding the foregoing basis for adjusting the water rate for capital costs, the Commission shall have the authority to decrease the adjustment to the water rate for capital costs, as it deems appropriate and necessary, after considering data on changes to the median incomes of project water users, substantial increases in OM&R costs, or other factors.

- c. Monthly water payment for capital costs. The amount of payment each month by the City to the Commission for capital costs shall be calculated by multiplying the water rate for capital costs times the amount of water actually delivered to the City each month, or the monthly minimum water purchase (minimum annual water purchased divided by 12), whichever is greater, minus any credits approved by the Commission pursuant to paragraph d of this section.

At the end of each year, if the amount of water actually delivered to the City is less than the amount of water for which the City has paid for during that year, but greater than the minimum annual water purchase, the City shall receive a refund in the amount equal to the difference between the amount of water actually delivered to the City and the amount of water actually paid for by the City during that year multiplied times the water rate for capital costs. The refund shall first be applied to any delinquent payments of the City for water service, and the remaining sum, if any, shall be credited against the City's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.

- d. Credit for qualifying water supply facility debt service cost. A credit for debt service costs of the City's qualifying water supply facilities shall be applied to the monthly water payment for capital costs, upon approval by the Commission. The amount of such monthly credit shall be determined by divided seventy-five percent (75%) of the total annual debt service cost for "qualifying water supply facilities" in the immediate ensuing year by twelve (12). However, in no event shall any credit exceed the total monthly water payment for capital costs, nor can any credit be transferred or assigned to any other water user entity. In order to receive a credit as provided herein, the City must submit a request for credit, with supporting documentation,

to the Commission, no later than December 1 of the year preceding each year in which a credit is to be applied. The Commission will terminate all credits ten (10) years after first delivery of water to the City.

6. Billing Procedure.

The Commission will furnish to the City, at the address shown on the signature page of this contract, not later than the first day of each month, an itemized statement of the payment due from the City for water service for the preceding month. The metering equipment at the point of delivery to the City shall be read monthly.

7. When Payments Are Due.

All payments for water service under this contract, for operation, maintenance, and replacement, and for capital costs, shall be made no later than the fifteenth (15th) day of each month. Payments not made by such date shall be considered delinquent and in default.

8. Delinquent Payments and Default: Suspension of Water Service.

The City shall cause to be levied and collected all necessary taxes, assessments, and water charges, and will use all of the authority and resources available to it to meet its obligations under this contract, and will make in full all payments to be made pursuant to this contract on or before the date such payments become due. In the event of any default by the City in making payments as required under this contract, the Commission, in its discretion, may suspend delivery of water to the City through the Project during the time when the City is in default. During any period when the City is in default, the City shall remain obligated to make all payments required under this contract. Any action of the Commission pursuant to this section shall not limit or waive any remedy provided by the contract or by law for the recovery of money due or which may become due under this contract.

In the event of any default by the City in the payment of any money required to be paid under this contract, the City shall levy, in accordance with the laws of the State of North Dakota, a special ad valorem tax on all of the property taxable or subject to assessment by the City. The tax shall be levied only at a rate sufficient to raise the amount delinquent, and shall be used only to reduce the liability of the City under this contract.

9. Penalty for Late Payment.

Upon every payment of money required to be paid by the City to the Commission under this contract which shall remain unpaid after the same shall have become due and payable, there shall be imposed a penalty of one percent (1%) per month of the amount of such delinquent payment from and after the date when the same becomes due and payable, provided that no penalty shall be chargeable against any adjustment made pursuant to Section VI, subsection 7, of this contract.

10. Refusal of Water.

The City's failure or refusal to accept delivery of water to which it is entitled under this contract shall in no way relieve the City's obligation to make payments to the Commission as provided in this contract.

VIII. GENERAL PROVISIONS

1. Rules and Regulations.

The Commission will have the authority to develop and adopt such rules and regulations as the Commission may deem proper and necessary to carry out this contract and to govern the administration of this contract. Such rules and regulations shall not be inconsistent with this contract. The City agrees to comply with such rules and regulations.

2. Access to and Inspection of Books and Records.

Each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

3. Remedies Not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

4. Amendments.

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law, but such amendments will not be binding or effective unless made in writing or executed by the parties.

5. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with this contract, shall not be deemed to be a waiver with respect to any other default or matter.

6. Notices.

All notices that are required either expressly or by implication to be given by any party to the other under this contract shall be signed for the Commission and for the City by such officers as they may, from time to time, authorize in writing to so act. All such notices shall be deemed to have been given and delivered, if delivered personally or if enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown on the signature page of this contract.

7. Assignment.

The provisions of this contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract, or any part hereof or interest herein, shall be valid until and unless approved by the Commission. The Commission shall not approve any assignment or transfer to any water user entity unless and until the water user entity to which it is proposed that this contract be transferred or assigned has the necessary ability to satisfy the obligations of this contract.

8. Unallocated Capacity.

The Commission agrees that municipal, domestic, and rural water needs shall be given first preference before executing water service contracts for delivery of unallocated capacity to water user entities for other uses.

IX. MERGER CLAUSE

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing, signed by the parties, and attached herein. Such waiver, consent, modification, or change, if made, shall be effective only in a specific instance and for the specific purpose given. There are

no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

IN WITNESS WHEREOF, the parties execute this contract on the date specified below.

NORTH DAKOTA STATE WATER COMMISSION
900 East Boulevard Avenue
Bismarck, ND 58505

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the State Water Commission this _____ day of _____, 199__.

Secretary and State Engineer

CITY OF _____

Address: _____

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the City of _____ this _____ day of _____, 199__.

**SOUTHWEST PIPELINE PROJECT
WATER SERVICE AGREEMENT AMENDMENT**

Notwithstanding the provisions of Sections VII.3, VII.4.c, and VII.5.c, if the City uses water from no other source than the Southwest Pipeline during the course of the year, the City will make payment based on the actual amount of water used, and the monthly payment shall be based on the actual amount used in the respective month. This amendment shall be in effect from the date of its adoption until the termination of the Water Service Agreement.

NORTH DAKOTA STATE WATER COMMISSION
900 East Boulevard Avenue
Bismarck, ND 58505

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the State Water Commission this _____ day of _____, 199__.

Secretary and State Engineer

CITY OF _____

Address: _____

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the City of _____ this _____ day of _____, 199__.

**SOUTHWEST PIPELINE PROJECT
WATER SERVICE CONTRACT**

Contract No: 1736-23

Water User Entity: Assumption Abbey

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IX. MERGER CLAUSE

I. PARTIES

This contract is by and between the North Dakota State Water Commission, a state agency and public corporation created and existing pursuant to North Dakota Century Code chapter 61-02, hereinafter called the Commission, acting through the North Dakota State Engineer; and Assumption Abbey, hereinafter referred to as the User.

II. INTRODUCTION

1. Under the authority of the Act of the North Dakota Legislative Assembly of 1981 (1981 N.D. Sess. Laws 613, §3), the Commission was directed to develop preliminary designs for a water supply pipeline facility for supplementation of the water resources of Dickinson and the area of North Dakota south and west of the Missouri River for multiple purpose, including domestic, rural water district, and municipal users. This water pipeline facility is known as the Southwest Pipeline Project.
2. The Southwest Pipeline Project was authorized by the North Dakota Legislative Assembly, substantially in accordance with Plan B of the Engineering Preliminary Design Final Report for the Southwest Pipeline Project, State Water Commission Project No. 1736, dated September 1982.
3. The Commission has the authority, pursuant to North Dakota Century Code chapter 61-02, to enter into water service contracts for the delivery and distribution of water, and for the collection of rates, charges, and revenues from such delivery of water.
4. The User desires to enter into a water service contract, pursuant to the laws of the State of North Dakota, for a water supply from the Southwest Pipeline Project for use by the User, for which the User will make payment to the Commission at the rates and pursuant to the terms and conditions set forth in this contract.

NOW THEREFORE, in consideration of the mutual covenants contained in this contract, it is mutually agreed by and between the parties to this contract as follows:

III. DEFINITIONS

1. "Additional water" means water purchased by the User in addition to its minimum annual water purchase.

2. "Base consumer price index" means the consumer price index, as defined herein, as of July 1, 1981, adjusted to account for any changes in base.
3. "Capital costs" means all costs incurred by the Commission which are properly chargeable, in accordance with generally accepted accounting practices, to the construction of and the furnishing of equipment for the Project, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisitions, acquisition of lands, easements and rights-of-way, relocation work, and essential legal, administrative and financial work in connection therewith.
4. "Consumer price index" (CPI) means the consumer price index for all urban consumers, which is a monthly statistical measure of the average change in prices in a fixed market basket of goods and services. The consumer price index is based on the prices of food, clothing, shelter, fuel, drugs, transportation fares, doctors' and dentists' fees, and other goods and services that people buy for day-to-day living.
5. "Estimated water rate for operation, maintenance, and replacement" means the estimated rate per each one thousand (1,000) gallons of water for the operation and maintenance of the Project and for the accumulation and maintenance of a reserve fund for replacement purposes. This rate is determined by dividing total costs the Commission estimates it will incur during a year for operation, maintenance, and replacement by the total number of one thousand gallon units of water which the Commission estimates it will sell to water user entities during the same year.
6. "Manager" means the person employed by the Commission to be in charge of and supervise the operation and maintenance of the Project.
7. "Maximum flow rate" means the maximum number of gallons of water which may be delivered through the Project by the Commission to a water user entity during any one minute time period.
8. "Minimum annual water purchase" means the minimum gallons of water which a water user entity agrees to purchase and pay for during a year.
9. "Operation, maintenance, and replacement costs" means all operation costs incurred by the Commission, including all energy costs incurred by the Commission for pumping water through the Project, for the treatment of water, for the maintenance and administration of the Project, and for any amounts that the Commission determines are necessary to establish reserve funds to meet anticipated replacement costs

and extraordinary maintenance of Project works. Operation, maintenance, and replacement costs shall be referred to in this contract as OM&R costs.

10. "Project" means Plan B of the Engineering Preliminary Design Final Report for the Southwest Pipeline Project, State Water Commission Project No. 1736, dated September 1982. Authorization of the Southwest Pipeline Project by the Legislative Assembly, substantially in accordance with Plan B of such Engineering Report, as recommended by the Commission, shall constitute the "Project" as it is defined herein.
11. "Qualifying water supply facilities" means water supply facilities determined by the Commission to qualify for a credit against payments for water by the User for capital costs and shall include such things as surface water reservoirs, wells, raw water pumps, water transmission pipelines from the source to the distribution system, water treatment plants, and pipelines and controls necessary to connect the User's system to the delivery point for Project water.
12. "Total annual water sales" means the summation of all of the actual annual water deliveries, or the minimum annual water purchases, whichever is greater, for the water user entities which have executed a water service contract.
13. "Unallocated capacity" means the capacity of the pipeline which is not allocated and contractually committed to individual water user entities by virtue of water service contracts.
14. "Water rate for capital costs" means the rate per each 1,000 gallons of water to be paid by water user entities for capital costs of the Project.
15. "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, and other entities which have entered into and executed water service contracts with the Commission for the purchase of water from the Project.
16. "Year" means the period from January 1 through December 31, both dates inclusive.

IV. TERM OF CONTRACT

1. Effective Date.

This contract shall remain in effect for forty (40) years after the date of the first water delivery to the User, unless terminated sooner by mutual agreement of the parties.

2. Renewal.

Under terms and conditions mutually agreeable to the parties to this contract, renewals of this contract may be made for successive periods not to exceed forty (40) years each.

V. TERMINATION BY NOT CONSTRUCTING

It is further agreed that if any segment of the Project is not constructed for whatever reason, even though authorized, thereby preventing delivery of water to the User, the Commission and the User shall be relieved of all obligations under this contract.

VI. WATER SERVICE: DELIVERY OF WATER

The Commission and the User agree that water will be delivered to the User in accordance with the following terms and provisions:

1. Quality of Water.

All water delivered to the User pursuant to this contract, or any renewal, extension, or modification thereof, shall be potable treated water which meets applicable water quality standards of the North Dakota Health and Consolidated Laboratories Department.

2. Quantity of Water and Flow Rate.

a. Minimum annual water purchase. The User hereby agrees to purchase and make payment for not less than 1,000,000 gallons per year (minimum annual water purchase) during the entire term of this contract.

b. Maximum flow rate. The maximum flow rate to be provided by the Commission to the User shall not exceed 40 gallons per minute.

3. Point of Delivery and Pressure.

The Commission will furnish water to the User at a pressure range of 20 psi to 50 psi at a point located in the West 1/2 of Government Lot 2 Section 5, Township 139 North, Range 92

West. If greater pressure than the range specified herein at the point of delivery is required by the User, the cost of providing such greater pressure shall be borne by the User.

4. Additional Water.

The Commission will deliver to the User any additional water which the User desires to purchase, at a flow rate not to exceed the flow rate specified in this contract. If there is unallocated capacity in the Project to the User's point of delivery, the Commission may allow delivery of water at a flow rate greater than the maximum flow rate specified in this contract. The User shall have no contractual right to any unallocated capacity which it purchases as additional water, and delivery of such additional water shall not contractually or in any other way obligate the Commission to deliver water at a greater flow rate than the maximum flow rate specified in this contract. If the User desires to secure a contractual right to a greater maximum flow rate than specified in this contract, this contract must be amended to provide a greater minimum annual water purchase.

5. Water Shortages.

a. No liability for shortages. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from any water shortages or other interruptions in water deliveries resulting from accident to or failure of Project works and facilities, whether or not attributable to negligence of officers, agents, or employees of the Commission, or from any other cause. The contractual obligations of the User under this contract shall not be reduced or altered by reason of such shortages or interruptions.

b. Proportional sharing of water shortage. The Commission shall have the right during times of water shortage from any cause to allocate and distribute the available water supply to water user entities on a proportionate basis with respect to the proportion that the minimum annual water purchase of each water user entity bears to the total minimum annual water purchase of all water service contracts for the Project.

6. Curtailement of Delivery for Maintenance Purposes.

The Commission may temporarily discontinue or reduce the amount of water to be furnished to the User for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the facilities and works necessary for the

furnishing of water to the User. To the extent possible, the Commission will give to the User reasonable notice in advance of any such temporary discontinuance or reduction. No advance notice will be required to be given in the case of an emergency. In no event shall any liability accrue against the Commission or any of its officers, agents, or employees for any damage or inconvenience, direct or indirect, arising from such temporary discontinuance or reduction for maintenance and repair purposes.

7. Measurement of Water.

The Commission shall furnish, install, operate, and maintain, at its own expense, at the point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the User. If the User believes the measurement of water delivered to the User to be in error, it shall present a claim of error, in writing, to the manager of the Project, either in person or by mailing by certified mail to the address of the manager. Upon presenting its claim of error in the measurement of water, the Commission will cause the meter to be calibrated, upon payment to the Commission by the User the actual cost of the calibration. However, if the meter is found to over-register by more than two percent (2%) of the correct volume, the User's payment for the cost of calibration will be refunded to the User. A claim of error presented after a claim has become delinquent shall not prevent discontinuance of service as provided in this contract. The User agrees to continue to make payments for water service after a claim of error has been presented, however, it may do so under protest, and such payments will not prejudice the User's claim of error.

If the calibration of any meter establishes that the previous readings of such meter over-registered by more than two percent (2%) the correct volume of water delivered to the User, the meter readings for that meter shall be corrected for the twelve (12) months previous to the calibration by the percentage of inaccuracy found in such tests. The amount of any overpayment by the User because the meter over-registered the amount of water delivered to the User, for the period of time for which the correction is applied, shall be applied first to any delinquent payments for water service, and any remaining amounts shall, at the option of the User, be refunded to the User or credited upon future payments for water service by the User in the ensuing years. If any meter fails to register for any period, the amount of water delivered during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the Commission and the User shall agree upon a different amount. An appropriate official of the

User shall have access to the meter at all reasonable times for the purpose of verifying its readings.

8. Responsibility for Distribution and Use of Water.

The User shall be responsible for the control, distribution, and use of all water delivered to the User by the Commission under this contract, beyond the point of delivery, and all services, maintenance, and repair of the User's distribution system. The User shall hold the Commission, its officers, agents, employees and successors, and assigns harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, distribution, and use of water delivered under this contract, and the operation, maintenance, and replacement of the User's distribution system. The User's distribution system includes all works extending from the point of delivery of water to the User by the Project.

VII. WATER SERVICE: WATER RATES AND PAYMENT FOR WATER

The User agrees to make payments for water and water service in accordance with the following terms and conditions:

1. Notice of First Delivery of Water and Beginning of Water Service Payments.

Ninety (90) days prior to completion of the Project to the point of delivery to the User, the Commission shall notify the User, in writing, by certified mail, the date when water will be first available to the User. The User will make payments for water and water service, in accordance with the terms of this contract, beginning at the expiration of the ninety (90) day notice, or beginning at such time when water is available to the User, whichever is later in time. The minimum payment for water for the first payment shall be pro-rated on a per day basis over a one month period, ending on the last day of the month in which water is first available to the User.

2. Payment for Water Service.

The User's water service payment for each month shall equal the sum of the following:

- a. The User's proportionate share of the operation, maintenance, and replacement costs; plus
- b. The User's payment for capital costs.

3. Minimum Annual Water Purchase: Minimum Payments.

The User will make payment for the minimum annual water purchase specified in this contract in accordance with the rates and terms for payment of water specified in this contract, regardless of whether or not the User actually uses the minimum annual water purchase.

4. Payment for Operation, Maintenance, and Replacement (OM&R).

The User will make monthly payments to the Commission for its share of the OM&R for the Project. The amount of such payment will be determined as follows:

- a. Prior to December 1 of each year, the Commission shall establish and adopt a budget for OM&R for the Project for the immediate ensuing year. The Commission shall have the authority to include in such budget for each year an amount to be accumulated and maintained in a reserve fund for the purpose of replacement and for extraordinary maintenance of project works. The reserve fund shall be accumulated and maintained in an amount to be determined by the Commission. The reserve fund shall be deposited and maintained in a separate account in accordance with the laws of the State of North Dakota.
- b. The Commission will then estimate the total annual water sales for the immediate ensuing year, and calculate the "estimated water rate for operation, maintenance, and replacement" for the Project by dividing the amount of the estimated budget for OM&R for the immediate ensuing year by the estimated total annual water sales for such ensuing year.
- c. The monthly payment to be made by the User to the Commission for OM&R shall be determined by multiplying the amount of water actually delivered to the User for each month, or the monthly minimum water purchase (minimum annual water purchase divided by 12), whichever is greater, times the estimated water rate for OM&R.
- d. At the end of each year, the Commission shall prepare a statement of the actual cost for OM&R for that same year.

- e. The Commission will then determine the adjustment to be applied to the User's payment for OM&R for the previous year. The adjustment shall be calculated by first dividing the amount of water actually delivered to the User by the Commission during the previous year, or the minimum annual water purchase, whichever is greater, by the previous year's total annual water sales to determine the User's proportionate share (fraction) of the OM&R costs for the previous year. This fraction shall then be multiplied times the actual total cost for OM&R for the previous year, which shall be the amount of the User's proportionate share of OM&R costs for the previous year. The Commission shall then subtract the total amount of the User's proportionate share of OM&R costs for the previous year from the total amount actually paid by the User for OM&R during the previous year, which shall be the adjustment to be applied to the User's water service payments for the next ensuing year.

If the User's proportionate share of OM&R costs for the previous year is greater than the total amount actually paid by the User during the previous year for OM&R, the difference shall be owed by the User to the Commission. The amount due and owing to the Commission by the User as a result of such adjustment shall be applied to and added to the User's monthly payments for water for the next four (4) months of the immediate ensuing year in equal monthly installments.

If the User's proportionate share of OM&R costs for the previous year is less than the total amount actually paid by the User during the previous year for OM&R costs, the difference shall first be applied to any delinquent payments of the User for water service, and the remaining sum, if any, shall be credited against the User's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.

5. Payment for Capital Costs.

The User will pay to the Commission a water rate for capital costs of the Project. The revenues realized from this water rate shall be deposited by the Commission as directed by the Legislative Assembly.

- a. Base water rate for capital costs. The base water rate for capital costs shall be forty-four cents (\$0.44) per each one thousand (1,000) gallons of water.
- b. Adjustment of water rate for capital costs. The Commission shall have the authority to adjust the water rate for capital costs annually in accordance with the increase or the decrease in the Consumer Price Index (CPI). The formula for determining the adjustment to the water rate for capital costs for each year is as follows: The CPI for January 1 of each year shall be divided by the base CPI of two hundred seventy-four and four tenths (274.4). The result of this calculation shall be reduced by one (1), and then multiplied by the base water rate for capital costs. The product of this formula is the adjustment to the water rate for capital costs, and shall be used to added to the base water rate for capital costs for the next year. Notwithstanding the foregoing basis for adjusting the water rate for capital costs, the Commission shall have the authority to decrease the adjustment to the water rate for capital costs, as it deems appropriate and necessary, after considering data on changes to the median incomes of project water users, substantial increases in OM&R costs, or other factors.
- c. Monthly water payment for capital costs. The amount of payment each month by the User to the Commission for capital costs shall be calculated by multiplying the water rate for capital costs times the amount of water actually delivered to the User each month, or the monthly minimum water purchase (minimum annual water purchased divided by 12), whichever is greater, minus any credits approved by the Commission pursuant to paragraph d of this section.

At the end of each year, if the amount of water actually delivered to the User is less than the amount of water for which the User has paid for during that year, but greater than the minimum annual water purchase, the User shall receive a refund in the amount equal to the difference between the amount of water actually delivered to the User and the amount of water actually paid for by the User during that year multiplied times the water rate for capital

costs. The refund shall first be applied to any delinquent payments of the User for water service, and the remaining sum, if any, shall be credited against the User's monthly payments for water service for the next four (4) months of the immediate ensuing year in equal monthly credits.

- d. Credit for qualifying water supply facility debt service cost. A credit for debt service costs of the User's qualifying water supply facilities shall be applied to the monthly water payment for capital costs, upon approval by the Commission. The amount of such monthly credit shall be determined by divided seventy-five percent (75%) of the total annual debt service cost for "qualifying water supply facilities" in the immediate ensuing year by twelve (12). However, in no event shall any credit exceed the total monthly water payment for capital costs, nor can any credit be transferred or assigned to any other water user entity. In order to receive a credit as provided herein, the User must submit a request for credit, with supporting documentation, to the Commission, no later than December 1 of the year preceding each year in which a credit is to be applied. The Commission will terminate all credits ten (10) years after first delivery of water to the User.

6. Billing Procedure.

The Commission will furnish to the User, at the address shown on the signature page of this contract, not later than the first day of each month, an itemized statement of the payment due from the User for water service for the preceding month. The metering equipment at the point of delivery to the User shall be read monthly.

7. When Payments Are Due.

All payments for water service under this contract, for operation, maintenance, and replacement, and for capital costs, shall be made no later than the fifteenth (15th) day of each month. Payments not made by such date shall be considered delinquent and in default.

8. Delinquent Payments and Default: Suspension of Water Service.

The User shall use all of the authority and resources available to it to meet its obligations under this

contract, and will make in full all payments to be made pursuant to this contract on or before the date such payments become due. In the event of any default by the User in making payments as required under this contract, the Commission, in its discretion, may suspend delivery of water to the User through the Project during the time when the User is in default. During any period when the User is in default, the User shall remain obligated to make all payments required under this contract. Any action of the Commission pursuant to this section shall not limit or waive any remedy provided by the contract or by law for the recovery of money due or which may become due under this contract.

9. Penalty for Late Payment.

Upon every payment of money required to be paid by the User to the Commission under this contract which shall remain unpaid after the same shall have become due and payable, there shall be imposed a penalty of one percent (1%) per month of the amount of such delinquent payment from and after the date when the same becomes due and payable, provided that no penalty shall be chargeable against any adjustment made pursuant to Section VI, subsection 7, of this contract.

10. Refusal of Water.

The User's failure or refusal to accept delivery of water to which it is entitled under this contract shall in no way relieve the User's obligation to make payments to the Commission as provided in this contract.

VIII. GENERAL PROVISIONS

1. Rules and Regulations.

The Commission will have the authority to develop and adopt such rules and regulations as the Commission may deem proper and necessary to carry out this contract and to govern the administration of this contract. Such rules and regulations shall not be inconsistent with this contract. The User agrees to comply with such rules and regulations.

2. Access to and Inspection of Books and Records.

Each party shall have the right, during normal business hours, to inspect and make copies of the other party's books and official records relating to matters covered by this contract.

3. Remedies Not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

4. Amendments.

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law, but such amendments will not be binding or effective unless made in writing or executed by the parties.

5. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with this contract, shall not be deemed to be a waiver with respect to any other default or matter.

6. Notices.

All notices that are required either expressly or by implication to be given by any party to the other under this contract shall be signed for the Commission and for the User by such officers as they may, from time to time, authorize in writing to so act. All such notices shall be deemed to have been given and delivered, if delivered personally or if enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown on the signature page of this contract.

7. Assignment.

The provisions of this contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract, or any part hereof or interest herein, shall be valid until and unless approved by the Commission. The Commission shall not approve any assignment or transfer to any water user entity unless and until the water user entity to which it is proposed that this contract be transferred or assigned has the necessary ability to satisfy the obligations of this contract.

8. Unallocated Capacity.

The Commission agrees that municipal, domestic, and rural water needs shall be given first preference before executing water service contracts for delivery of unallocated capacity to water user entities for other uses.

IX. MERGER CLAUSE

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing, signed by the parties, and attached herein. Such waiver, consent, modification, or change, if made, shall be effective only in a specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

IN WITNESS WHEREOF, the parties execute this contract on the date specified below.

NORTH DAKOTA STATE WATER COMMISSION
900 East Boulevard Avenue
Bismarck, ND 58505

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the State Water Commission this ____ day of _____, 199__.

Secretary and State Engineer

USER: _____

Address: _____

By: _____

Title: _____

Date: _____

**SOUTHWEST PIPELINE PROJECT
WATER SERVICE AGREEMENT AMENDMENT**

Notwithstanding the provisions of Sections VII.3, VII.4.c, and VII.5.c, if the User uses water from no other source than the Southwest Pipeline during the course of the year, the User will make payment based on the actual amount of water used, and the monthly payment shall be based on the actual amount used in the respective month. This amendment shall be in effect from the date of its adoption until the termination of the Water Service Agreement.

NORTH DAKOTA STATE WATER COMMISSION
900 East Boulevard Avenue
Bismarck, ND 58505

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the State Water Commission this _____ day of _____, 199__.

Secretary and State Engineer

USER: _____

Address: _____

By: _____

Title: _____

Date: _____

AMENDMENT FOR DEMAND SERVICE

The Commission and the User agree that the flow rate set forth in Section VI.2.b is provided to meet the User's needs on a demand basis. As consideration for receiving this type of service, the User agrees to pay, as the water rate for capital costs, an amount equal to two (2) times the water rate for capital costs paid for ordinary water service. This shall be accomplished by amending Section VII.5.a such that the base water rate for capital costs is changed from \$0.44 to \$0.88.

NORTH DAKOTA STATE WATER COMMISSION
900 East Boulevard
Bismarck, N. Dak. 58505

By: _____

Title: _____

Date: _____

Approved and entered into by resolution of the State Water Commission this ____ day of _____, 19__

Secretary and State Engineer

User: _____

Address: _____

By: _____

Title: _____

Date _____

**SOUTHWEST PIPELINE PROJECT
ANNUAL OPERATIONS REPORT
1992**

I. Summary of Operations:

The Southwest Pipeline Project began service to the city of Dickinson on a test basis immediately after completion of pump tests at the Dodge and Richardton pump stations in mid-October of 1991. On November 15, 1991, service began under the terms of the water service contract. This annual report includes the period from November 15 to December 31 in the 1992 operating year.

On October 21, 1991, the State Water Commission approved water use rates. These rates were based on estimates and totalled \$1.66 per thousand gallons broken out to include \$0.80 per thousand gallons for operation costs, \$0.30 for replacement and extraordinary maintenance, and \$0.56 for treatment. The Commission also approved a capital repayment rate of \$0.62 per thousand gallons and adopted a schedule of debt service credits. Under these approvals the nominal rate was \$2.28 per thousand gallons; however, with the debt service credits the city actually paid \$2.02 per thousand gallons.

The year-end review revealed that the actual operation and maintenance cost was \$1.26 per thousand rather than \$1.66. The over-collection is currently being refunded under the terms of the water service contract. The total over-collection was \$185,864

In November of 1991, the city of Dickinson and the State Water Commission executed an agreement whereby the city would provide treatment of all project water and the Commission would reimburse actual costs for that service.

From the beginning of service until early February the system was operated manually with personnel stationed at the pump stations during pumping. By February, the control system was operational and automatic control was possible. The control system also enables refinement of operations for efficiency. The operations staff has learned that with proper control of reservoir levels and pump runs, it is not necessary to run the Dodge pump station except in periods of very high demands. (This condition will only prevail until use of project water grows with more users added.)

In early March operators noticed a loss of water from the Zap reservoir. The cause was found to be a leak in the main transmission pipe near Dodge. When the area was excavated on March 17, a defective joint was discovered and successfully repaired.

The terms of the water service contracts call for users to be billed on either their actual use or a monthly minimum, which is 1/12 of their annual minimum water purchase, whichever is greater. For a city using the pipeline as its sole source, this will inevitably lead to over-billing on an annual basis. For the months

of January and February, Dickinson was billed for the monthly minimum. In February, the State Water Commission approved an amendment to the water service contract under which, if the city uses no other source of water, the billing is done on actual use each month. Such an amendment was executed for Dickinson's contract, and from March on billing was done on actual use.

In December of 1991, the Roshau subdivision was ready for rural water service. This subdivision is located outside the city limits of Dickinson, but is near enough to be served from the city's distribution system. Construction of the rural water system included a connection to the city's lines. This arrangement is temporary. When the Dickinson pump station is completed this area will be served by the Southwest Pipeline transmission line. For the interim period, the Southwest Pipeline Project will purchase water for the Roshau subdivision from the city under a temporary water service agreement. Although water was delivered to Roshau residents in December, no costs or collections of money occurred in 1992.

Summary of 1992 Volume by user.

City of Dickinson:	655,640,000 gallons
Roshau Subdivision:	112,000 gallons

II. Fiscal Summary:

1992 Revenue

	<u>Rate</u>	<u>Collected</u>
Operation and Maintenance	\$0.80	\$ 524,512
Treatment	0.56	367,158
Replacement & Ext. Maint.	0.30	196,692
Capital Repayment	<u>0.62</u>	<u>253,317</u>
Total	\$2.28	\$1,342,679

1992 Expenses

	<u>Disbursements</u>
Utilities (1)	\$ 120,544
Operations (2)	143,104
Treatment (3)	367,158
O&M Reserve	75,000
Replacement Account	196,692
Capital Repayment (4)	253,317
Credit for Overcharge	<u>185,864</u>
Total	\$1,342,679

- (1) Includes electricity, telephone, heat, etc.
- (2) Salaries, travel, insurance building, supplies, equipment, vehicle, maintenance, misc.
- (3) Paid to Dickinson.
- (4) Deposited in Resources Trust Fund.

1992 SOUTHWEST PIPELINE OPERATING EXPENSES

WATER DELIVERED (Kgal): 655,640

UTILITIES	cost/yr
Power (Pump stations incl. wheeling)	\$108,446
Other (O&M, Dickinson Res, Cathodic Prot.)	\$7,743
Phone	\$1,693
Heat	\$2,878
Misc. Util.	(\$216)
Total Utilities:	\$120,544

OPERATIONS

Salaries	\$84,257
Travel	\$14,187
Insurance	\$7,361
Supplies	\$5,722
Building	\$10,580
Equipment	\$7,291
Vehicle Maint.	\$8,557
Fuel	\$2,698
Basin Site Serv. (2)	\$0
Maintenance	\$1,326
Misc.	\$1,125
Total Operations	\$143,104

Total Operating Costs **\$263,648**

Notes:

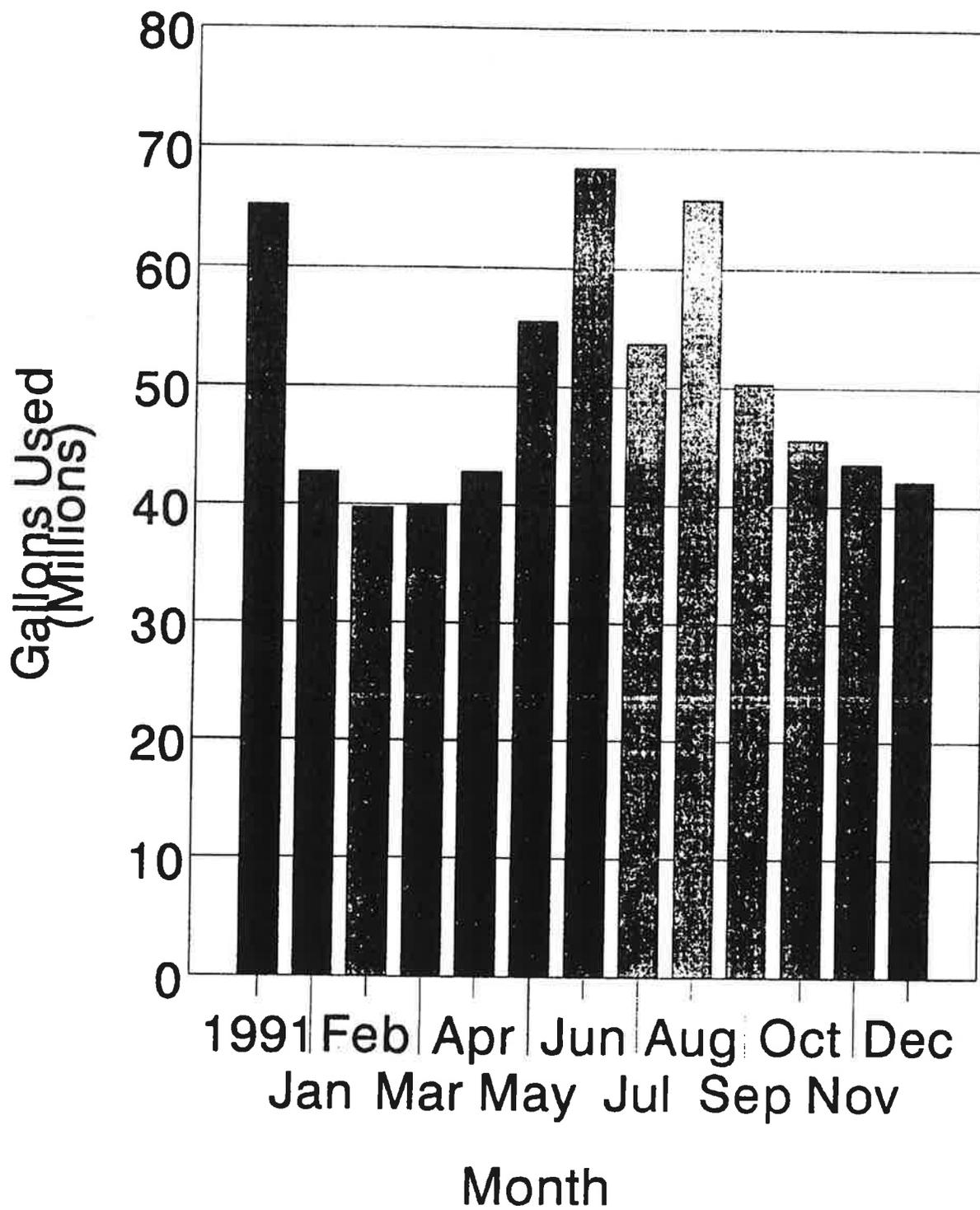
(1)

Based on service from November 1, 1991 to Dec. 31, 1992

(2)

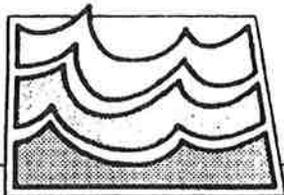
Not assessed in billing period

MONTHLY WATER USE BY DICKINSON



**SOUTHWEST PIPELINE PROJECT
SUMMARY OF SERVICE 1992
DICKINSON**

MONTH	METER	USE	BILLED	O&M	REPL	TREAT	CREDIT	CAP	TOTAL
Start	330.1	(Kgal)	(Kgal)	\$0.80	\$0.30	\$0.56		\$0.62	\$2.28
1991	395.29	65,190	65,190	\$52,152	\$19,557	\$36,506	\$0	\$40,418	\$148,633
1992									
JAN	438.07	42,780	54,304	\$43,443	\$16,291	\$30,410	(\$12,765)	\$20,903	\$111,048
FEB	477.79	39,720	54,304	\$43,443	\$16,291	\$30,410	(\$12,765)	\$20,903	\$111,048
MAR	517.85	40,060	13,952	\$11,162	\$4,186	\$7,813	(\$8,650)	\$0	\$23,161
APR	560.7	42,850	42,850	\$34,280	\$12,855	\$23,996	(\$16,880)	\$9,687	\$80,818
MAY	616.28	55,580	55,580	\$44,464	\$16,674	\$31,125	(\$12,765)	\$21,695	\$113,957
JUN	684.65	68,370	68,370	\$54,696	\$20,511	\$38,287	(\$12,765)	\$29,624	\$143,119
JUL	738.38	53,730	53,730	\$42,984	\$16,119	\$30,089	(\$12,765)	\$20,548	\$109,739
AUG	804.13	65,750	65,750	\$52,600	\$19,725	\$36,820	(\$12,765)	\$28,000	\$137,145
SEP	854.47	50,340	50,340	\$40,272	\$15,102	\$28,190	(\$12,765)	\$18,446	\$102,010
OCT	900.05	45,580	45,580	\$36,464	\$13,674	\$25,525	(\$12,765)	\$15,495	\$91,157
NOV	943.63	43,580	43,580	\$34,864	\$13,074	\$24,405	(\$12,765)	\$14,255	\$86,597
DEC	985.74	42,110	42,110	\$33,688	\$12,633	\$23,582	(\$12,765)	\$13,343	\$83,246
SUMMARY		655,640	655,640	\$524,512	\$196,692	\$367,158	(\$153,180)	\$253,317	\$1,341,679
COST IN 1992 INCLUDING DEBT SERVICE CREDIT:					\$2.05				



North Dakota State Water Commission

900 EAST BOULEVARD • BISMARCK, ND 58505-0850 • 701-224-2750 • FAX 701-224-3696

MEMORANDUM

TO: Governor Edward T. Schafer
State Water Commission Members

FROM: *David* David A. Sprynczynatyk, State Engineer

SUBJECT: SWC Project #1736 - Southwest Pipeline Project Water Rates for 1993

DATE: February 26, 1993

The water service agreements for the Southwest Pipeline Project require that the operational and repayment costs and charges be reviewed annually and that the water user rates be adjusted accordingly. The agreements require the cities and other users to pay all operational costs plus pay a capital repayment charge to the state for reimbursement of the original construction costs. The capital repayment charge is adjusted annually in accordance with the consumer price index.

Our review of operating costs for 1992 is complete. All costs except treatment were taken from SAMIS records. Known treatment costs for November and December, which had not yet appeared on SAMIS were manually added.

Based on this review, actual operating cost was \$827,497. Based on delivery of 655,640,000 gallons the rate is \$1.26 per thousand gallons, comprised of the following:

O&M	\$0.40
Replacement	\$0.30
Treatment	\$0.56

The billing rate was \$1.66 per thousand gallons, comprised of the following:

O&M	\$0.80
Replacement	\$0.30
Treatment	\$0.56

Under this rate, we received a total of \$1,088,362 in O&M revenue, for an excess collection of \$260,864. Of this amount, \$75,000 should be dedicated for an operating carryover balance and the remaining \$185,864 refunded by crediting Dickinson's bills in the amount of \$46,466 per month for four months. If the monthly

Memorandum
 Page 2
 February 26, 1993

operating cost for the next four months is less than that amount, the credit should be applied to the capital repayment component and transferred to the Resources Trust Fund until the refund is complete.

The projected operating cost for 1993, based on delivery of 600,000,000 gallons, is \$1.36 per thousand gallons, comprised of the following:

O&M	\$0.50
Replacement	0.30
Treatment	0.56

The reasons for the increase in cost is due to an increase in salaries and vehicle costs, due to greater staff time devoted to operations, and the payment of a site services fee at the intake, which was not charged in 1992. Summaries of actual and projected operating costs are shown in Table 1.

The capital repayment rate adjustment for inflation is as follows:

December 1992 CPI:		141.9
Adjustment to Pre-1986 Base:	0.333827	425.1
Change from 274.4:		1.55
Correction:		\$0.24
Base Capital Repayment Rate:		\$0.44
Adjusted Capital Repayment Rate:		\$0.68

The schedule for eligible debt service credit for Dickinson was adopted by the Water Commission in October of 1991. It is shown in Attachment 5. This schedule allows a total of \$150,626 reduction in capital repayment at a rate of \$12,552.17 per month.

I recommend the combined water service rate for 1993 to be \$2.04 per thousand gallons comprised of the following:

	<u>1993 Billing</u> <u>Rate</u>	<u>1992 Actual</u>	<u>1992 Billing</u> <u>Rate</u>
O&M	\$0.50	\$0.40	\$0.80
Replacement	0.30	0.30	0.30
Treatment	0.56	0.56	0.56
Capital Repayment	<u>0.68</u>	<u>0.62</u>	<u>0.62</u>
Total	\$2.04	\$1.88	\$2.28

The capital repayment component should be credited at \$12,552 per month for 12 months. The operation and maintenance component should be credited at a rate of \$46,466 per month for four months until the O&M refund reaches a total of \$185,864.

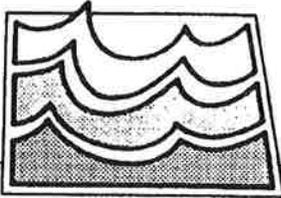
SOUTHWEST PIPELINE PROJECT OPERATING COSTS

	ACTUAL 1992	PROJECTED 1993
WATER DELIVERED (Kgal):	655,640	600,000
UTILITIES	cost/yr	cost/yr
Power (Pump stations incl. wheeling)	\$108,446	\$96,000
(O&M, Dickinson Res, Cathodic Prot.)	\$7,743	\$8,000
Other Utility		
Phone	\$1,693	\$6,000
Heat	\$2,878	\$3,500
Misc. Util.	(\$216)	\$1,200
Total Utilities:	<u>\$120,544</u>	<u>\$114,700</u>
OPERATIONS		
Salaries	\$84,257	\$118,000
Travel	\$14,187	\$17,000
Insurance	\$7,361	\$10,000
Supplies	\$5,722	\$2,000
Building	\$10,580	\$5,000
Equipment	\$7,291	\$10,000
Vehicle Maint.	\$8,557	\$1,200
Fuel	\$2,698	\$3,500
Basin Site Serv. (2)	\$0	\$7,500
Maintenance	\$1,326	\$10,000
Misc.	\$1,125	\$3,000
Total Support:	<u>\$143,104</u>	<u>\$187,200</u>
Repl.&Ext. Maint.	\$196,692	\$180,000
Treatment (3)	\$367,158	\$336,000
TOTALS:	<u>\$827,498</u>	<u>\$817,900</u>
COST PER KGAL:	\$1.26	\$1.36

Notes:

- (1) Based on service from November 1, 1991 to Dec. 31, 1992
- (2) Not assessed in billing period
- (3) Treatment costs for Nov '92 and Dec '92 had not yet appeared on SAMIS. They were manually added.

TABLE 1



North Dakota State Water Commission

900 EAST BOULEVARD • BISMARCK, ND 58505-0850 • 701-224-2750 • FAX 701-224-3696

RESOLUTION NO. 93-4-453

In Appreciation To Roy Putz

WHEREAS, Roy Putz has retired as an employee of the North Dakota State Water Commission; and

WHEREAS, Roy has served the State of North Dakota and the State Water Commission from September 25, 1947 through March 31, 1993; and

WHEREAS, Roy's dedicated service is an example for others to follow; and

WHEREAS, during his over 45 years of service, Roy made many friends within the Commission and State Government; and

WHEREAS, his willingness to help his co-workers and friendship will be missed by the members of the State Water Commission and its staff.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission; its Chairman, Governor Edward T. Schafer; State Engineer, David A. Sprynczynatyk; and the staff of the State Water Commission, at a meeting held on April 6, 1993, do hereby express their thanks and appreciation to Roy Putz for his dedicated service as an employee of the State Water Commission; and

BE IT FURTHER RESOLVED that we wish Roy the best of health and happiness in his future endeavors.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:


Edward T. Schafer
Governor-Chairman


David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

SEAL

**A Special Study by the
State of North Dakota to Evaluate
All Reasonable Alternatives for Connecting
the McClusky and New Rockford Canals**

EXECUTIVE SUMMARY

Background

On October 1, 1992, the Garrison Diversion Conservancy District initiated a special study to evaluate all reasonable alternatives for connecting the McClusky and New Rockford Canals and to evaluate the capability of the alternatives for delivering Missouri River water to Devils Lake.

The current gap between the two canals means that North Dakota cannot move Missouri River water to the Red River Basin to meet MR&I water supply needs, to the James River Basin to meet project irrigation and refuge water requirements, or to the Devils Lake Basin to stabilize the level of Devils Lake.

Continued declines in Devils Lake water levels pose a very serious threat to an important natural resource. Of great importance to the local economy, a nationally recognized fishery could be destroyed if levels continue to decline. Stabilizing the lake at a level which precludes fish kill will require the importation of water from the Missouri River to supplement runoff from the Devils Lake watershed.

A team of state and private sector water resource specialists with expertise in comprehensive planning, wildlife management, the biological sciences, engineering, economics, cultural resources, and water quality was assembled to undertake this study. State agencies providing expertise included the State Water Commission, State Game and Fish Department, and the State Department of Health and Consolidated Laboratories. Representatives of each of the aforementioned agencies served as an oversight management group.

The services of a private consultant were also employed.

Purpose

The team was directed to identify a preferred means of providing a linkage between the two canals based on commonly accepted evaluation procedures and to prepare a report of its findings. Following acceptance by the management group, the full report was furnished to the U.S. Bureau of Reclamation for consideration in its ongoing Sykeston Canal Alternative Study.

The Alternatives

A total of ten alternatives were reviewed or evaluated, all of which are capable of supplying the water needed to stabilize Devils Lake and to meet other project and wildlife needs. Alternatives included the following reservoirs, pipelines, and canals:

(1) **Lonetree Reservoir.** The Lonetree Reservoir was the cornerstone of the 1.2-million acre irrigation project included in the 1944 Pick-Sloan Plan and an essential component in the diversion of Missouri River water to the Souris and Red River Basins. Lonetree Reservoir remains an authorized feature of the Garrison Diversion Unit Project, but if built as originally envisioned, the storage capacity would exceed the needs of the down-sized, authorized project. It is included in this report because it remains an authorized feature (Garrison Diversion Reformulation Act [PL 99-294, 1986]) and because it serves as a basis for comparison with other alternatives. Each of the following nine alternatives can serve as a functional replacement for the Lonetree Reservoir.

(2) **Mid Dakota Reservoir (1992).** This alternative is a down-sized version of the Lonetree Reservoir. It would meet the needs as specified in the 1986 Garrison Reformulation Act. The surface area at operating level (1619.0 msl) would be 7,158 acres.

(3) **Mid Dakota Reservoir (Revised).** This alternative differs in several ways from alternative 2. Under this alternative, the outlet has been relocated back to a Hudson Bay alignment, Germantown Dike has been moved approximately three miles downstream, and the Sheyenne Diversion Canal has been extended around the Sheyenne Lake National Wildlife Refuge. The surface area at operating level (1619.0) would be 5,816 acres.

(4) **Pumping Pools.** This alternative is a reservoir alternative but a conceptual variation of the northern route of the Sykeston Canal. Water from the McClusky Canal would be delivered through the Sheyenne Diversion Canal into Coal Mine Lake and back into the Sheyenne River where a series of three downstream storage pools would be constructed. A pumping plant at the farthest downstream pool would be installed to lift waters 20 to 45 feet into the New Rockford Canal. The surface area of the storage pools at operating level (1600.0 msl) would be 2,880 acres.

(5) **Sykeston Canal - Northern.** This 23.8-mile canal begins at the end of the McClusky Canal chute and ends at the New Rockford Canal. Social impacts are minimized because most of the alignment is located within the Lonetree Wildlife Management Area acquisition boundary.

(6) **Sykeston Canal - Southern.** Social impacts stemming from this alignment are minimized by following section and property lines as much as possible. Instead of beginning at the outfall of the McClusky Canal chute, this southern route begins at Station 3383+00 in Section 7, T147N, R76W. Its total length is approximately 27 miles.

(7) **Sykeston Canal - Missouri Basin.** This canal originates near the Burleigh-Sheridan County line at the McClusky Canal approximately 20 miles upstream of the beginning point of the Southern route. The total length of this canal would be approximately 54 miles, and it is the longest and most expensive of the three canal alternatives.

(8) **Northern Pipeline.** The Northern Pipeline alternative is a gravity flow only alternative. It utilizes the 182 feet of elevation difference between the inlet on McClusky Canal and the outlet to deliver water. The route follows closely the Sykeston Canal (Northern alignment) until it crosses the divide between the Hudson Bay and Missouri River Basin watersheds, where it terminates in an extension of the New Rockford Canal located in the Missouri River Basin.

(9) **Southern Pipeline.** The route selected for this alternative is some distance removed from the Sheyenne River. It was selected in order to further reduce the risk of biota transfer as a consequence of pipe leakage. The pipeline would originate at Station 3473+00 on the McClusky Canal in Section 32, T148N, R77W and follow section lines for a distance of 13 miles to a ridge on the Missouri Coteau escarpment. Four different options are available for moving project water beyond the ridge, including pipelines, canals, or pipeline/canal combinations.

(10) **Southern Contour Pipeline.** This pipeline would begin in Section 7, T147N, R76W on the McClusky Canal. Its routing follows contour lines rather than section lines in order to minimize internal pipe pressures. As is the case for the Southern alignment, four options exist for moving water beyond the Missouri Coteau ridge.

Each alternative is discussed in detail later in this report. In some instances, analyzing primary alternatives involved consideration of sub-alternatives or options within alternatives. These are discussed as well, and insight is provided as to why one was preferable to another.

Historical Background

In December 1984, the Garrison Diversion Unit Commission proposed Sykeston Canal as a functional replacement for the Lonetree Reservoir, contending that Lonetree Reservoir was environmentally unsound and not required for the level of irrigation included in the Commission plan. The State of North Dakota disagreed with the Commission's conclusions.

In January 1985, the Secretary of the Interior released a Secretarial Issue Document containing interpretations of Commission recommendations. With respect to the question of Lonetree Dam versus Sykeston Canal, the Secretary took the position that the Bureau of Reclamation should "...execute contracts to mothball construction at the Lonetree site and complete land acquisition, begin preconstruction activities on Sykeston, and defer study of the demonstration of need for Lonetree."

The Garrison Diversion Reformulation Act, passed in May 1986, adopted the Commission's recommendations and authorized the Sykeston Canal as a functional replacement for Lonetree. Provision was made to continue authorization for Lonetree Reservoir, but conditions were placed on proceeding with the reservoir alternative.

During 1987, the Bureau of Reclamation completed a report containing preliminary cost estimates and an operating plan for Mid Dakota Reservoir.

A preliminary report on Sykeston Canal Project Evaluation and Risk Assessment was published by the Bureau of Reclamation in March 1989. Canada responded that the risk assessment did not adequately address many Canadian concerns regarding biota transfer. Subsequent to the expression of Canadian concern, a Joint Technical Committee of the International Joint Commission formed biology and engineering study groups to further consider Canadian concerns and to report back to the Joint Technical Committee. In late 1990, a Joint Canadian/United States consultative group accepted recommendations from the Joint Technical Committee regarding the biota issue. The Technical Committee Report documents that three connections between the two canals were potentially acceptable from a technical standpoint, but that additional public review would be necessary.

The federal Fiscal Year 1993 Appropriations Bill, passed in October 1992, directed Reclamation to move forward with the study of Sykeston Canal alignments. This study is to be completed March 31, 1994.

The Alternative Selection Process

Selection of a preferred alternative was based on consideration of the following criteria:

- * Compliance with the intent and limitations contained within the 1986 Garrison Diversion Reformulation Act.
- * Compliance with all mitigation requirements as established by the current Garrison Diversion Unit Project authorization.
- * Compliance with provisions of the 1909 Boundary Waters Treaty, which specify that waters are not to be polluted on either side of the border to the injury of health or property on the other side.

- * Minimization of social impacts.
- * Identification of the need for further investigation of the impacts to archaeological and historic sites.
- * The capability to provide the water supply needed to stabilize the level of Devils Lake.
- * The capability to meet the water supply demands of all authorized features.
- * Economic and fiscal feasibility for construction, operation, and maintenance by either the federal government or the state of North Dakota.

The Preferred Alternative

Based on consideration of the above criteria, the Mid Dakota (Revised) alternative was selected as preferable to all other alternatives. The generalized location map found on page ES-7 depicts primary project features.

The Mid Dakota Reservoir (Revised) alternative meets established criteria and has significant advantages over other alternatives.

- * It fully complies with the Garrison Reformulation Act, it possesses the capacity to serve all authorized project features, and is capable of delivering water for the stabilization of Devils Lake.
- * Environmental impacts associated with constructing the project can be mitigated. A total of 1,765 acres of wetlands will be impacted by the Mid Dakota (Revised) alternative, of which 567 acres are part of the Sheyenne Lake National Wildlife Refuge. All acres impacted will require mitigation.
- * Enhancement of waterfowl and wetland habitat through the delivery of project waters is a significant advantage not available with a canal or pipeline alternative.
- * The risk of interbasin transfer of biota is considered to be within acceptable limits.
- * The capital cost of this alternative is \$10.5 to \$48.3 million less than the two least costly canal alternatives, and \$144.2 million less than the least costly pipeline alternative.

- * The operation and maintenance cost burden on project water users would be about one-third that of the canal alternatives, and less than all but one of the pipeline alternatives.
- * Reservoir options provide the most reliable method of supplying water to all authorized project features.
- * The number of archaeological or historic sites anticipated to be potentially impacted by the Mid Dakota (Revised) alternative is one of the lowest of all alternatives reviewed.
- * Fewer landowner impacts result from implementation of the preferred alternative than from either the Southern Pipeline or the Sykeston Canal - Southern alignment.
- * With respect to costs to water users, the preferred alternative is the least costly of all those evaluated.
- * The potential savings accruing from development of the Mid Dakota (Revised) alternative could be used for additional wetland and waterfowl habitat enhancements, expansion of funding for the North Dakota Wetlands Trust, or the completion of other project features.
- * The preferred alternative can continue to provide a reliable reserve supply to irrigators in the Harvey and New Rockford areas should McClusky Canal failure occur; it has an enhanced ability to supply water during the winter months; it can supply water to wetlands and waterfowl habitat in the upper Sheyenne River; and it can deliver water sooner than any other alternative because of the construction time needed to implement other alternatives.

State Position Statement

It is the position of the state of North Dakota that all reasonable alternatives should be evaluated in the Bureau of Reclamation's Sykeston Canal Alternatives Study and that this special study report is an objective appraisal that demonstrates that a reservoir alternative, not a canal alternative, represents the preferred method of bridging the gap between the two canals. An objective appraisal by any other organization would likely conclude the same.

4-8-93

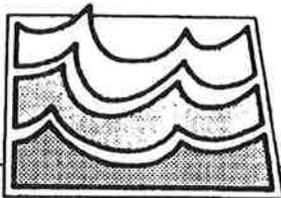
NORTH DAKOTA WATER SUPPLY DEVELOPMENT PROGRAM**PROGRAM POLICY**

1. Financial assistance for Water Supply Development may be disbursed as a combination grant and loan.
2. The grant:loan ratio will be 65:35 percent. Grant only or loan only disbursements may be made. Grant only disbursements will not exceed 65 percent of eligible project costs. Eligible costs for the grant:loan program include construction, engineering, legal, and right-of-way costs.

If a 65 percent grant only disbursement is made, the 35 percent loan money will be made available as a loan to another project. If a loan only disbursement is made, the corresponding 65 percent grant money will be made available as a grant to another project. Additional loan money will be contingent on the availability of funds.

3. Loan conditions are a 25-year term and interest rate of either 3.625 percent or 3.5 percent below the quarterly FmHA market rate in effect at the time loan approval is given, whichever is greater. FmHA Market interest rates are adjusted quarterly (January, April, July, and October).
4. Loan repayments will be semi-annual. Interest will begin to accrue upon loan disbursements. Principal and/or interest payments will begin after the project is functionally complete as determined by the State Engineer.
5. Current federal and state MR&I requirements must be met.
6. Sponsors will be required to establish a reserve escrow account for making semi-annual payments with one payment in reserve. Sponsors have 5 years to accumulate funds for the reserve payment.
7. Sponsors will be required to budget for and establish an account for emergencies and extensions and capital replacement costs. The account will contain funds for emergencies and extensions with the amount required equivalent to a portion of O&M costs (e.g. one to six months O&M costs) to be determined by the State Engineer. The account will also contain money for capital replacement costs, with the amount required to be a percentage of total project costs (e.g. 10-20 percent), as determined by the State Engineer. Sponsors will have 5 years to accumulate the necessary money in the account for emergency and extension funds and 15 years for capital replacement funds.

8. Financial documentation will be required from project sponsors. Existing systems will be required to provide the previous 5 years of balance sheets and financial statements. New systems will provide information on actual service commitments, projected rate structures, and estimated O&M costs.
9. The Bank of North Dakota may administer the program's financial operations.
10. Sponsors will be required to develop a water conservation plan and to provide it to the State Water Commission before construction of the project begins.



North Dakota State Water Commission

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RESOLUTION NO. 93-4-454

In Appreciation To Jacob "Jake" Gust

WHEREAS, Jacob "Jake" Gust has worked toward resolving many of North Dakota's flooding, water supply, and treatment issues and concerns; and

WHEREAS, Jake has served on local units of government since 1964 and has served on the North Dakota State Water Commission since 1985; and

WHEREAS, Jake was an active participant in the North Dakota Water Strategy Task Force and a strong proponent of statewide water development; and

WHEREAS, Jake provided outstanding practical as well as technical expertise in performing his duties on the Commission; and

WHEREAS, Jake was very involved as a proponent for the Sheyenne River Flood Control Project; and

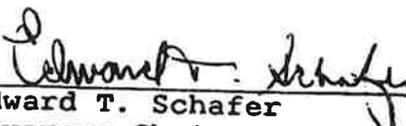
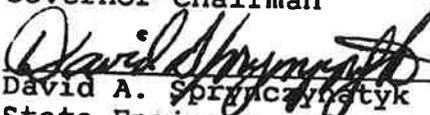
WHEREAS, Jake has sought new opportunities for the state in the area of water resource development and management.

NOW, THEREFORE, BE IT RESOLVED that the members of the North Dakota State Water Commission; its Chairman, Governor Edward T. Schafer; State Engineer, David A. Sprynczynatyk; and the staff of the State Water Commission, at a meeting held on April 6, 1993, do hereby express their thanks and appreciation to Jake Gust for the commitment of time and energy he has dedicated in the interest of water resource development in North Dakota; and

BE IT FURTHER RESOLVED that we wish Jake and his wife, Barbara, the best of health and a happy and prosperous future.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

SEAL


 Edward T. Schafer
 Governor-Chairman

 David A. Sprynczynatyk
 State Engineer and
 Chief Engineer-Secretary

GOVERNOR EDWARD T. SCHAFER
CHAIRMAN

DAVID A. SPRYNCZYNATYK, P.E.
SECRETARY & STATE ENGINEER



APPENDIX "I"
April 6, 1993

North Dakota State Water Commission

900 EAST BOULEVARD • BISMARCK, ND 58505-0850 • 701-224-2750 • FAX 701-224-3696

RESOLUTION NO. 93-4-455

In Appreciation To Marjorie Farstveet

WHEREAS, Marjorie Farstveet has patiently worked toward the continuing completion of the Southwest Pipeline Project and all associated supply works;

WHEREAS, Marjorie has worked to attain the positive social and economic impacts that a supply of good quality water throughout rural North Dakota for domestic and livestock uses can have; and

WHEREAS, Marjorie has supported North Dakota's efforts to document and establish a water right to the Missouri River for present and future uses; and

WHEREAS, Marjorie has been actively involved in various community, county and regional groups and organizations.

NOW, THEREFORE, BE IT RESOLVED that the members of the North Dakota State Water Commission; its Chairman, Governor Edward T. Schafer; State Engineer, David A. Sprynczynatyk; and the staff of the State Water Commission, at a meeting held on April 6, 1993, do hereby express their thanks and appreciation to Marjorie Farstveet for the commitment of time and energy she has dedicated in the interest of water resource development in North Dakota; and

BE IT FURTHER RESOLVED that we wish Marjorie and her husband, Alvin, the best of health and a happy and prosperous future.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

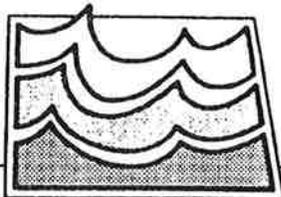

Edward T. Schafer
Governor-Chairman

SEAL


David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

GOVERNOR EDWARD T. SCHAFER
CHAIRMAN

DAVID A. SPRYNCZYNATYK, P.E.
SECRETARY & STATE ENGINEER



North Dakota State Water Commission

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RESOLUTION NO. 93-4-456

In Appreciation To Lorry Kramer

WHEREAS, Lorry Kramer clearly understands and has experienced the dangers and hardships caused by uncontrolled floodwaters; and

WHEREAS, Lorry has worked diligently within her local community to foster an increased awareness in regard to water resource management issues and concerns; and

WHEREAS, Lorry helped efforts to coordinate international cooperation so that watershed-wide resource management projects will be effective; and

WHEREAS, Lorry was involved in providing flood control on the Souris River through cooperation with Saskatchewan in constructing the Rafferty and Alameda Dams; and

WHEREAS, Lorry pursued the goal of supplying good quality drinking water to those areas of North Dakota that lack such a supply, particularly through the development of the Northwest Area Water Supply Project; and

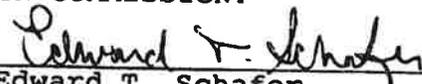
WHEREAS, Lorry worked to utilize the Missouri River and supported restoration of water levels in the Missouri River mainstem reservoirs.

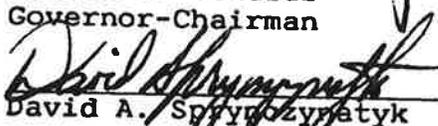
NOW, THEREFORE, BE IT RESOLVED that the members of the North Dakota State Water Commission; its Chairman, Governor Edward T. Schafer; State Engineer, David A. Sprynczynatyk; and the staff of the State Water Commission, at a meeting held on April 6, 1993, do hereby express their thanks and appreciation to Lorry Kramer for the commitment of time and energy she has dedicated in the interest of water resource development in North Dakota; and

BE IT FURTHER RESOLVED that we wish Lorry and her husband, Daryl, the best of health and a happy and prosperous future.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

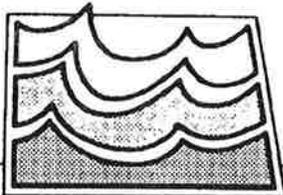
SEAL


Edward T. Schafer
Governor-Chairman


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State Engineer and
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GOVERNOR EDWARD T. SCHAFER
CHAIRMAN

DAVID A. SPRYNCZYNATYK, P.E.
SECRETARY & STATE ENGINEER



North Dakota State Water Commission

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RESOLUTION NO. 93-4-457

In Appreciation To C. Emerson Murry

WHEREAS, C. Emerson Murry has devoted a lifetime of service to the United States of America and to the State of North Dakota; and

WHEREAS, Emerson worked 25 years as Director of the Legislative Council, 9 years as Adjutant General of the North Dakota National Guard, and over 7 1/2 years as Project Manager for the Garrison Diversion Conservancy District; and

WHEREAS, Emerson was a key player in the Reformulation Act of 1986, which resulted in a congressional re-evaluation of the Garrison Diversion Project; and

WHEREAS, Emerson was instrumental in developing the Municipal, Rural and Industrial (MR&I) Water Supply Program for North Dakota; and

WHEREAS, Emerson helped negotiate a settlement of the wetlands wars in which the controversy between the state, wetlands and environmental interests was quelled; and

WHEREAS, Emerson has been actively involved in the development of water-based recreation developments statewide; and

WHEREAS, Emerson strongly holds that the utilization of Missouri River water offers the greatest potential for long-term social and economic development.

NOW, THEREFORE, BE IT RESOLVED that the members of the North Dakota State Water Commission; its Chairman, Governor Edward T. Schafer; State Engineer, David A. Sprynczynatyk; and the staff of the State Water Commission, at a meeting held on April 6, 1993, do hereby express their thanks and appreciation to C. Emerson Murry for the commitment of time and energy he has dedicated in the interest of water resource development in North Dakota; and

BE IT FURTHER RESOLVED that we wish Emerson and his wife,
Donna, the best of health and a happy and prosperous future.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:


Edward T. Schafer
Governor-Chairman

SEAL


David A. Spruczynayk
State Engineer and
Chief Engineer-Secretary