

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

March 26, 1997

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on March 26, 1997. Governor-Chairman, Edward T. Schafer, called the meeting to order at 9:30 AM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
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
Robert Thompson, Member from Page
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

There being no additional items for the agenda, the Chairman declared the agenda approved, and requested Secretary Sprynczynatyk to present the agenda.

**CONSIDERATION OF MINUTES
OF JANUARY 27, 1997 STATE**

The minutes of the January 27, 1997
State Water Commission meeting

WATER COMMISSION MEETING -

were approved by the following

APPROVED

motion:

*It was moved by Commissioner Ames, seconded by
Commissioner Thompson, and unanimously carried,
that the minutes of the January 27, 1997 State Water
Commission meeting be approved as prepared.*

**APPROVAL OF RESOLUTION
OF APPRECIATION TO
GORDON D. BAESLER
(SWC Resolution No. 97-3-475)**

A draft resolution of appreciation
to Gordon D. Baesler was considered
by the State Water Commission.

Mr. Baesler has served the State of
North Dakota and the State Water Commission since July, 1955, for 41 years. His
positions on the Commission staff include Chief Draftsman for the Design Section
for 13 years, and Water Resource Project Manager in charge of water rights
processing for 28 years. Mr. Baesler is retiring from the State Water Commission
on March 31, 1997.

*It was moved by Commissioner Bjornson, seconded by
Commissioner Johnson, and unanimously carried, that
the State Water Commission approve Resolution No. 97-
3-475, Resolution of Appreciation to Gordon D. Baesler.
SEE APPENDIX "A".*

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

Tim Fay, Project Manager for the
Southwest Pipeline Project, provided
the following contract and construct-
tion status report. Because of winter
conditions, there is currently no

active construction in progress on the Southwest Pipeline Project:

**Contract 2-4A/7-3 - Transmission Line and Rural Water Distribution
in the Jung Lake Service Area:** This contract is the only remaining
active construction contract at this time. The contract is not complete
due to some segments of the 2-4A transmission line which cannot
pass the pressure test. These segments will be repaired in the spring
when construction conditions become more favorable, at which time
the line will then be put into service.

**SOUTHWEST PIPELINE PROJECT -
1997 CONSTRUCTION
(SWC Project No. 1736)**

Tim Fay provided the following tentative construction plan for 1997. The plan is based on funding by both bonding and the USDA Rural

Development grant and loan program. The quantities may change depending on developments, but Mr. Fay said that in order to be ready for construction next summer, design and planning for these components need to proceed. No contract commitments are required until funding arrangements have been finalized and the pertinent legislation is in place:

<u>Contract</u>	<u>Description</u>	<u>Projected Bid Date</u>	<u>Projected Completion</u>
2-4B	Transmission Line to Reeder and Hettinger	Early April	November, 1997
5-5	Bucyrus Reservoir	Early April	November, 1997
7-4/7-3A	Bucyrus Distribution and Pockets	Early June	October, 1998
5-4	Jung Lake Pump Station	Early August	November, 1998
4-4	Jung Lake Reservoir	Early August	November, 1998

Mr. Fay explained that due to the size of the Bucyrus service area, it is not practical to require this phase to be completed in one construction season. Parts of this system will, however, be able to serve users by the end of the 1997 construction season. Since the Jung Lake pump station and reservoir will not be required until the entire rural service area is in service, their bidding can be delayed until later in the year.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL TO PROCEED WITH
WATER DEVELOPMENT REVENUE
BONDS PROGRAM FOR PROJECT
TO HAVE SERIES A BONDS RATED
(SWC Project Nos. 1736 and 1885)**

The State Water Commission will consider issuing two series of bonds to construct the Bucyrus service area of the Southwest Pipeline Project. The water development revenue bonds are needed at this time because, among other things, the

federal MR&I funding is not available and there is a need to provide service to Hettinger and Reeder as their current water systems are in violation of the Environmental Protection Agency standards. Construction of this phase of the project will begin in 1997, with a completion date in 1998. In order for construction to proceed, it will be necessary to issue bonds in April or early May, 1997.

The following draft bond documents for the North Dakota State Water Commission Water Development Revenue Bonds program for the Southwest Pipeline Project were provided for the Commission's consideration. Mr. Fay explained the draft bond documents and the program procedure:

- memorandum from the Bond Counsel summarizing the program and the documents
- draft General Bond Resolution, which sets the specifications of the bonding program
- draft Series Resolution, which sets the specifications of the Series A bonds
- draft Official Statement for the Series A bonds

Secretary Sprynczynatyk explained the following State Water Commission's legislative authority for the issuance of water development revenue bonds:

- The State Water Commission may issue water development revenue bonds for various works pursuant to NDCC §61-02-46. The principal amount of the bonds may not exceed two million dollars unless the legislature authorizes the works and declares the works to be in the public interest.
- In NDCC Chapter 61-24.3, *Southwest Pipeline Project*, the legislature declared it necessary that the Southwest Pipeline Project be established and constructed.
- House Bill 1170 amends NDCC §61-24.3-01 to authorize the State Water Commission to issue bonds in an amount not to exceed fifteen million dollars in accordance with the provisions of NDCC Chapter 61-02, *Water Commission*, to finance the cost of the Southwest Pipeline Project. House Bill 1170 contains an emergency clause, making the bill effective upon filing with the Secretary of State.
- House Bill 1170 also authorizes the State Water Commission to pledge the capital repayments remitted from water users to the payment of debt service on the bonds.

Mr. Fay explained the credit rating issues associated with the proposed transaction which, he said, is of great importance because it will directly impact the interest rate the Commission will receive on its bonds. A meeting has been scheduled for April 10, 1997 with the rating analysts from Standard & Poor's Rating Group at their offices in New York.

Secretary Sprynczynatyk said it is anticipated that all of the Water Development Revenue Bonds program requirements can be satisfied in May, 1997. The final documents and the sale of the bonds will be presented to the State Water Commission for its consideration at a future meeting.

It was the recommendation of the State Engineer that the State Water Commission approve proceeding with the North Dakota State Water Commission Water Development Revenue Bonds program for the Southwest Pipeline Project, have the Series A bonds rated, and prepare the final documents for the Commission's consideration at a future meeting.

It was moved by Commissioner Thompson and seconded by Commissioner Olin that the State Water Commission approve proceeding with the North Dakota State Water Commission Water Development Revenue Bonds program, have the Series A bonds rated, and prepare the final bond documents for the State Water Commission's consideration at a future meeting.

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL FOR REIMBURSEMENT**

OF RIGHT-OF-WAY ACQUISITION,

ENGINEERING, AND ADMINIS-

**TRATIVE COSTS FOR PRE-CONSTRUC-
TION WORK ON BUCYRUS SERVICE
AREA FROM BOND PROCEEDS
(SWC Project No. 1736 and 1885)**

Tim Fay discussed Southwest Pipeline Project Contract 5-5 for construction of the Bucyrus service area.

Pre-construction expenses including right-of-way, engineering, and administrative costs will be incurred before the bond proceeds are available, and may be eligible for reimbursement from bond proceeds.

Mr. Fay explained because the bonds being considered to construct the Bucyrus service area are tax-exempt, bonds issued to finance previously made expenditures are subject to substantial restrictions by the Internal Revenue Code, and the regulations promulgated thereunder. The State Water Commission must satisfy certain objective criteria to establish that an expense was intended to be financed through debt, rather than paid for some other way, in order to allocate any of the bond proceeds to that expense. He said the Commission must take these steps to avoid having the reimbursement bond classified as a taxable bond. A draft resolution, which complies with tax regulations, was presented for the Commission's

consideration.

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It was the recommendation of the State Engineer that the State Water Commission authorize the execution of the "Resolution Concerning Reimbursement Bond Regulation" to satisfy the tax regulations concerning reimbursement from bond proceeds, which would allow the reimbursement of right-of-way, engineering, and administrative costs for the pre-construction work on the Bucyrus service area.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission authorize the execution of the "Resolution Concerning Reimbursement Bond Regulation" to satisfy the Internal Revenue Code tax restrictions concerning reimbursement bond proceeds, which would include certain proceeds of the bonds used to reimburse expenditures made by the Commission and paid prior to the time of the issuance of such bonds for pre-construction work on the Bucyrus service area. SEE APPENDIX "B".

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

**SOUTHWEST PIPELINE PROJECT -
SELECTION OF TRUSTEE FOR
WATER DEVELOPMENT REVENUE
BONDS PROGRAM
(SWC Project No. 1736 and 1885)**

As a part of the Southwest Pipeline bonding process, the State Water Commission requested proposals for trustee services. Responsibilities of the trustee include receiving the funds from the entity responsible for

the payments, holds these funds in trust for the bond owners, makes principal and interest payments to the bond owners in a timely manner, and procures a monthly statement of fiscal activity. The trustee also receives the funds from the bond sales and, upon a request from the Commission, makes payments to the contractor.

Tim Fay explained that in the case of the Southwest Pipeline Series A and Series B bonds, the Southwest Water Authority will send the capital repayments checks to the trustee rather than the State Water Commission for deposit into the Resources Trust Fund. The trustee will deposit these funds into a trust account until the trustee determines that there are sufficient funds to make bond payments for the rest of the year and to fund or replenish the debt service reserve. At that point, the trustee will notify the Southwest Water Authority to begin sending its checks to the Commission. At the start of each year, June 2, the process restarts with the checks again going to the trustee.

The request for proposals was for the North Dakota State Water Commission Water Development Revenue Bonds program, with the Southwest Pipeline Project Series A and Series B bonds the first bonds to be issued. Mr. Fay said the Commission could continue, if desired, to use the selected firm for other projects.

The following proposals were received from Norwest Bank, Bank of North Dakota, and First Trust:

	<u>Norwest Bank</u>	<u>Bank of North Dakota</u>	<u>First Trust</u>
Due at closing	\$ 4,800	\$ 7,300	\$ 7,100
Annual fees over remaining life of the bonds	<u>74,800</u>	<u>116,340</u>	<u>134,254</u>
TOTAL	\$79,600	\$123,640	\$141,354

Secretary Sprynczynatyk informed the Commission members that the Bank of North Dakota submitted a revised proposal after the initial Requests For Proposals had been received. The Bank of North Dakota's revised request was fees of \$4,200 due at closing, \$68,000 for additional annual fees, and a total cost of \$72,200. Upon review of the proposals, Secretary Sprynczynatyk said all three firms are fully capable of serving as trustee for the revenue bond program.

It was moved by Commissioner Swenson and seconded by Commissioner Johnson that the State Water Commission select Norwest Bank as trustee for the North Dakota State Water Commission Water Development Revenue Bonds program.

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL TO INCREASE
RESOURCES TRUST FUND
ALLOCATION TO SOUTHWEST
PIPELINE PROJECT
(SWC Project No. 1736)**

The Resources Trust Fund allocation for the 1995-1997 biennium for the Southwest Pipeline Project is \$1,514,000. Tim Fay reported that the project collections for capital repayment and payments from South Dakota will exceed the biennial projections by about \$182,000.

It was the recommendation of the State Engineer that the Resources Trust Fund allocation to the Southwest Pipeline Project be increased to \$1,696,976 for the 1995-1997 biennium.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the Resources Trust Fund allocation to the Southwest Pipeline Project be increased to \$1,696,976 for the 1995-1997 biennium.

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

**SOUTHWEST PIPELINE PROJECT -
CONTRACTS 2-4B AND 5-5 BIDS
(SWC Project No. 1736)**

On March 19, 1997, bids were opened for Southwest Pipeline Project Contract 2-4B (transmission line to Hettinger and Reeder), and Contract 5-5 (Bucyrus reservoir).

Tim Fay reported that six bids were received for Contract 2-4B. The apparent low bid was received from Larry's, Inc., of Gillette, Wyoming. Larry's, Inc. performed satisfactory work on three previous contracts for the project.

The apparent low bid for Contract 5-5 was received from Advance Tank and Construction, Wellington, Colorado, for \$343,000. Advanced Tank performed satisfactory work on three previous contracts for the Southwest Pipeline Project.

Mr. Fay said the bids for Contracts 2-4B and 5-5 appear acceptable, although there are bid requirements that need to be finalized prior to the award of bids. He said these contracts will be funded with bond proceeds, which have not been finalized.

It was the recommendation of the State Engineer that the award of Southwest Pipeline Contracts 2-4B and 5-5 be deferred until funding has been approved, but that the low bidder of each contract be notified of the Commission's intent to award the bids.

It was moved by Commissioner Swenson and seconded by Commissioner Ames that the State Engineer be directed to notify the following contractors of the State Water Commission's intent to award bids respectively:

Southwest Pipeline Contract 2-4B

Larry's, Inc. - Gillette, Wyoming

Southwest Pipeline Contract 5-5

*Advance Tank and Construction -
Wellington, Colorado*

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

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

Secretary Sprynczynatyk reported the current level of Devils Lake is 1437.9. The current forecast is for the lake to rise to elevation 1440.5 or higher, which means that Devils Lake will likely exceed the 1867 record elevation of 1438.4. Graphical information relative to 130-year water level measurements and inflow amounts into Devils Lake were provided.

**CORPS OF ENGINEERS
EMERGENCY OUTLET PLAN/
OPERATING PLAN FOR
DEVILS LAKE**

(SWC Project No. 416-1)

Secretary Sprynczynatyk informed the Commission members that on March 19, 1997, President Clinton made a request to Congress seeking

disaster relief across the country. The request states, in part, as follows:

"For an additional amount for "Flood Control and Coastal Emergencies" due to flooding and other natural disasters, \$251,700,000, to remain available until expended, of which \$50,000,000 shall be available only to the extent of an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement

as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress; Provided, That the entire amount designated by Congress as an emergency requirement pursuant to section 251 (b) (2) (D) (i) of such Act; Provided further, That the Secretary of the Army is authorized and directed to construct an emergency outlet from Devils Lake, ND, to the Sheyenne River; Provided further, That the estimated total cost of such emergency outlet is \$50,000,000, the cost of which shall be shared 65 percent Federal and 35 percent non-Federal; Provided further, That operation, maintenance, repair, and rehabilitation of the outlet shall be a non-Federal responsibility, and upon completion of the project, the non-Federal interest shall assume ownership of the outlet; Provided further, That of the amounts provided herein, \$2,000,000 shall be for such emergency outlet. In addition, to become available in fiscal year 1998 for such emergency outlet, \$30,500,000.

This proposal would authorize the Secretary of the Army to construct an emergency outlet from the west end of Devils Lake to the Sheyenne River to reduce the flood damages being suffered by the residents of the Devils Lake basin from the rising waters of the lake. The authorization would include all work associated with planning and designing the outlet, which is part of a comprehensive action plan established in the 1995 report of the Devils Lake Basin Interagency Task Force led by the Federal Emergency Management Agency.

In light of the emergency nature of this action, the Secretary of Army is urged to consult with the Council on Environmental Quality to expedite the National Environmental Policy Act process. In addition, in carrying out this project, the Secretary would comply with the provisions of the 1909 Boundary Waters Treaty and would consider the sovereignty and views of the Spirit Lake Nation. Further, in the event the Ramsey County Rural Sewer System is threatened by flooding resulting from rising lake levels, the Secretary, at his discretion, using such funds as may be necessary up to \$600,000 and to be derived from the \$50,000,000 contingency fund, may develop and implement appropriate measures to mitigate such flooding.

Of the request, \$201,700,000 has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.”

Secretary Sprynczynatyk commented this is a significant step toward construction of the Devils Lake emergency outlet. If Congress passes the bill, the Corps of Engineers indicated it will be in a position to move forward on the environmental process. Language in the bill makes it clear the Corps is required to comply with the National Environmental Policy Act and the 1909 Boundary Waters Treaty. Secretary Sprynczynatyk said it is

anticipated a meeting will be scheduled with representatives of the Spirit Lake Nation to discuss the proposed project. Canadian and environmental concerns continue to be addressed as well.

**CITY OF DEVILS LAKE
LEVEE PROJECT -
APPROVAL TO ALLOCATE
\$409,000 FROM CONTRACT
FUND; AND APPROVAL OF
TRANSFER OF TITLE FOR
TWO GATOR PUMPS FOR
CREDIT OF \$67,680
(SWC Project No. 416-2)**

On August 22, 1996, the State Water Commission passed a motion to approve a 50 percent cost share of the non-federal costs for the 1996 Stage 1 Devils Lake levee project. The state cash contribution was \$175,000. The State Water Commission declared its intent to contribute the remaining state cost share in 1997 for the project, contingent upon the availability of funds.

The project raises and extends the existing dikes around the city of Devils Lake by five feet and provides protection to a lake elevation of 1445 msl. The dikes currently protect the city to 1440 msl. The total cost of the project is estimated at \$7.2 million. The Corps of Engineers is providing 75 percent federal cost sharing, leaving a non-federal requirement of \$1.8 million.

Secretary Sprynczynatyk stated the city of Devils Lake, as the local sponsor, requested a 50 percent cost share of the non-federal requirement from the State Water Commission of approximately \$900,000. The \$175,000 previously approved by the Commission in 1996, leaves a balance of approximately \$725,000 for the state's share. A community development block grant of \$249,000 has been approved for the project. The remainder of the non-federal cost share includes the transfer of title of two gator pumps for credit of \$67,680, and a cash contribution of \$409,000 from the Contract Fund.

Stage 1 of the project was completed last fall. The Corps of Engineers advertised for the remainder of the project and anticipates an award date of April 15, 1997. Secretary Sprynczynatyk said all funds must be deposited in an escrow account by this date. Construction is scheduled to be completed in 1997.

It was the recommendation of the State Engineer that the State Water Commission allocate \$409,000 from the Contract Fund and approve the transfer of title of two gator pumps for a credit of \$67,680 toward the Devils Lake levee raise project.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve the following for the city of Devils Lake levee raise project:

- 1) the allocation of \$409,000 from the Contract Fund; and*
- 2) the transfer of title of two gator pumps, for a credit of \$67,680*

This motion is contingent upon the availability of funds.

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

**DEVILS LAKE
FEASIBILITY STUDY -
APPROVAL OF \$594,000
FROM CONTRACT FUND
FOR STAGE 2C OF STUDY
(SWC Project No. 1712)**

Secretary Sprynczynatyk reported on the Corps of Engineers feasibility study that addresses the long-term stabilization of Devils Lake and basin-wide management. 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. The feasibility study, as outlined in the scope of work, remains a three-year effort, at a cost of approximately \$7.2 million.

The State Water Commission has executed four previous agreements toward the Devils Lake Feasibility Study. Those agreements have a total cost of \$1,835,000, with the Commission's share being \$594,000 of in-kind costs and \$323,000 of cash contributions.

On July 2, 1993, the State Water Commission approved the Phase 1 agreement of the Devils Lake Feasibility Study, and allocated \$500,000 from the Contract Fund. On July 19, 1995, the State Water Commission re-approved the unspent balance of \$423,488 for the Devils Lake long-term studies. Of this total, \$50,000 was previously obligated for Phase 1A of the feasibility study.

On February 23, 1996, the State Water Commission authorized the State Engineer to enter into an agreement for Phase 2A of the Devils Lake Feasibility Study, and approved the allocation of \$300,000 for the study from the funds presently allocated from the Contract Fund for the Devils Lake long-term studies. On April 29, 1996, the State Water Commission approved an additional allocation of \$35,500 for Phase 2A, which increased the total state contribution for Phase 2A of the study to \$335,500. Approximately \$38,000 of the \$423,488 remains unobligated.

The Corps of Engineers has provided Amendment 4 to the Devils Lake Feasibility Study (Stage 2C) for work that will be done during Fiscal Year 1997. The total cost of the study is \$1,892,000, with the State Water Commission responsible for 50 percent of the total. The state's cash contribution is estimated at \$594,000 and in-kind costs are estimated at \$352,000. If the Commission approves cost sharing for Stage 2C of the study, the totals will increase to \$3,727,000, including \$946,500 of in-kind costs and \$917,000 of cash contributions. The Corps of Engineers has indicated that the state's \$594,000 of cash contribution must be deposited in an escrow account at the Bank of North Dakota.

It was the recommendation of the State Engineer that the State Water Commission approve \$594,000 from the Contract Fund and \$352,000 of in-kind services for Stage 2C of the Devils Lake Feasibility Study.

It was moved by Commissioner Ames and seconded by Commissioner Thompson that the State Water Commission approve \$594,000 from the Contract Fund and \$352,000 of in-kind services for Stage 2C of the Devils Lake Feasibility Study. This motion is contingent upon the availability of funds.

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

**DEVILS LAKE AVAILABLE
STORAGE ACREAGE PROGRAM
(ASAP) - REALLOCATION OF
\$100,000 TO ASAP FOR EITHER
SMALLER TRACTS OR UPPER
CHAIN OF LAKES STORAGE
(SWC Project No. 1882)**

Secretary Sprynczynatyk provided a briefing of the Devils Lake Available Storage Acreage Program (ASAP) and the program projections for 1997. A total of \$1,150,000 has been allocated to ASAP since the program began

in the fall of 1995. To date, all but

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\$250,000 has been spent or committed on water storage. Of this \$250,000 amount, \$100,000 was allocated by the State Water Commission at its May 24, 1996 meeting to be spent specifically on water storage in the Devils Lake upper chain of lakes.

Approximately 60 new ASAP applications have been submitted in 1997, covering about 5,000 acre-feet of storage. These sites propose to hold water on smaller tracts of land not in the upper chain of lakes. Secretary Sprynczynatyk said if these sites are found to be feasible, the entire \$250,000 balance will be needed to fund the 1997 storage.

It was the recommendation of the State Engineer that the \$100,000 allocated to ASAP for water storage in the upper chain of lakes be reallocated to ASAP for either storage on smaller tracts of land or upper chain of lakes storage to satisfy 1997 spring ASAP funding needs.

It was moved by Commissioner Hillesland and seconded by Commissioner Bjornson that the \$100,000 allocated on May 24, 1996 by the State Water Commission to ASAP for water storage in the Devils Lake upper chain of lakes be reallocated to ASAP for either storage in smaller tracts of land or upper basin chain of lakes storage to satisfy 1997 spring ASAP funding needs.

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

Secretary Sprynczynatyk explained that as the upper basin water storage sites are developed, it appears many of the feasible sites involve using township or county roads to retain the water. Concerns of liability are being raised for damages to the roads and accidents that may occur as a result of damaged roads. He reported that in 1996, no damages or impacts to roads were attributed to ASAP sites. Secretary Sprynczynatyk said the state intends to continue its policy of using township and county roads on those sites that have the approval of the affected township or county.

Secretary Sprynczynatyk addressed the new Conservation Reserve Program (CRP) rules. The rules reflect a greater importance placed on the environment, and the application process provides incentives to restore wetlands. He said this will increase the water storage capacity of the land in the Devils Lake basin and throughout the nation but, unfortunately, for the Devils Lake basin, these wetland restorations will not be done until after the CRP contracts have been awarded in October, 1997.

To entice more landowners into restoring wetlands as a part of their CRP contracts, the ASAP will be coordinated with the Natural Resources Conservation Service to benefit both programs. Similarly, the North Dakota Wetlands Trust is also developing a program to make supplemental payments to landowners who restore wetlands as a part of their CRP contracts.

Governor Schafer leaves the meeting. Commissioner Olin assumes the chair.

**FINANCIAL STATEMENT -
AGENCY OPERATIONS**

1997, reflecting 83 percent of the 1995-1997 biennium. *SEE APPENDIX "C".*

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures, dated February 28,

**DIRECTOR OF WATER
DEVELOPMENT DIVISION,
TODD SANDO**

Water Commission, effective March 1, 1997. The position was vacated with the appointment of Dale Frink as the Assistant State Engineer.

Secretary Sprynczynatyk announced that Todd Sando has been appointed to the position of Director of the Water Development Division for the State

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

Revenues into the Resources Trust Fund currently total \$12.5 million, which is above the State Water Commission authorization of \$11.7 million that was increased by the Emergency Commission in September, 1996. The balance in the Resources Trust Fund is estimated to be approximately \$1.8 million on July 1, 1997. Secretary Sprynczynatyk said this is less than the \$2 million estimate in the Commission's budget request, primarily due to the Corps of Engineers requiring all funds for the Devils Lake levee raise project and feasibility study be deposited into an escrow account upon signing the agreement. He said since these funds would have been obligated either way, there is no major impact.

Secretary Sprynczynatyk reviewed and discussed the Contract Fund for the 1995-1997 biennium. *SEE APPENDIX "D".*

Secretary Sprynczynatyk said if the Commission approves the State Engineer's recommendations for cost sharing at this meeting, there will be approximately \$243,133 of unobligated funds remaining in the Contract Fund. He said it is essential to have approximately \$200,000 of unallocated funds in the Contract Fund when considering the potential for emergency funding during the spring flood season.

**FINANCIAL STATEMENT -
1997-1999 BIENNIUM BUDGET**

House Bill 1025, the State Water Commission's appropriation, was heard before the Senate Appropriations Committee on March 11, 1997. The agency's testimony was presented by the State Engineer, with additional testimony presented by members of the North Dakota Water Coalition.

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

Secretary Sprynczynatyk provided a briefing of the strategy for securing authorization for the completion of the Garrison Diversion Project that was agreed to by the Governor, the Congressional Delegation, and the leadership of the North Dakota Legislature.

The Governor and the Congressional Delegation hosted a meeting on February 3, 1997 in Washington, DC, to begin a negotiating process among interested parties to develop legislation to provide for the contemporary and future water and related resource needs of North Dakota. Secretary Sprynczynatyk said various proposals and ideas were discussed as well as current authorizations under the Garrison Reformulation Act of 1986.

Secretary Sprynczynatyk said once a consensus is reached among the interested parties and a proposal is drafted, the Congressional Delegation will introduce legislation in Congress to complete the project. He said, "the elected state leaders agree that completing the Garrison Diversion Project is essential to meeting the future water needs of North Dakota, and they are committed to working together to advance the best interests of the state and to see that the federal government upholds its commitment to the people of North Dakota."

Secretary Sprynczynatyk provided a briefing of the meeting held February 24, 1997 in Washington, DC with the conservation community concerning amendments on Garrison. He said the discussions at the meeting were non-binding, and no decisions or negotiations were made. The intention was to begin the drafting process of amendments to the 1986 Reformulation Act, but input and reaction from the Garrison Diversion Conservancy District was requested before the process started.

Secretary Sprynczynatyk stated the eight elected state officials have reviewed a summary of the Garrison discussions of February 24, 1997, but they have not decided what the bottom line is. He said the summary needs to be provided to other interested groups in the state for their reaction and input as well.

Warren Jamison, Manager of the Garrison Diversion Conservancy District, provided a briefing of the District's responses to the February 24, 1997 summary of Garrison discussions. The responses have been forwarded to the Congressional Delegation, the Governor, and the state leadership. Mr. Jamison said because of the importance of the details involved in the drafting of any amendments to the 1986 Reformulation Act, the District has offered the services of its legal counsel. Mr. Jamison commented that he is very pleased with the progressive way in which the elected leadership has responded and with the progress achieved thus far in the discussions.

GARRISON DIVERSION PROJECT - RED RIVER VALLEY MUNICIPAL, RURAL AND INDUSTRIAL WATER NEEDS ASSESSMENT, REVIEW DRAFT APPRAISAL REPORT (SWC Project No. 237)

The Bureau of Reclamation has studied the water supplies and needs in the Red River Valley for the past two years in an effort to determine the future (2050) water supplies and requirements. The Bureau recently released its March, 1997, Red River Valley Municipal, Rural and Industrial Water Needs Assessment, Review Draft Appraisal Report for comments.

Warren Jamison expressed concern that the study does not provide the information in detail which will be required to adequately address and be capable of initially performing planning studies which will subsequently be used for operational studies. Because of the concerns, the Garrison Diversion Conservancy District Board of Directors, at its meeting on March 5, 1997, discussed the possibility of the District providing funding from the MR&I interest account for more in-depth and technical studies in phase II of the Red River Valley water needs assessment. Mr. Jamison suggested a meeting of the concerned organizations be held to discuss these issues.

Michael Dwyer, Executive Director of the North Dakota Water Users Association, provided the Association's position for the completion of the Garrison Diversion Project. The memorandum, dated March 18, 1997, which was provided to the Congressional Delegation, the Governor, and the state leadership, is attached hereto as *APPENDIX "E"*.

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

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

All Seasons Water Users: The engineer has evaluated System I for expansions that may tie into the Pierce Rural Water service area and System IV that may tie into the Benson Rural Water service area. The cost estimates are \$1.5 million for System I and \$6 million for System IV. The engineer is working on a preliminary engineering

report for requesting MR&I funding for the project.

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March 26, 1997

Benson County Rural Water: The engineer has completed the feasibility study and Benson County has received a 65 percent MR&I grant on the study costs of \$34,800. Ulteig Engineers is reviewing the project with the surrounding rural water systems of All Seasons, Langdon and Pierce on how the Benson system best ties in the water service areas.

Burleigh Water Users: The Phase 2 project design has been completed and construction is planned for 1997. The project had a December 17, 1996 bid opening. The Burleigh Water Users has estimated that Phase 2 will cost \$7,650,000 and they need to find funding to cover an estimated shortage of \$496,000. Burleigh has requested a MR&I grant of \$250,000, which is in addition to the proposed Fiscal Year 1997 MR&I grant of \$3,590,000. The project has some contingency funding in the estimate and is being reviewed. Burleigh wanted to know the funding options before awarding bids, so a request for additional MR&I funding was made.

Dickey Rural Water Project: The water treatment plant is operating with final connection details being made for pumping water to the communities of Berlin, Edgeley, Ellendale, Fullerton, and up to 160 rural users. Work continued on the pipelines for the rural water distribution system until the weather stopped construction. Any remaining construction will be completed in 1997.

Grand Forks Water Treatment: The city of Grand Forks is modifying the water treatment plant's existing clear wells by installing baffling to increase the contact time to meet the requirements of the Surface Water Treatment Rule.

Langdon Rural Water: The engineer has completed the preliminary engineering report for construction of Phase IV, the Munich service area. The estimated cost is \$9.6 million. The engineer is working with Ulteig Engineers on how the Munich area would work with the Benson Rural Water service area. The preliminary engineering report is part of a request for MR&I program funding for the project.

Missouri West Rural Water System: The system design is complete. The project is planning for phased construction, with the portion of the rural water system extending to St. Anthony scheduled for 1997.

North Valley Water Association/Walhalla-Neche Branch: The engineer is working on the feasibility study and the environmental assessment requirements. The project is planned for phased construction with the water treatment plant expansion and the connection to the city of Walhalla scheduled for 1997. North Valley

has requested additional MR&I grant funds of \$580,000 to add the city of Neche to the expansion project. North Valley has also requested an additional grant of \$17,550 on \$27,000, which covers \$15,000 for an additional cultural resources survey for the environmental compliance on the total project and \$12,000 for engineering for adding Neche to the feasibility study.

Northwest Area Water Supply Project: See Northwest Area Water Supply Project section in these minutes for complete status report.

Ransom-Sargent Rural Water Project: The engineer is working on the feasibility study and the environmental assessment requirements.

Southwest Pipeline Project: See Southwest Pipeline Project section in these minutes for complete status report.

Secretary Sprynczynatyk reported on meetings held with representatives of the U.S. Department of Agriculture, Rural Development, Bureau of Reclamation, State Health Department, Garrison Diversion Conservancy District, and the State Engineer relative to the coordination of available funding programs to meet the needs for water supply projects. A draft memorandum of understanding, with the purpose of establishing greater communication and coordination between the parties on water supply development in North Dakota, was provided to the Commission members.

**GARRISON DIVERSION PROJECT -
MR&I FUNDING FOR FY 1997
(SWC Project No. 237-3)**

At its December 4, 1996 meeting, the State Water Commission passed a motion approving the proposed \$12 million Fiscal Year 1997 MR&I Water

Supply program budget, contingent upon the availability of funds and subject to future revisions. Affirmative action was taken by the Garrison Diversion Conservancy District board of directors at its meeting on January 2, 1997.

Secretary Sprynczynatyk explained that the \$12 million allocation is below the \$16.2 guidelines established on September 25, 1995. As a result of the \$4 million shortfall, the MR&I committee of the State Water Commission and the Garrison Diversion Conservancy District will need to re-visit future funding.

Warren Jamison made reference to the President's budget request of \$20.4 million for the Garrison Diversion Unit for Fiscal Year 1998 to continue assistance to communities still in need of a guaranteed supply of water. In a memorandum to the Congressional Delegation, dated March 18, 1997, Mr. Jamison said "we realize that federal funding is

limited, but the state's water needs continually grow as peoples' needs remain unmet. The potential for growth and high value economic development in the area of the state is limited due to the uncertainty of future water supplies. We are requesting an additional \$7.5 million for water systems at Hebron, Glen Ullin, and Neche, and for the continued operation of the Oakes Test Area. The State Water Commission and the Garrison Diversion have put together a plan for meeting these needs as far as the existing authorizations will allow. The plan was assembled two years ago and has been adjusted since then to match declining levels of appropriations for the GDU. The President's request, if not increased, will decimate the planning program for meeting the existing highest priority needs of financial assistance to municipal, rural, and industrial water systems."

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

Secretary Sprynczynatyk provided a status report on the Northwest Area Water Supply Project.

Specific Authorization No. 4 for the final design contract was entered into on January 31, 1997. This work item authorized the engineering team to begin the process of evaluating pipeline routes from the Snake Creek embankment to Minot. The work included control surveying, aerial mapping, geotechnical investigations, permitting, and preparing easements. Work has begun in this area with aerial mapping and the first control survey taken last fall. Recently, there have been soil borings taken through the ice on Lake Audubon. The work under this specific authorization will lead directly into design of the pipeline.

Current work for the final design contract has been concentrated on the environmental assessment. A specific authorization for the final design contract was entered into on January 6, 1997, which included an evaluation of the water quality in Lake Audubon, developing a long-term water quality monitoring program, and conducting special tests to characterize specific water quality conditions that may occur seasonally. Much of this work will provide preliminary information necessary to design water treatment processes, and some of the long-term and seasonal information will be provided to the Garrison Joint Technical Committee in accordance with the conclusions of the joint United States-Canada Consultative Group consultations on the Northwest Area Water Supply Project.

Secretary Sprynczynatyk reported on the Garrison Joint Technical Committee meeting held March 25, 1997 in Minneapolis. The committee discussed the environmental assessment for the final design, with an agency draft anticipated by mid-April, after which it will be submitted for public review and comment. Project information provided to the committee included the proposed water quality monitoring program, detailed water quality analysis results of a sample collected last fall, and a surrogate microbe for monitoring the effectiveness of the pre-treatment at the lake.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
APPROVAL OF "RESOLUTION
CONCERNING REIMBURSEMENT
BOND REGULATION"
(REIMBURSEMENT OF EXPENSES
FROM BOND PROCEEDS)
(SWC Project Nos. 237-4 and 1885)**

Secretary Sprynczynatyk discussed funding options being explored for the Northwest Area Water Supply Project. Because the bonds being considered for construction of the project are tax-exempt, bonds issued to finance previously made expenditures are subject to substantial restrictions by the Internal Revenue

Code, and the regulations promulgated thereunder. The State Water Commission must satisfy certain objective criteria to establish that an expense was intended to be financed through debt, rather than paid for some other way, in order to allocate any of the bond proceeds to that expense. The State Water Commission must take these steps to avoid having the reimbursement bond classified as a taxable bond. A draft resolution which complies with tax regulations was presented for the Commission's consideration.

Secretary Sprynczynatyk explained that in the case of the Northwest Area Water Supply Project, bonds may not be issued for quite some time and there could be considerable expenses for engineering, easements, and administration incurred prior to the issuance of bonds. Expenses for preliminary work such as administration and engineering are exempt from this requirement, but are limited to 20 percent of bond proceeds. Land costs (easements) and any other costs for items which are not to be used by the project are those costs which are covered. He added that although we may not seek reimbursement of these expenses from bond proceeds, approval of the draft resolution would provide that option.

It was the recommendation of the State Engineer that the State Water Commission authorize the execution of the "Resolution Concerning Reimbursement Bond Regulation" to satisfy the tax regulations concerning reimbursement from bond proceeds for the Northwest Area Water Supply Project.

It was moved by Commissioner Ames and seconded by Commissioner Johnson that the State Water Commission authorize the execution of the "Resolution Concerning Reimbursement Bond Regulation" to satisfy the Internal Revenue Code tax restrictions concerning reimbursement bond proceeds, which would include certain proceeds of the bonds used to reimburse expenditures made by the Commission and paid prior to the time of the issuance of such bonds for pre-construction work on the Northwest Area Water Supply Project. SEE APPENDIX "F".

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

**APPROVAL OF REQUEST FROM
RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARING ON WILD RICE RIVER
SNAGGING AND CLEARING PROJECT
(SWC Project No. 1842-5)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost sharing on the Wild Rice River snagging and clearing project.

The project consisted of removing log jams, dead trees, stumps, and standing trees in danger of falling into the channel along three reaches of the river in Walcott Township, Colfax Township, and Dwight Township. Moore Engineering, Inc. of West Fargo was the project engineer. The snagging and clearing project is complete.

The engineer's estimate for the project was \$47,750, all of which are eligible for cost sharing. Under the State Water Commission's policy and guidelines for cost sharing, 25 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 \$12,000.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing of 25 percent of the eligible costs, not to exceed \$12,000 from the Contract Fund, for the Wild Rice River snagging and clearing project in Richland County.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 25 percent of the eligible costs, not to exceed \$12,000 from the Contract Fund, for the Wild Rice River snagging and clearing project in Richland County. This motion is contingent upon the availability of funds.

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

1997 LEGISLATION

Secretary Sprynczynatyk reported the bill drafts recommended by the State Water Commission at its December 4, 1996 meeting for consideration to the legislature, which are under the authority of the State Water Commission and the State Engineer, have passed the House and the Senate and are awaiting the Governor's signature. There was discussion of the bills affecting Devils Lake and the Garrison Diversion Project, as well as bonding as a source of funding for projects.

1997 FLOOD OUTLOOK (SWC Project No. 1431-08)

On March 14, 1996, the National Weather Service issued its flood outlook statement. Todd Sando provided a summary of the outlook, which is attached hereto as *APPENDIX "G"*. Mr. Sando said there is the potential for spring flooding throughout the state. Deviations from normal precipitation and temperature since March 14 will affect the outlook. The next outlook will be issued by the National Weather Service on March 28, 1997.

The "1997 Flood Tracking Chart for the Sheyenne River Basin" was distributed to the Commission members. The U.S. Geological Survey prepared the chart, in cooperation with the State Water Commission, the Corps of Engineers, the National Weather Service, and the Southeast Cass Water Resource District. Secretary Sprynczynatyk reported the "1997 Flood Tracking Chart for the Red River for the North Basin" will also be available. It is intended that the charts can be used by local citizens and emergency response personnel to record the latest river stages and predicted flood-crest information. By comparing the current stages and the predicted flood crest to the recorded peak stages of previous floods, emergency response personnel and residents can make informed decisions concerning the threat to life and property.

SPIRITWOOD LAKE FLOOD CONTROL PROJECT/ APPLICATION TO DRAIN (SWC Project No. 461)

Spiritwood Lake adjacent landowners have endured flooding in recent years and the pending spring flood in 1997 will present a more serious problem this spring. Many cabins are located on the shores of Spiritwood Lake.

On March 5, 1997, the Spiritwood Lake Association applied for a permit to drain water from Spiritwood Lake, which is a meandered lake. The purposes of the application were to drain excess water from the lake before additional riparian property is damaged; drain excess water from the lake in a controlled manner rather than permitting an uncontrolled overflow; and establish a permanent outlet elevation for the lake at 1443 feet msl.

Secretary Sprynczynatyk explained that because of the emergency nature of the application, the Governor signed Executive Order 1997-05 to suspend statutes and rules as they apply to the procedures for processing any permit necessary for draining water from Spiritwood Lake, provided that a public hearing was advertised and held with regard to the permit. This suspension allowed the State Engineer and the Stutsman County Water Resource District to expedite the process for determining whether to grant a permit.

On March 17, 1997, a joint hearing of the State Engineer and the Stutsman County Water Resource District was held in Jamestown. The purpose of the hearing was to gather information from the applicant and other interested parties that would assist the board and the State Engineer in making a determination on the application. The hearing was conducted pursuant to North Dakota Century Code §61-15-03, which requires anyone desiring to drain a lake with a watershed area comprising 80 acres or more to obtain a permit; North Dakota Century Code §61-15-08, which requires the consent of the State Engineer before a meandered lake can be drained; and the Governor's Executive Order 1997-05.

The legal counsel for the Spiritwood Lake Association presented the project proponents' testimony. State Water Commission staff testified and provided results of an engineering analysis of the project and the downstream impacts of the proposed project. The analysis determined the capacity of the drain and the receiving watercourse and a comparison of volume and timing of pre-drainage and post-drainage flows. The proposed project included a sheet pile weir at the southeast corner of Spiritwood Lake and the installation of culverts to increase capacity of road crossings between Spiritwood Lake and Alkali Lake. Project opponents' testimony was also presented, which included landowners downstream from Spiritwood Lake.

Secretary Sprynczynatyk informed the Commission members that at the conclusion of the hearing, the Stutsman County Water Resource Board, with a unanimous vote, denied the application to drain Spiritwood Lake because of the downstream opposition.

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

Secretary Sprynczynatyk reported that since May, 1995, the Missouri River Basin Association has been working with a team of consensus-building experts to reach agreement on issues that have divided the basin's states and tribes in the past. Various issues have been discussed in depth, papers have been presented which outlined the problems and possible solutions, and the aid of several agencies and committees have been enlisted.

In February, 1996, the Missouri River Basin Association directors decided to initiate a basin-wide monitoring program, which would document the current hydrological and biological conditions of the river system and would track the effectiveness of programs designed to improve the basin's fish and wildlife resources. The Association directors reached agreement on these issues and discussed various other issues as part of their continuing efforts to exert a stronger influence over water policy decisions by presenting a united front to the federal government. The Association directors plan to deliver a list of recommendations to the Corps and other federal agencies.

The Missouri River Basin

Association developed a planning process to recommend the best methods for maximizing basin water uses and interests. The planning effort involved representation of the basin's primary water interests with state and tribal representatives in a search for ways to obtain maximum benefits for all water uses. The following goals were identified to meet the needs of the water users and guide the management and operation of the Missouri River:

- **Recreation Goal.** Promote the stability and growth of recreational use of the river through water management, economic assistance, and recreational planning.
- **Navigation Goal.** Promote the stability and growth of navigation on the Missouri River system through water management, economic assistance, and transportation planning.
- **Water Supply Goal.** Enhance water supply in the basin for municipal, rural, industrial, irrigation, and agricultural use.
- **Habitat Goal.** Identify a comprehensive set of programs, both new and existing, that can enhance habitat within the basin.
- **Bank and Shoreline Integrity Goal.** Maintain the integrity of river banks and lake shoreline where appropriate throughout the system to protect present and future water uses.
- **Flood Control Goal.** Operate the Missouri River system to maintain or enhance flood control benefits.
- **Hydropower Goal.** Maintain or enhance hydropower production with consideration for equitable distribution of the benefits among the tribes and states.
- **Future Depletion Goal.** Develop a mechanism for equitable allocation among the basin states and tribes of the risks of future depletions.

- **Monitoring Goal.** Develop a monitoring system that provides adequate information to characterize and understand the existing system and evaluate the impacts of changes.

As part of the Association's planning process, representatives of the basin's water interests were invited to join task force discussions on recreation, navigation, water supply, habitat, bank/shoreline/flood control, and hydropower on June 13-14, 1996 in Bismarck. The charge to the task forces were to identify ways to reach the stated goals of obtaining maximum benefits for all water users in each of the six interest areas in a manner that reflects a basin-wide perspective.

Secretary Sprynczynatyk said there was general consensus among the conference participants of the need for a Missouri River Basin authority to manage the Missouri River rather than the federal government. The strong spirit of basin-wide cooperation at the conference indicates a basic change in the way water management issues will be addressed along the Missouri River. He said we are trying to overcome the decades of confrontational politics that have dominated the decision-making in the basin, and come up with new ways of decision-making that will work better for all of us who live in the basin and depend on the river system.

The ideas proposed from the conference were reviewed by the Association directors, and draft recommendations were developed. The Association is continuing its review of the draft recommendations, with eventual presentation to the Corps of Engineers and other federal agencies. The Association requested the task forces throughout the basin to continue discussions in their area on specific issues of dispute between the upper and lower basin states. Secretary Sprynczynatyk said the recommendations include a timeframe for completion of issues, and he said he is hopeful "that many of the problems can be addressed and alleviated in the management of the Missouri River."

Andy Mork, Chairman of the Burleigh-Oliver-Morton-Mercer-McLean (BOMMM) Board reported on the efforts the board is pursuing to obtain federal funding for Missouri River bank protection to reduce streamflow erosion. Mr. Mork explained the problems, and said the board is working with the Governor's office, the State Water Commission and others in its efforts for bank protection.

**NORTH DAKOTA WATER
EDUCATION FOUNDATION
(SWC File AOC/WEF)**

The North Dakota WaterCourse, a division of the North Dakota Water Education Foundation, is planning to facilitate 10 water tours in 1997. Tour participants will have an opportunity to visit the Garrison Diversion facilities, the Oakes Test Area, and Devils Lake.

According to the North Dakota Water Coalition's Water Priorities Plan, North Dakota's immediate needs for the next two years total approximately \$267 million. Completion of the Garrison Diversion Project, stabilizing Devils Lake, and providing an adequate supply of water to the Oakes Test Area are just a few of the state's immediate priorities which will be highlighted during the water tours. Completing these and other water projects is crucial to the well-being of many North Dakota communities.

The water tours will provide an opportunity to show state officials and the general public the significant investment that has been made in North Dakota's water infrastructure and the critical need for water development. The tours empower participants to make informed decisions concerning water development in North Dakota. Once the participants see the needs first-hand, it is hoped they will be more compelled to help seek and support additional funding for water projects.

The Water Education Foundation has set a \$25,000 goal to facilitate the tours. The State Water Commission received a request to be a tour partner and to contribute \$2,500 to be used to facilitate the tours. Secretary Sprynczynatyk said it is his intent to support the request and to cost share up to \$2,500 in facilitation of the tours. He encouraged the State Water Commission members to participate in the tours.

**NORTH DAKOTA WETLANDS
CONSERVATION PLAN
(SWC Project No. 1500-2)**

At its meeting on June 19, 1996, the State Water Commission passed a motion authorizing the State Engineer to execute the agreements

with the U.S. Environmental Protection Agency and the appropriate agencies to implement the Fiscal Year 1996 Wetlands Conservation proposal. The tasks funded by the Fiscal Year 1996 grant, and the responsible agency, include:

- North Dakota State Water Commission's GIS program and GPS survey demonstration in the Devils Lake basin - State Water Commission
- Wetlands grant administration - State Water Commission
- North Dakota Wetlands Institute's State Wetlands Regulatory program - North Dakota Water Education Foundation
- North Dakota Game and Fish Department's Private Lands Initiative program - North Dakota Game and Fish Department
- Wetlands Water Quality Standards Development Project/Ecoregion Integration - North Dakota Department of Health

- **Devils Lake Basin Coordinator - the State Water Commission contracts for services with the required match split between the State Water Commission, State Department of Health, Garrison Diversion Conservancy District, State Game and Fish Department, and the Devils Lake Joint Board**
- **Grand Harbor Watershed Demonstration project - Ramsey County Water Resource District**
- **North Dakota Department of Agriculture's Project Safe Send - Agriculture Department**
- **North Dakota Game and Fish Department's CRP Prioritization - State Game and Fish Department**

At the October 16, 1996 Commission meeting, Michael Dwyer, Director of the North Dakota Wetlands Institute, provided information relative to the development of a wetlands conservation regulatory program for North Dakota that would protect critical wetlands; provide for mitigation of wetlands impacted by draining, filling, or other development; establish a wetlands mitigation banking system; encourage enhancement of wetlands related habitat; and establish a regulatory procedure and decision-making process which is efficient, flexible, and user friendly, but at the same time protect wetlands resources and enforce willful and intentional violations.

At the January 27, 1997 meeting, the draft North Dakota Wetlands Conservation Plan, dated December, 1996, was distributed to the Commission members. The draft plan has been endorsed by the Governor, the State Engineer, and the Director of the Game and Fish Department.

Secretary Sprynczynatyk reported the Governor's Wetlands Council held an organizational meeting on March 19, 1997. The purpose of the meeting was to develop the Council's goals and objectives and to discuss the draft North Dakota Wetlands Conservation Plan. The next meeting of the Council is scheduled for May 13, 1997.

**RED RIVER DIKE -
WALSH COUNTY PROPOSAL
(SWC Project No. 1638)**

Secretary Sprynczynatyk provided a briefing of a meeting held February 24, 1997 in Warsaw, North Dakota, regarding the Red River dike area on the North Dakota side of the North Dakota-Minnesota border. The meeting was chaired by Senator Harvey Tallackson. Congressman Earl Pomeroy attended the meeting, along with representatives of the Corps of Engineers, State Water Commission, Natural Resources Conservation Service, North Dakota Division of Emergency Management, and approximately 200 citizens.

A local group is proposing that a new dike be constructed about one to two miles west of the Red River and that all of the land on the river side of the dike be purchased as a part of the project. Secretary Sprynczynatyk said that most landowners spoke in favor of the project, although several indicated the buyout price of the land was the key issue.

The proposed dike would extend 15 miles along the Red River in Walsh County and longer if Grand Forks County would be included. The land involved would be about 13,000 acres with a one-mile set back and about 23,000 acres with a two-mile set back. At Red River valley land prices, costs would be very significant. There are about 40 farmsteads involved. Secretary Sprynczynatyk said there were some suggestions to find an environmental group that may be interested in the land.

Representatives of the Corps of Engineers indicated that they have several programs available to study the project and that most require a cost share. They agreed to develop a recommendation which program and approach would be best for the project.

Secretary Sprynczynatyk said that the state has always suggested the dikes be set back from the river's edge. The cost may be the main obstacle, since purchasing up to 23,000 acres could cost as much as \$18 million. The Corps of Engineers requires all land and right-of-way to be paid for by the non-federal sponsor. Obtaining a benefit cost ratio greater than one will be difficult under federal guidelines, as agricultural flood benefits are often underestimated.

It was the recommendation of the State Engineer that the state continue to pursue this project. There was no action taken by the State Water Commission at this meeting.

**U.S. GEOLOGICAL SURVEY -
PROGRAMS IN NORTH
DAKOTA FACT SHEET
(SWC File AF/INT/GEO)**

The U.S. Geological Survey Fact Sheet FS-034-96 relating to Programs in North Dakota was provided to the Commission members. The State Water Commission is a cooperative agency.

**NORTH DAKOTA WATER
RESOURCES MAP
(SWC File AOC/WAT)**

The North Dakota water resources map was provided to the Commission members. The State Water Commission provided technical assistance to

the North Dakota Water Coalition in its efforts to develop the map showing water development in North Dakota.

**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 Bureau of Reclamation initiated guidelines for transferring projects to non-federal entities. The State Water Commission staff has worked with the Bureau and the city to pursue the transfer.

Secretary Sprynczynatyk informed the Commission members that because of liability concerns that are being imposed by the Bureau, the city has decided not to pursue the transfer of ownership and responsibilities of the Dickinson Dam and Patterson Lake from the Bureau of Reclamation.

There being no further business to come before the State Water Commission, Chairman Olin adjourned the meeting at 1:00 PM.

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

SEAL

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

