

## **MINUTES**

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

**October 16, 1995**

The North Dakota State Water Commission held a meeting at the Sacred Heart Monastery, Richardton, North Dakota, on October 16, 1995. Governor-Chairman, Edward T. Schafer, called the meeting to order at 12:30 PM, Mountain Daylight Time, and requested Assistant State Engineer, Charles Rydell, to call the roll. When the Commission meeting convened, State Engineer and Chief Engineer-Secretary, David A. Sprynczynatyk, was enroute to the meeting from Grand Forks following his participation as a panelist to discuss the Devils Lake situation at the North Dakota Association of Counties's annual conference. The Chairman declared a quorum was present. Sister Paula Larson, prioress, Sacred Heart Monastery, welcomed the State Water Commission to Richardton.

#### **MEMBERS PRESENT:**

Governor Edward T. Schafer, Chairman  
Sarah Vogel, Commissioner, Department of Agriculture  
Mike Ames, Member from Williston  
Florenz Bjornson, Member from West Fargo  
Judith DeWitz, Member from Tappen  
Elmer Hillesland, Member from Grand Forks  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
David Sprynczynatyk, State Engineer and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **MEMBER ABSENT:**

Robert Thompson, Member from Page

#### **OTHERS PRESENT:**

State Water Commission staff members  
Approximately 75 people interested in agenda items

The attendance register is on file with the official minutes.

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

**CONSIDERATION OF AGENDA**

the agenda approved and requested Assistant State Engineer, Charles Rydell, to present the agenda.

There being no additional items for the agenda, the Chairman declared

**CONSIDERATION OF MINUTES  
OF JULY 19, 1995, STATE WATER****COMMISSION MEETING -  
APPROVED**

The minutes of the July 19, 1995, State Water Commission meeting were

approved by the following motion:

*It was moved by Commissioner Bjornson, seconded by Commissioner Ames, and unanimously carried, that the minutes of the July 19, 1995, State Water Commission meeting be approved as prepared.*

**FINANCIAL STATEMENT -  
AGENCY OPERATIONS**

and reflecting 8 percent of the 1995-1997 biennium. **SEE APPENDIX "A".**

Charles Rydell presented and discussed the Program Budget Expenditures, dated August 31, 1995,

**FINANCIAL STATEMENT -  
RESOURCES TRUST FUND**

Contract Fund for the 1995-1997 biennium. **SEE APPENDIX "B".**

Dale Frink, State Water Commission's Water Development Division, reviewed and discussed the

At the July 19, 1995, meeting, the State Water Commission approved funds from the Resources Trust Fund for the active carryover projects not completed in the 1993-1995 biennium in the amounts equal to the balance between the amount approved and the payments made in the 1993-1995 biennium. Mr. Frink explained the July 19, 1995, figures were estimates since the final SAMIS reports were not available. The actual balance for the carryover projects is shown in the attached grants appendix.

Mr. Frink stated funds into the Resources Trust Fund appear to be reasonably close to the amount authorized by the legislature. The ending 1993-1995 biennium balance in the Resources Trust Fund was higher than estimated, but Mr. Frink stated that the oil revenues are slightly lower than forecasted.

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

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

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**Contract 2-5A/7-2A - Transmission Line to Belfield and Belfield Rural**

**Service Area:** The transmission piping is installed and connections are currently being made at Belfield and South Heart. Progress on the rural distribution piping is progressing well, and it appears the contract completion date of November 11, 1995, will be met.

**Contract 7-1B - Rural Water Distributionin the Davis Butte, New**

**Hradec, and Parts of Taylor Service Areas:** Installation of the pipe is nearly complete with approximately five miles to install. Work to follow includes testing, chlorination, flushing, user connection, and cleanup. The contractor has submitted a claim for "utility crossings," which is being examined for validity. A pre-final inspection is scheduled for the first week in October for some of the work done last summer.

The cities of New Hradec and Manning have been notified that service under the terms of their water service contracts will begin on December 1, 1995, and service may be possible sooner if they desire and the circumstances allow.

**Contract 7-2 - Rural Water Distributionin the New England Service**

**Area:** Work in the subdivisions near Dickinson is nearly complete. Current projections indicate the contract's completion date of November 26, 1995, will be met.

**PL-566 - Taylor Watershed Project:** A pre-final inspection was held for the project in September, 1995. A punch list was prepared and submitted to the contractor. Progress on the punch list is currently underway, and the contract will soon be completed.

Mr. Fay briefed the Commission members on the construction plan for 1996, which is contingent on the availability of funding. The following phases are included: the Dickinson water treatment plant upgrade; the raw water line upgrade; the Jung Lake transmission line; and the Jung Lake service area.

**SOUTHWEST PIPELINE PROJECT -  
AWARD OF CONTRACT 2-3G TO  
NORTHLAND CORROSION  
SERVICES, LAUREL, MT  
(SWC Project No. 1736)**

south to the intersection of Highways 21 and 22. The engineer's estimated for the contract was \$101,000.

Bids for Southwest Pipeline Project contract 2-3G were opened on October 12, 1995. This contract is to install impressed current cathodic protection systems for the ductile iron piping extending from Dickinson

Tim Fay reported the low bid was received from Northland Corrosion Services, Laurel, Montana, with a bid of \$81,171. He said the bid has been found to be responsive.

It was the recommendation of the State Engineer that the State Water Commission award Southwest Pipeline Project contract 2-3G to Northland Corrosion Services, Laurel, Montana.

*It was moved by Commissioner Olin and seconded by Commissioner Vogel to award Southwest Pipeline Project contract 2-3G to Northland Corrosion Services, Laurel, Montana.*

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

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF MODIFICATION  
OF DESIGN CRITERIA FOR SWPP  
HYBRID MAIN TRANSMISSION  
LINE STANDARDS TO ALLOW PVC  
PIPE OF 14- AND 16-INCH DIAMETERS,  
EACH WITH DIAMETER RATIOS OF  
18 AND 24  
(SWC Project No. 1736)**

transmission line design and construction standards. He said the pipe should be manufactured in accordance with the AWWA C-905 Standards, with the addition of a provision which requires the manufacturer to provide sustained pressure and quick-burst pressure qualification tests similar to ASTM 2241 and UL 1285. The study estimates a cost savings in the range of \$400,000, if Perkins County, South Dakota's capacity is included in the 2-4A&B transmission lines.

Tim Fay reported Bartlett & West/Boyle Engineering Corp. has completed the investigation of large diameter PVC piping for use in Southwest Pipeline Project transmission lines. He said the study found that PVC pipe of 14- and 16-inch diameters, each with diameter ratios of 18 and 24, could be included in the project's hybrid main

It was the recommendation of the State Engineer that the State Water Commission approve modification of the Southwest Pipeline Project Hybrid Main Transmission Line Design and Construction Standards to allow PVC pipe of 14- and 16-inch diameters, each with diameter ratios of 18 and 24. The pipe is to be manufactured in accordance with the AWWA C-905 Standards and is to include the additional requirement that the manufacturer will provide sustained pressure and quick-burst pressure qualification tests similar to ASTM 2241 and UL 1285.

*It was moved by Commissioner Swenson and seconded by Commissioner Ames to approve the modification of the Southwest Pipeline Project Hybrid Main Transmission Line Design and Construction Standards to allow PVC pipe of 14- and 16-inch diameters, each with diameter ratios of 18 and 24. The pipe shall be manufactured in accordance with the AWWA C-905 Standards and shall include the additional requirement that the manufacturer shall provide sustained pressure and quick-burst pressure qualification tests similar to ASTM 2241 and UL 1285.*

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

#### **SOUTHWEST PIPELINE PROJECT - APPROVAL TO INCLUDE OLIVER-MERCER-NORTH DUNN SERVICE**

##### **AREAS TO SWPP (SWC Project No. 1736)**

services areas were not included in the original project and were identified late in the process of developing the project. However, he said they do represent an area of potentially high interest in rural water service. He explained that if service is to be brought to this area, it would be most efficiently built and served if it was a part of the Southwest Pipeline Project.

In the 1995 Legislative Assembly, action was taken to allow the State Water Commission to include the

Oliver-Mercer-North Dunn service areas into the Southwest Pipeline Project. Tim Fay stated these

During the committee hearings on the legislation, Mr. Fay said there was concern expressed by some members of the committee that this would result in these service areas receiving a higher priority for funding, either within the Southwest Pipeline or within the whole MR&I funding system. He said those committee members raising the question were assured this was not the intention. He said they were also assured that if these service areas were included in the project, they would be added at the bottom of the priority list in the phased-development plan.

It was the recommendation of the State Engineer that the State Water Commission approve the inclusion of the Oliver-Mercer-North Dunn services areas to the Southwest Pipeline Project, with the provision that they are added at the bottom of the priority list in the phased-development plan.

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**October 16, 1995**

*It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve the inclusion of the Oliver-Mercer-North Dunn services areas to the Southwest Pipeline Project, with the provision that these service areas shall be added at the bottom of the priority list in the phased-development plan.*

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

**SOUTHWEST PIPELINE PROJECT -  
SERVICE TO SOUTH DAKOTA  
(SWC Project No. 1736)**

Tim Fay briefed the Commission members on discussions with South Dakota relative to the delivery of water from the Southwest Pipeline Project.

Mr. Fay indicated that the Commission's previous action at this meeting, which adopted the proposed changes to the rural water design criteria, would allow contract 2-4A of the main transmission line to be bid with an alternate. The base bid would be for the line sized as if South Dakota capacity was not provided. The alternate would be for enlarging the capacity for service to South Dakota, which would include the new design criteria. He explained that the difference between the alternative and the base bid would be the true cost of the additional capacity and would represent the amount South Dakota would pay for capacity in that contract. He said the amount required to purchase capacity in the existing works is still under discussion.

**SOUTHWEST PIPELINE PROJECT -**

**TRANSFER OF MANAGEMENT,  
OPERATIONS, AND MAINTENANCE  
RESPONSIBILITIES TO SOUTHWEST  
WATER AUTHORITY  
(SWC Project No. 1736)**

Pipeline Project from the State Water Commission to the Southwest Water Authority. The attorneys for the State Water Commission and the Southwest Water Authority are currently reviewing the draft, and Mrs. Evans Curry said it is anticipated the draft will be presented to the State Water Commission for consideration at its November meeting.

Pinkie Evans Curry, Assistant

Project Manager for the Southwest Pipeline Project, reviewed the provisions of the draft Agreement for Transfer of Management, Operations, and Maintenance Responsibilities for the Southwest

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**October 16, 1995**

**DEVILS LAKE -  
HYDROLOGIC UPDATE  
(SWC Project No. 1712)**

elevation of 1435.8 reached in July, 1995. Following three years of above normal runoff, the lake has risen over 12.5 feet since the spring of 1993.

Secretary Sprynczynatyk reported that Devils Lake is presently at elevation 1435.06, which is down almost 9 inches from its peak

Based on a recent U.S. Geological Survey Water Mass Balance model that assumed a starting lake level of 1435, Secretary Sprynczynatyk said there is a 10 percent chance Devils Lake will reach elevation 1438.1 in 1996. This is approximately a three-foot raise from the current lake level. An inflow similar to that which occurred during 1994 could raise Devils Lake to elevation 1438.1. A repeat of the 1995 inflow has approximately a 5 percent chance of occurring and would raise Devils Lake to an elevation of over 1439. Secretary Sprynczynatyk said if Devils Lake rises to elevation 1438, a total of \$52.3 million in additional damages will occur. This includes \$1.9 million to land resources, \$3.1 million to structures and developments, \$36 million to the transportation system, and \$11.3 million to other infrastructure.

Over \$27 million has been spent to maintain the transportation system around Devils Lake. Several roads, including Grahams Island Road and Lakewood Road have been abandoned. If Devils Lake reaches elevation 1438, Secretary Sprynczynatyk said maintaining the current transportation system will become very difficult. Waves will exceed the elevation of the riprap on all lake crossings and erosion will be significant.

Secretary Sprynczynatyk provided a briefing on the following efforts that are underway to address the problems at Devils Lake.

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

Secretary Sprynczynatyk reported on the Corps of Engineers and the Bureau of Reclamation's collaborative, interagency process to develop a plan of study that addresses the long-term stabilization of Devils Lake and basin-wide water management. He said the plan addresses five general areas of interest set forth in Public Law 102-377, which directed the Corps of Engineers to initiate a feasibility study for Devils Lake. Those areas are: basin water management; lake stabilization; water quality; recreation; and enhancement and conservation of fish and wildlife. Teams have been established for each of the five areas, with the goal of developing concept-level scopes of work to be packaged together into the overall plan of study. Each team consists of technical representatives from appropriate federal and state agencies, as well as local entities. Secretary Sprynczynatyk said the State Water Commission has representatives on the Basin Water Management Team and the Lake Stabilization Team.

Current estimates indicate that the implementation of the long-term solution to stabilize Devils Lake is five to six years off. Secretary Sprynczynatyk said every effort is being made by the governor, the congressional delegation, and state agencies to expedite that process. The required scope of work, which details all tasks and costs, was completed on September 29, 1995. This is considered part of Phase I of the feasibility study. A report is currently being reviewed by the Corps of Engineers headquarters in Washington, DC.

Following the Corps' review, the scope of work will be forwarded to the State Water Commission, as the local sponsor, and to the congressional delegation for further action. Two bill drafts that will fund Phase II of the feasibility study, are making their way through Congress - a House bill which includes \$125,000, and a Senate bill which includes \$625,000. A conference committee will determine the actual amount of federal dollars that will be made available. Work on Phase II will begin when the local sponsor agrees to match the federal commitment.

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

Secretary Sprynczynatyk briefed the Commission members on an effort underway by the Federal Emergency Management Association. The effort involves identification of the Devils Lake basin problems and to propose solutions to the various flooding impacts in the basin which could be implemented within five years. The Devils Lake Basin Interagency Task Force assigned nine planning teams to address the following issues:

<b>Team I</b>	<b>Inundation of Land Resources (sheet erosion and agriculture production loss)</b>
<b>Team II</b>	<b>Inundation of Transportation Systems (roads, bridges, railroads, access to recreation and reservation)</b>
<b>Team III</b>	<b>Inundation of Infrastructure (sewage treatment lagoons, transmission lines, grain elevators, water and gas lines under Devils Lake, general utilities)</b>
<b>Team IV</b>	<b>Inundation of Buildings and Development (homes, businesses and support facilities)</b>
<b>Team V</b>	<b>Loss of Water Quality (siltation, dissolved solids, soil salinization, eutrophication in Devils Lake)</b>

<b>Team VI</b>	<b>Economic Disruption (loss of economic production (existing and proposed development), agriculture loss, recreation loss, unemployment, deterrent of in-migration, normal commerce disruption)</b>
<b>Team VII</b>	<b>Loss of Fish and Wildlife and Their Habitat (use of easements and permits, habitat maintenance, reforestation)</b>
<b>Team VIII</b>	<b>Public Health and Safety (water contamination, insects, disruption or loss of medical, emergency, fire and police services, emotional stress, electrical lines close to lake surface, loss of recreation opportunities)</b>
<b>Team IX</b>	<b>Lake Inlet/Outlet Options (lake stabilization)</b>

Secretary Sprynczynatyk indicated the State Water Commission was assigned to Team IX to develop inlet and outlet emergency options for the basin. He explained the Peterson Coulee outlet and the Twin Lakes outlet proposals that were developed.

The draft report has been completed and it is anticipated the final report will be distributed in November, 1995.

**DEVILS LAKE -  
DEVILS LAKE EMERGENCY  
RESPONSE PLAN  
(SWC Project No. 1882)**

On August 24, 1995, after assessing the risk of additional flood damages from the 1996 spring rise on Devils Lake, Governor Schafer initiated an emergency plan of action. This plan, developed through the State Water Commission staff, consists of storing water in the upper basin, and pumping water from east Devils Lake to Stump Lake. The goal was to provide three feet of flood relief to Devils Lake. It is a short-term, emergency flood control measure to alleviate flood conditions around Devils Lake while long-term flood reduction alternatives are being evaluated. Secretary Sprynczynatyk said the emergency plan is an insurance policy, or safety net, that will only be used, if necessary, as runoff occurs during 1996 and 1997.

Secretary Sprynczynatyk explained that the upper basin storage is an integral part of the Governor's emergency plan. State efforts to accomplish this part of the project will be coordinated with local groups involved in the development and adoption of the Devils Lake Basin Water Management plan. He said it is anticipated that available storage could provide one foot of relief to Devils Lake by storing the water in the upper portions of the basin instead of allowing it to flow to Devils Lake. This involves storing 75,000 acre-feet of water, which will result in impacts to landowners in Ramsey,

Towner, Cavalier, Rolette, and Pierce Counties. The storage will involve sites on public lands and will also include sites to be obtained from private landowners. The upper basin storage portion is estimated to cost an additional \$3.2 million. Efforts are currently ongoing for implementation.

The Stump Lake component of the plan consists of pumping approximately 85,000 acre-feet of water from east Devils Lake to Stump Lake, at a rate of approximately 250 cubic feet per second. Secretary Sprynczynatyk said this will provide 1.2 feet of relief for Devils Lake and will raise Stump Lake from its current elevation of 1401.3 to 1411.75. The estimated total cost of the Stump Lake component is \$4.6 million. This includes costs for construction and approximately \$1.1 million that will go to local landowners for easements and purchases. He said the operating plan for pumping water to Stump lake is such that pumping will only begin if the inflow forecast for Devils Lake is for above-normal runoff and Devils Lake is projected to rise to an elevation higher than 1435.8 during the period applied for in the Section 404 permit application. The movement of water from Devils Lake to Stump Lake will affect 870 acres of wetlands and upland areas and will involve channel work to lower the high spots to approximately 1444, and cattail control to improve the channel flow.

The current Stump Lake shore will be inundated by the additional water. However, Secretary Sprynczynatyk said this land lies below the ordinary high water mark and is considered sovereign land. North Dakota will compensate riparian landowners who are affected by increased water levels.

Secretary Sprynczynatyk reported that the initial planning has been completed. He said adequate preparation for the spring snowmelt, runoff, and lake rise mandates a short time-frame for this project. The State Water Commission must secure permits, address environmental concerns, and make appropriate arrangements with the landowners before pumping can begin.

The state has applied for an emergency Section 404 permit from the Corps of Engineers. The permit review process ended on September 29, 1995, and it was determined by the Corps of Engineers to hold a public hearing in Devils Lake on October 27, 1995. A decision on the 404 permit is anticipated shortly thereafter.

Secretary Sprynczynatyk briefed the Commission members on a meeting held in Lakota, ND, on September 27, 1995, to discuss the emergency response plan details with local landowners directly affected by the project. Concerns expressed by the locals included the acquisition of land or land easements required for the project; the abandonment of the Dutch Point Road, which has been reassessed and a decision made to raise the road to a top elevation of 1417; mitigation; and flood problems in northern Nelson County.

Bids for the pumps and for the construction of the pump site were advertised on September 28, 1995, and bids are scheduled to be opened on October 19, 1995. Because of the Corps recent decision to hold a hearing on the Section 404 permit application, Secretary Sprynczynatyk said a decision will need to be made regarding the bid opening process.

The entire project is expected to be completed by June, 1996. Secretary Sprynczynatyk said if conditions in Devils Lake and its contributing watershed dictate, pumping water will start immediately thereafter.

Commissioner Vogel expressed concerns and had questions regarding the funding for the project.

Secretary Sprynczynatyk discussed options for funding the project which are being explored. He said when the final design for the project has been determined, a recommendation for funding will be presented for the Commission's consideration.

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

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

At the October 13, 1995, meeting of the Garrison Diversion Conservancy District board of directors, a proposed plan for the completion of the Garrison Diversion project was considered and endorsed. Mr. Jamison explained the proposal and summarized the following objectives:

- 1) To complete the principal water delivery system to provide reliable, high quality water to the Red River valley, the Devils Lake basin and the Oakes test area; and
- 2) To put into place a water and power fund that allows for further MR&I development as well as economic development throughout the state.

Mr. Jamison and Secretary Sprynczynatyk will present draft legislation for the completion of an affordable water distribution system for Missouri River water in North Dakota to the congressional delegation on October 26, 1995, in Washington, DC.

Mr. Jamison addressed the issue of the proposed sale of the power marketing administrations and the considerable impact to the state's public power consumers.

He made mention of a proposal by Otter Tail Power Company relating to the Missouri River mainstem power system. The Garrison Diversion Conservancy District is continuing to work with the power users and a broad-based group of interests, through the North Dakota Water Coalition, to identify the best way to assure that the state's water needs are met in the most cost effective way possible and that these valuable financial resources are not simply abandoned, but remain as intended in the State of North Dakota.

**GARRISON DIVERSION PROJECT -  
APPROVAL OF FUNDING FOR  
FISCAL YEAR 1995 GARRISON  
DIVERSION WETLANDS TRUST  
(SWC Project No. 1826)**

In 1986, the Garrison Diversion project was reformulated by Congress. Two new features of the project were the Municipal, Rural, and Industrial (MR&I) Water Supply program and the Wetlands Trust. Both features are widespread programs benefitting much of the state.

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 operates 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 from the state.

In 1993, the State Water Commission, the Garrison Diversion Conservancy District, and the North Dakota Game and Fish Department entered into a memorandum of agreement in which the three entities agreed to share equally the state commitment, in accordance with terms set out in a February 14, 1991, agreement between the State of North Dakota, the Bureau of Reclamation, and the North Dakota Wetlands Trust. That agreement provides that the state's share shall be based on 0.15 percent of the federal Garrison Diversion Unit (GDU) appropriation. The Fiscal Year 1995 GDU appropriation was \$28 million; therefore, the state commitment would be \$42,000. The State Water Commission's share is one-third of the \$42,000, or \$14,000.

It was the recommendation of the State Engineer that the State Water Commission obligate \$14,000 from the Contract Fund for one-third of the state's Fiscal Year 1995 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the State Game and Fish Department, and contingent upon the availability of funds.

*It was moved by Commissioner Vogel and seconded by Commissioner Hillesland that the State Water Commission approve \$14,000 from the Contract Fund for one-third of the state's Fiscal Year 1995 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department, and contingent upon the availability of funds.*

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

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

Secretary Sprynczynatyk provided the following MR&I Water Supply program status report:

**Burleigh Water Users:** The Burleigh Water User's expansion and improvement project will add more than 650 rural water users and 5 bulk water users to the existing 970 water users. The city of Bismarck would provide bulk water service to Burleigh Water Users. The project design should be completed in 1995, and a phased construction is scheduled to begin in 1996.

**Dickey Rural Water Project:** The Dickey Rural Water system would provide water service to Dickey County and the southern portion of LaMoure County. Phase I construction contracts are being awarded for the transmission pipeline and a water treatment plant. Phase II construction contracts are being awarded for the pipeline distribution system. The project is scheduled to start construction this fall.

**Fargo Water Supply Project:** The raw water intake contractor is finishing minor work, and the contract will be completed in October, 1995.

**Grand Forks Water Treatment:** The project's purpose is to achieve compliance with disinfection requirements of the Surface Water Treatment Rule at the Grand Forks water treatment plant. The city will use a chlorine/chloramine disinfection system. The city is working on upgrading its water treatment plant control system, with a phased portion to be completed by July, 1996.

**Langdon Water Treatment Project:** The project's purpose is to achieve compliance with disinfection requirements of the Surface Water Treatment Rule at the Langdon water treatment plant. The city will use a chlorine/chloramine disinfection system that requires construction of an additional 500,000 gallons in clear well storage and an automatic control system. The contractor will complete the required work and finalize the contract in October, 1995.

**Missouri West Rural Water Project:** The southern portion of Missouri West is proposed to serve the city of Flasher and 370 rural water users in southern Morton County. The city of Mandan would provide bulk water service to Missouri West. The design should be completed in 1995. The southern portion estimated project cost is \$7,729,400.

**North Valley Water Association's Walhalla/Neche Branch Expansion:** The proposed expansion will address water supply problems for the city of Walhalla and for an additional 130 rural water users in northern Pembina County and eastern Cavalier County. The engineer will begin working on the feasibility study and doing test drilling on area water supplies.

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

**Pierce County Rural Water Project:** This new rural water system is proposed to serve the area of northern Pierce County, eastern McHenry County, northeastern Benson County, and southern Bottineau County. The rural water system would serve more than 235 rural water users and includes the communities of Barton, Wolford, York, Knox, Berwick, and Balta. Also, bulk water service may be provided to Willow City. The estimated project cost is \$4,100,000, and will provide water users with water of good quality and sufficient quantity. The engineer is working on the feasibility study. The city of Rugby would provide bulk water service to Pierce County Rural Water.

**Ramsey County Rural Water Project:** The project dedication was held on October 13, 1995, in the city of Devils Lake.

**Ransom-Sargent Rural Water Project:** This new rural water system is proposed to serve more than 720 rural users and the communities of Cogswell, Elliot, Fingal, Forman, Kathryn, LaMoure, Lisbon, Marion, and Nome. The project cost is estimated at \$20,539,305 and will provide water users with water of good quality and sufficient quantity. The engineer is working on the feasibility study, which includes cultural resources surveys and water supply investigations.

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

**GARRISON DIVERSION PROJECT -  
APPROVAL OF PROPOSED  
ALLOCATION AND SCHEDULE  
OF REMAINING MR&I GRANT  
FUNDING OF \$88 MILLION  
(SWC Project No. 237-3)**

Secretary Sprynczynatyk stated the proposal has been adopted by the North Dakota Water Coalition, the Interim MR&I committees, and the Garrison Diversion Conservancy District board of directors.

It was the recommendation of the State Engineer that the State Water Commission adopt the proposed allocation and schedule of remaining MR&I Water Supply program grant funding of \$88 million.

*It was moved by Commissioner Olin and seconded by Commissioner Ames that the State Water Commission adopt the proposed allocation and schedule of remaining MR&I Water Supply program grant funding of \$88 million as recommended by the State Engineer.*

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

**GARRISON DIVERSION PROJECT -  
MR&I FUNDING FOR FY 1995  
(SWC Project No. 237-3)**

program. At its July 19, 1995, meeting, the Commission approved the proposed budget, contingent upon the availability of funding and subject to future revisions. Secretary Sprynczynatyk informed the Commission members that an additional \$2.3 million will be made available from the Bureau of Reclamation for the Fiscal Year 1995 appropriation. A recommendation for allocation of the additional \$2.3 million will be presented for the Commission's consideration at its November meeting.

**GARRISON DIVERSION PROJECT -  
MR&I FUNDING FOR FY 1996  
(SWC Project No. 237-3)**

Secretary Sprynczynatyk presented a proposal for the Commission's consideration for the allocation and schedule of the remaining MR&I Water Supply program grant funding of \$88 million. The proposal is attached hereto as *APPENDIX "C"*.

It was the recommendation of the

State Engineer that the State Water Commission adopt the proposed allocation

and schedule of remaining MR&I Water Supply program grant funding of \$88

million.

The Garrison Diversion Unit federal appropriation for Fiscal Year 1995 is \$32 million, which includes \$14.5 million for the MR&I Water Supply

The Garrison Diversion Unit federal appropriation for Fiscal Year 1996 includes \$11 million for the MR&I Water Supply program.

The State Engineer presented the projects which qualify for Fiscal Year 1996 funding and recommended the following proposed Fiscal Year 1996 Garrison MR&I budget, contingent upon the availability of funding and subject to future revisions:

<u>Project</u>	<u>FY 1996 Proposed</u>
Northwest Area Water Supply (Rugby Phase)	\$ 1,600,000
Northwest Area Water Supply (Minot Phase)	1,000,000
Southwest Pipeline Project	5,000,000
Burleigh Water Users	2,740,000
Grand Forks Water Treatment Administration	460,000
	<hr/>
<b>Total</b>	<b>\$11,000,000</b>

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Engineer's recommendation be approved for the proposed Fiscal Year 1996 Garrison MR&I Water Supply program budget. This motion is contingent upon the availability of funding and is subject to future revisions.*

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

**NORTHWEST AREA WATER SUPPLY PROJECT - CHLORAMINATION AND OZONATION TESTING OF WATER FROM LAKE AUDUBON AND LAKE SAKAKAWEA (SWC Project No. 237-4)**

disinfection requirements of the Environmental Protection Agency, then the project is potentially acceptable to Canada from the technical standpoint of biota transfer. Samples of Lake Audubon and Lake Sakakawea water were collected on November 7, 1994, January 9, 1995, March 12, 1995, May 16, 1995, and August 11, 1995.

Secretary Sprynczynatyk reported on the testing of the effectiveness of the chloramination of raw water from Lake Audubon and Lake Sakakawea. Canadian representatives to the Garrison Joint Technical Committee (JTC) have agreed that if chloramination can satisfy the

The test results of the first three sets of water samples collected were provided to the Commission members at its July 19, 1995, meeting. Secretary Sprynczynatyk indicated that the fifth set of water samples from Lake Audubon and Lake Sakakawea was collected on August 11, 1995. Those samples were tested for inactivation of the Giardia protozoan when exposed to chloramine and ozone. All test results are available on a preliminary basis except for ozone inactivation results for the final samples. He said all indications are that both chloramination and ozonation will meet the required levels of disinfection for biota transfer prevention as measured by inactivation of virus and Giardia. Because ozone is a much stronger disinfectant than chloramine, the engineering team is confident that the ozone results for the last sample will also be positive.

A draft final report of the test results is expected in late November, with a final report available in December, 1995. A meeting with the Garrison Joint Technical Committee will be scheduled thereafter to discuss the results and any further concerns of the committee.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
ADVISORY COMMITTEE  
MEETING ACTIONS  
(SWC Project No. 237-4)**

available, the proposed allocation could designate approximately \$34 million for the NAWS project.

On September 28, 1995, the Northwest Area Water Supply advisory committee met to review and discuss the proposed allocation of the remaining \$88 million MR&I funding. Provided that funding is

Over the course of the last several months, there have been many proposals made for funding water supply projects with the remaining MR&I funds. In recognizing the statewide water needs, Secretary Sprynczynatyk said the advisory committee passed a motion at its September 28, 1995, meeting to accept the proposed allocation for the NAWS project if funding was provided in 1996 to move Phases I and II forward. The motion was conditioned on the acceptance of receipt of a letter of agreement assuring that the level of funding in the proposed allocation of approximately \$34 million will be designated for the project if funds are available. The motion also asked that the percentage of funding for the project, \$34 million out of the \$88 million, continue to be designated for the NAWS project for any future federal funding.

The State Water Commission members were provided copies of letters and resolutions of support for this concept which have been received from cities, counties, individuals, state representatives, development groups, citizens, community organizations, and business interests. The State Water Commission staff will respond to the letters and resolutions indicating the decision of the State Water Commission.

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
ENGINEER SELECTION PROCESS  
FOR PROJECT FINAL DESIGN  
(SWC Project No. 237-4)**

At its July 19, 1995, meeting, the Commission passed a motion directing the State Engineer to explore the need for an engineer selection for the final design of the Northwest Area Water Supply project, that would include policy, law, and past experience.

Secretary Sprynczynatyk stated the issue of whether the existing contract for the pre-final design can be amended to include engineering services for the final design of the project was addressed by the Commission's legal counsel.

Julie Krenz, Assistant Attorney General, referred to the North Dakota Century Code that requires all professional services associated with professional engineering and related services be procured as provided in N.D.C.C. ch. 54-44.7. That chapter requires each agency to follow certain procedures when procuring engineering services for proposed projects exceeding \$10,000. Ms. Krenz said that based on her review of the file and N.D.C.C. Ch. 54-44.7, it is her opinion that the existing contract cannot be amended to include engineering services for the final design of the Northwest Area Water Supply project, and that N.D.C.C. ch. 54-44.7 must be followed in selecting an engineer for the final design of the project. Memorandum from Julie Krenz, dated October 3, 1995, is attached hereto as **APPENDIX 'D'**.

At its July 19, 1995, meeting, the Commission passed a motion directing the State Engineer to further explore funding options for the expansion of the Rugby water treatment plant for first-phase development of the Northwest Area Water Supply project.

Secretary Sprynczynatyk stated that the proposed allocation for the remaining MR&I funds, which was approved by the Commission at this meeting, shows development of the NAWS project in two separate locations: 1) Phase I, the upgrade and expansion of the Rugby water treatment plant and supply line; and 2) Phase II, the final design and construction of the pipeline from Lake Audubon to Minot.

In discussing Phase I, he said the city of Rugby could retain ownership of its treatment plant and provide treatment service to the NAWS users in the area. A similar arrangement was worked out for the Dickinson water treatment plant as part of the Southwest Pipeline Project. He said the city should conduct its own engineer selection, with input from the State Water Commission, as well as administer the contracts for design and construction of the Rugby portions of the project. He said this process can be done under an agreement with the city.

Phase II of the project involves the design and construction of the pipeline from Lake Audubon to Minot. Secretary Sprynczynatyk stated the engineer selection for the final design of the remainder of the project, including Phase II, should be done by the State Water Commission. This would be under the authority given to the Commission by the Legislature to design, construct, and operate the NAWS project.

It was the recommendation of the State Engineer that the State Water Commission negotiate an agreement with the city of Rugby for proceeding with Phase I of the NAWS project.

It was also the recommendation of the State Engineer to initiate the selection process for the engineering consultant on the final design of the NAWS project, excluding the Rugby water treatment plant and supply, as required by state law in N.D.C.C. ch. 54-44.7, and following the procedure used in 1992 for the selection of the engineer for the pre-final design.

Secretary Sprynczynatyk explained the procedure required for the engineer selection process. In discussion, the Commission members concurred that in the future in order to eliminate the need for an engineer selection process for various project phases, language be included in the initial proposal request which could allow the agreement to be amended to allow the engineer to do work beyond the current phase of a project.

*It was moved by Commissioner Swenson and seconded by Commissioner Ames that the State Water Commission hereby:*

- 1) directs the State Engineer to initiate the negotiation of an agreement with the city of Rugby for proceeding with Phase I of the Northwest Area Water Supply project, for the upgrade and expansion of the city of Rugby water treatment plant; and*
- 2) directs the State Engineer to initiate the selection process for the engineering consultant on the final design of the Northwest Area Water Supply project, excluding the city of Rugby water treatment plant and supply, as required by N.D.C.C. ch. 54-44.7, and following the procedure used in 1992 for the selection of the engineer for the pre-final design.*

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

**NORTHWEST AREA WATER  
SUPPLY PROJECT -  
APPROVAL TO ENTER INTO  
ARRANGEMENT WITH INDUSTRIAL  
COMMISSION TO UTILIZE  
FINANCIAL ADVISOR SERVICES  
(SWC Project No. 237-4)**

Secretary Sprynczynatyk discussed options which could be viable for non-federal financing for the Northwest Area Water Supply project. He said it is important to select the option that is most favorable to the project and to the state and, therefore, he deemed it appropriate to seek a financial advisor to assist the State Water Commission in evaluating all of the options.

Secretary Sprynczynatyk indicated that recently the Industrial Commission had conducted a search for a financial advisor and selected the firm of Evenson Dodge, Inc. to serve as its financial advisor for up to four years. Evenson Dodge, Inc. has been the Industrial Commission's financial advisor for the past two years.

Secretary Sprynczynatyk stated he discussed the possibility of utilizing the services of Evenson Dodge, Inc. on the Northwest Area Water Supply project under an administrative arrangement between the agencies with the Executive Director and Secretary to the Industrial Commission. He has been advised this arrangement would be possible because reference to water development was included in the Industrial Commission's request for proposals for a financial advisor.

It was the recommendation of the State Engineer that the State Water Commission enter into an arrangement with the Industrial Commission to utilize the services of the Industrial Commission's financial advisor on the Northwest Area Water Supply project. The State Water Commission would pay the fee for this service from contract funds allocated to the project.

*It was moved by Commissioner Swenson and seconded by Commissioner Hillesland that the State Water Commission enter into an arrangement with the Industrial Commission to utilize the services of the Industrial Commission's financial advisor on the Northwest Area Water Supply project. The State Water Commission would pay the fee for this service from contract funds allocated to the project.*

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

**CONSIDERATION AND DEFERRAL  
OF JOINT REQUEST FROM RANSOM  
COUNTY AND MAPLE RIVER WATER  
RESOURCE DISTRICTS FOR COST  
SHARING IN COBURN TOWNSHIP  
DRAIN NO. 2**

**(SWC Project No. 1299)**

Cary Backstrand, State Water Commission's Water Development Division, presented the request. The proposal is to construct four miles of new channel in Ransom County and one mile of new channel in Cass County, discharging into Cass County Drain No. 54.

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

The total estimated cost of the project is \$214,750, with eligible project costs of \$132,500. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible items qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$53,000 from the Contract Fund.

It was the recommendation of the State Engineer that due to the uncertainty of the pending situation in the Devils Lake basin, the State Water Commission defer action on the request for cost sharing for the Coburn Township Drain No. 2 in Ransom and Cass Counties.

**CONSIDERATION AND DEFERRAL  
OF REQUEST FROM STEELE COUNTY  
WATER RESOURCE DISTRICT FOR  
COST SHARING ON STEELE  
COUNTY DRAIN NO. 11**

**(SWC Project No. 1223)**

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

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

Cary Backstrand, State Water Commission's Water Development Division, presented the request. The proposal is to construct four miles of new channel in Ransom County and one mile of new channel in Cass County, discharging into Cass County Drain No. 54.

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

The total estimated cost of the project is \$214,750, with eligible project costs of \$132,500. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible items qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$53,000 from the Contract Fund.

It was the recommendation of the State Engineer that due to the uncertainty of the pending situation in the Devils Lake basin, the State Water Commission defer action on the request for cost sharing for the Coburn Township Drain No. 2 in Ransom and Cass Counties.

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

Cary Backstrand presented the request, which involves cleaning and improving sectionline road ditches, installing culverts and drop structures. Drainage Permit No. 2721 has been approved by the Steele County Water Resource District. Mr. Backstrand said there are no impacts to any wetlands and the project is not of statewide nor interdistrict significance.

The engineer's cost estimate for the project is \$126,515, with eligible project costs of \$106,677. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible items qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$42,670 from the Contract Fund.

It was the recommendation of the State Engineer that due to the uncertainty of the pending situation in the Devils Lake basin, the State Water Commission defer action on the request for cost sharing for the Steele County Drain 11 project.

**CONSIDERATION AND DEFERRAL  
OF REQUEST FROM WALSH COUNTY  
WATER RESOURCE DISTRICT  
FOR COST SHARING ON  
HARRISTON-PULASKI DRAIN NO. 31  
(SWC Project No. 1312)**

A request from the Walsh County Water Resource District was presented for the Commission's consideration for cost sharing on Harriston-Pulaski Drain No. 31.

Cary Backstrand presented the request, which includes cleaning and reshaping an existing drain along a nine-mile path. Of the nine miles covered, seven miles will be along existing road right-of-way and section lines, with the remaining two miles along an unnamed tributary of the Forest River and discharging into the Forest River.

The Walsh County Water Resource District approved the drain permit on August 10, 1995. Because it was determined the drain was not of interdistrict nor statewide significance, and the NWI maps and ASCS photos indicated that no existing wetlands would be drained by the project, the board approval constituted a permit to construct the project.

The total estimated cost of the project is \$350,000, with eligible project costs of \$246,250. Under the State Water Commission's policy and guidelines for cost sharing, 40 percent of the eligible project costs qualify for cost sharing. The request before the State Water Commission is to cost share in the amount of \$98,500.

It was the recommendation of the State Engineer that due to the uncertainty of the pending situation in the Devils Lake basin, the State Water Commission defer action on the request for cost sharing for the Harriston-Pulaski Drain No. 31 project.

**CONSIDERATION AND DEFERRAL  
OF COST SHARING IN DAM SAFETY  
MODIFICATIONS FOR HOMME DAM  
(SWC Project No. 828)**

Homme Dam has been evaluated by the U.S. Army Corps of Engineers under the Dam Safety Program. Of particular concern was the projected impact on lives and property due to a failure of the dam at very high flows. The Corps of Engineers has recommended a dam safety project that would involve increasing the spillway capacity to 53,500 cubic feet per second. The current spillway capacity is 23,500 cfs. This will be accomplished by constructing an additional concrete spillway adjacent to the existing concrete spillway.

Cary Backstrand presented the request and he explained that the Water Resource Development Act of 1986 requires that 15 percent of the cost of modifications for dam safety be assigned to project purposes in accordance with the current cost allocation and shared in accordance with the cost sharing in effect at the time of the initial project construction. The original cost to construct Homme Dam in the late 1940s was \$1,384,097, of which \$62,800, or 4.54 percent, represented the non-federal match. Therefore, Mr. Backstrand said 4.54 percent of 15 percent is .68 percent of the future dam safety improvements and must be funded by the local sponsor. Construction is not planned until Fiscal Year 1998-1999. The estimated project costs exceeds \$8 million.

The original dam was constructed in the late 1940s and the cities of Grafton and Park River were the local sponsors. The original purpose of the project was to provide water supply for the two cities and flood control for those areas downstream from the dam. Mr. Backstrand said that recreation has also become an important benefit. The city of Park River continues to use water from the reservoir as their primary water supply. The city of Grafton has completed a pipeline to the Red River, which is their primary water supply, although the city does maintain a water right for water behind Homme Dam as a backup system.

The cities of Grafton and Park River, the Walsh County Commission, and the Red River Joint Water Resource Board have been contacted concerning cost sharing of the local non-federal portion of the project. Mr. Backstrand stated no commitments have been made at this time.

The Homme Dam safety project meets the current State Water Commission's policy and guidelines for cost sharing, and is eligible for 50 percent cost sharing. The non-federal share of the \$8 million project has been estimated to be \$56,000.

It was the recommendation of the State Engineer that due to the uncertainty of the pending situation in the Devils Lake basin, the State Water Commission defer action for cost sharing of the non-federal share for the Homme Dam safety project.

**CONSIDERATION AND APPROVAL  
OF REQUEST FROM BASIN ELECTRIC  
POWER COOPERATIVE TO DELETE  
CONDITION NO. 13 ON PERFECTED  
WATER PERMIT NO. 2179**

pumping rate of 14,800 gallons per minute, utilizing a point of diversion located in the NE1/4SE1/4 of Section 14, Township 146 North, Range 88 West, in Mercer

On May 24, 1976, the State Water Commission issued water permit No. 2179 to Basin Electric Power Cooperative to appropriate 19,000 acre-feet of water annually from Lake Sakakawea, at an authorized

**County, for the Antelope Valley Station. Thirteen conditions were attached to the conditional water permit. Condition No. 13 states:**

- 13. Appropriator shall secure all appropriate permits from, and execute all necessary contracts with the United States.**

Basin Electric entered into a contract with the Corps of Engineers to purchase "surplus water" in Lake Sakakawea. The Corps of Engineers has taken the position that the water used by Basin Electric is "surplus water," and under the Flood Control Act of 1944, the Corps of Engineers has the authority to sell "surplus water." If the water used by Basin Electric is surplus water, the failure to enter into a contract for the purchase of that water may be a violation of Basin's Electric's water permit.

On September 1, 1995, the State Engineer received a letter from Basin Electric Power Cooperative requesting the State Water Commission delete condition No. 13 from its Perfected Water Permit No. 2179.

Julie Krenz, Assistant Attorney General, stated that it is the State of North Dakota's position that surplus water does not include the "natural flows" of the Missouri River. Natural flows are flows of the river that would exist had the reservoir not been established. It is the state's position that water being used by Basin Electric is not "surplus water." Ms. Krenz said, therefore, the contract Basin Electric entered into is not a "necessary contract" under condition No. 13 of the water permit. She said deleting this condition from the permit may assist Basin Electric in its challenge to the Corps of Engineers's authority to charge for this water. The challenge, if successful, could reinforce the state's position regarding authority to regulate the natural flows of the river.

Ms. Krenz explained that the State Engineer has had the responsibility for issuing and administering water permits since 1905. However, the appropriation of water required the review and approval of the State Water Commission when this permit was issued in 1976. In 1983, the requirement of subjecting the appropriation of water to the approval of the State Water Commission was eliminated. She said that today, the State Water Commission has the authority to act on applications of more than 5,000 acre-feet of water. Because of the significant amounts of water being requested by several entities for the somewhat controversial coal gasification plants in the early 1970s, the State Water Commission, under the leadership of Governor Link, elevated those applications to consideration and approval, including the conducting of public hearings, directly by the State Water Commission. Because the State Water Commission issued the water permit with this condition, Ms. Krenz said it is the appropriate entity to delete a condition from the permit.

Deborah Fohr Levchek, Staff Counsel, and Ron Rebenitsch, Civil Engineering Division, for Basin Electric Power Cooperative, provided information relative to the request to delete condition No. 13 on Perfected Water Permit No. 2179.

It was the recommendation of the State Engineer that the State Water Commission delete condition No. 13 from Basin Electric Power Cooperative's Perfected Water Permit No. 2179.

*It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission shall hereby delete condition No. 13 from Perfected Water Permit No. 2179 issued to Basin Electric Power Cooperative on May 24, 1976. Condition No. 13 states:*

***13. Appropriator shall secure all appropriate permits from, and execute all necessary contracts with the United States.***

*Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, Swenson, and Vogel voted aye. Governor Schafer abstained from voting. The Chairman declared the motion carried.*

**NORTH DAKOTA WATER  
EDUCATION FOR TEACHERS  
PROGRAM (WET) STATUS REPORT  
(SWC Project No. 1757)**

education program for K-12 and pre-service teachers, youth leaders and natural resource specialists. WET is an interdisciplinary and supplemental water education program which facilitates and promotes the learning, exploration and stewardship of North Dakota's water resources.

First developed and implemented in North Dakota in 1984 by the State Water Commission, the Water Education for Teachers Program (WET) incorporates a national water

The North Dakota Water Education Foundation (NDWEF) was established in July, 1993 to develop and implement water information and water education programs in North Dakota, and to increase the awareness, understanding and knowledge among students, teachers, water users, decision-makers, and the general public about water resource issues in North Dakota. The NDWEF has four major program areas: 1) North Dakota Water magazine; 2) North Dakota Water Course; 3) North Dakota Wetlands Institute; and 4) Water Education for Teachers Program.

During the past two years, the State Water Commission and the NDWEF have worked together to formulate and define the working relationships between the two organizations regarding the WET program, which was necessary since both organizations are involved with the program. In 1994, a decision was made by both organizations to maintain the administrative, management and program implementation functions of WET within the State Water Commission.

In 1995, legislative action reduced state funding to \$25,000 for the 1995-1997 biennium, which resulted in the need for greater Environmental Protection Agency 319 nonpoint source pollution grant funding for WET. This funding still required a local/state match of 40 percent, and state funding was not enough to meet the 40 percent requirement.

The NDWEF made a commitment of \$25,000 in matching funds for the WET program for the 1995-1997 biennium. This funding and other commitments by the NDWEF have necessitated a more formal defining of relationships between the two organizations. The State Water Commission staff is negotiating an agreement to provide cost sharing for the WET program with the NDWEF.

**STATE WETLANDS  
CONSERVATION PLAN  
STATUS REPORT  
(SWC Project No. 416)**

Charles Rydell provided a status report on the State Wetlands Conservation Plan. The Fiscal Year 1995 grant agreement with the Environmental Protection Agency has been finalized. The grant budget totals \$348,000, of which \$261,000 are federal funds matched by \$87,000 non-federal cash or in-kind services. The status report information provided is attached hereto as *APPENDIX 'E'*. The tasks funded by the Fiscal Year 1995 grant include:

- Continued development and expansion of the State Water Commission's GIS capability and statewide databases;
- Continued development and expansion of Wetlands Education and Outreach programs through the North Dakota Water Education Foundation's Wetlands Institute;
- Expanded development of the North Dakota Game and Fish Department's State Private Lands Initiative program and additional prioritization of CRP tracts important to wetlands and watershed protection;
- Test application of proposed wetlands water quality standards by the North Dakota Department of Health;

- Continuation of the Devils Lake basin coordinator position and support for implementation of the Devils Lake Basin Water Management Plan;
- Expanded wetlands and stream restoration demonstration work in the Grand Harbor watershed; and
- Promotion of the North Dakota Department of Agricultural's Project Safe Send.

**INTERIM LEGISLATIVE WATER  
RESOURCES COMMITTEE  
STATUS REPORT**

needs for development and completion of the state's water resources infrastructure and methods for development of a program to provide financing and funding of water supply facilities in the state.

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

Charles Rydell provided a summary report of Interim Legislative Water Resources committee meetings held June 23, 1995, and August 14 and 15, 1995. The committee also met on October 9 and 10, 1995, in Oakes, ND. He noted that Commission staff members have provided testimony and information to the committee at its meetings.

**MOUNT CARMEL DAM  
RENOVATION PROJECT  
STATUS REPORT  
(SWC Project No. 1346)**

At the February 9, 1995, meeting, the Commission approved a request from the Cavalier County Water Resource District for additional cost sharing in 50 percent of the Mount Carmel Dam renovation project, for a total project cost of \$450,000, of which \$80,000 was estimated to be in-kind services and \$370,000 was approved from the Contract Fund. This commitment from the Contract Fund required the State Water Commission to increase its present commitment by \$120,000. The motion was contingent upon the availability of funds, and a re-analysis of the low-level drawdown.

Dale Frink reported that bids were opened on April 12, 1995, for the reconstruction of the Mount Carmel Dam. The contract was awarded to Swingen Construction Company in late April, 1995, with construction beginning in May, 1995. He said the plans to modify the 25-year old

earthen dam involved the following features: raising the embankment, widening the emergency spillway, and replacing the existing 66-inch service spillway pipe with a 30-foot wide reinforced concrete chute at a 2-foot higher control level. He said the above modifications will bring the old dam into compliance with current dam safety standards and will provide additional water supply for the city of Langdon and Langdon Rural Water.

On August 18, 1995, the watershed received 10 inches of rainfall, causing approximately \$25,000 of damage to the reconstruction project. Mr. Frink reported work on the project is presently 77 percent complete, and it is anticipated the contractor will complete the remaining work in November, 1995.

**CANNONBALL RIVER  
BASIN STUDY UPDATE  
SWC Project No. 322-1)**

Charles Rydell provided a status report on the Cannonball River Basin study, which is attached hereto as ***APPENDIX "F"***.

**DICKINSON DAM/  
PATTERSON LAKE  
OWNERSHIP UPDATE  
(SWC Project No. 263)**

At the October 14, 1994, meeting, the Commission members were advised the city of Dickinson was interested in assuming ownership and responsibility of the Dickinson Dam and Patterson Lake from the U.S. Bureau of Reclamation. The city owes the Bureau of Reclamation approximately \$3 million. Presently, the State Water Commission gives the city credit for 75 percent of the debt under the Southwest Pipeline Project's water service contract. The credit amounts to approximately \$12,000 per month for seven more years.

The State Water Commission staff and representatives of the city of Dickinson completed a plan titled "Patterson Lake Area Recreation and Environment Enhancement Project," which addressed the issues associated with the transfer of Dickinson Dam and Patterson Lake from the Bureau to the city. The plan was provided to the congressional delegation for their information in preparing federal legislation that would transfer the dam and the lake to the city. The congressional delegation is expected to introduce legislation to Congress in late October or early November, 1995.

The Bureau of Reclamation has recently initiated its guidelines for transferring projects to non-federal entities. Charles Rydell reported State Water Commission staff has met with representatives of the city of Dickinson and the Bureau of Reclamation to address the previous efforts undertaken in this matter and how the efforts could be incorporated into the Bureau's new guidelines for title transfers.

Mr. Rydell said the information contained in the Dickinson Dam/Patterson Lake plan will satisfy many of the items described in the Bureau's guidelines required for a title transfer. Specific areas of the guidelines requiring additional information before transferring the title will be discussed at the next meeting with the Bureau. Mr. Rydell stated that although there is an overlap in the two transfer procedures, the city is currently intending to keep the document-based effort and the Bureau's effort separate, and continue on a parallel-type track.

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

August, 1995. The Association hired a team of consensus-building experts to help the basin's states and tribes agree on recommendations to present to the Corps of Engineers for managing the Missouri River. Secretary Sprynczynatyk said that while developing its recommendations, the Association will build on data and suggestions that the Corps compiled during the Master Manual review, but other options will also be considered. He said that although South Dakota is not represented on the Missouri River Basin Association, directors from other upper basin states will try to make South Dakota's views known as the consensus-building process continues.

The Corps of Engineers has scheduled a public hearing on the preliminary 1995-1996 Annual Operating Plan for the Missouri River on October 16, 1995, in Bismarck, ND. Secretary Sprynczynatyk provided the testimony that will be presented to the Corps on his behalf, which is attached hereto as **APPENDIX "G"**. In summary, he said North Dakota is in agreement with the plan for normal or above normal runoff, but is in tremendous disagreement with the drought contingency plans for lower quartile and lower decile runoffs.

#### **ATMOSPHERIC RESOURCE DIVISION INFORMATION**

The Commission members were provided information relating to the August precipitation in the state. A staff presentation will be provided at a future Commission meeting.

#### **NEXT STATE WATER COMMISSION MEETING**

The meeting is in conjunction with the North Dakota Water Users Association and the North Dakota Water Resource Districts Association annual convention.

The next meeting of the State Water Commission is scheduled for November 29, 1995, in Fargo, ND.

*There being no further business to come before the State Water Commission at this time, it was moved by Commissioner Swenson, seconded by Commissioner Vogel, and unanimously carried, that the State Water Commission meeting adjourn at 3:45 PM, Mountain Daylight Time.*

**SOUTHWEST PIPELINE PROJECT -  
DELIVERY OF WATER TO RURAL  
AREAS DEDICATION  
(SWC Project No. 1736)**

Following the State Water Commission meeting, the Southwest Water Authority hosted a dedication of the delivery of Southwest Pipeline water to cities and rural areas in southwest North Dakota.

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

**SEAL**

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

