

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

July 19, 1995

The North Dakota State Water Commission held a meeting in the lower level conference room in the State Office Building, Bismarck, North Dakota, on July 19, 1995. Governor-Chairman, Edward T. Schafer, called the meeting to order at 1:30 PM, 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
Sarah Vogel, 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 Sprynczynatyk, State Engineer and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission staff members
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

The minutes of the April 26, 1995,

OF APRIL 26, 1995, STATE WATER COMMISSION MEETING - APPROVED, AS CORRECTED

State Water Commission meeting were considered. It was noted on page 10, the Commission's vote on the motion approving Resolution No.

95-4-466 regarding the privatization of power marketing administrations was inadvertently omitted. Secretary Sprynczynatyk said the motion was unanimously passed, and that the resolution had been forwarded to the appropriate persons. The minutes were approved, as corrected, by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Vogel, and unanimously carried, that the minutes of the April 26, 1995, State Water Commission meeting be approved as corrected.

**CONSIDERATION OF MINUTES
OF JUNE 14, 1995, STATE WATER
COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the June 14, 1995, State Water Commission telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Vogel, and unanimously carried, that the minutes of the June 14, 1995, State Water Commission telephone conference call meeting be approved as prepared.

**FINANCIAL STATEMENT -
AGENCY OPERATIONS**

dated June 30, 1995, and reflecting 100 percent of the 1993-1995 biennium. These expenditures do not reflect the salary and wages for the month of June, 1995. Mr. Rydell explained the procedure for completing the 1993-1995 biennium, with the final biennial report to be released by the Office of Management and Budget on July 28, 1995. He said it appears at this time there will be approximately \$50,000 of agency funds turned back to the General Fund. *SEE APPENDIX "A"*.

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

**FINANCIAL STATEMENT -
CONTRACT FUND; AND
RESOURCES TRUST FUND
FOR 1993-1995 BIENNIUM
UPDATE**

Dale Frink, Director, State Water Commission's Water Development Division, reviewed and discussed the Contract Fund for the 1993-1995 biennium. *SEE APPENDIX "B"*.

**APPROVAL OF CARRYOVER
PROJECTS FROM 1993-1995
BIENNIUM**

Dale Frink presented the following carryover projects that were approved by the State Water Commission during the 1993-1995 biennium but

were not completed. He explained the final total carryover amount will not be determined until the remaining 1993-1995 payments for the projects have been made:

Devils Lake Flood Control	\$ 425,000
Maple River Dam	254,000
Baldhill Dam Safety	124,000
Grand Harbor	20,000
Hammer - Sullivan Drain	21,231
Nelson Drain	37,627
Mount Camel Dam	238,420
Lower Mauvais Coulee	41,800
English Coulee Modifications	100,000
Belfield Flood Control	38,800
Buford-Trenton Irrigation	30,534
Miscellaneous Small Projects	<u>67,948</u>
Total	\$ 1,400,000 **

** Final total carryover amount will not be determined until the remaining 1993-1995 payments for the projects have been made

It was the recommendation of the State Engineer that the State Water Commission approve 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.

It was moved by Commissioner Ames and seconded by Commissioner Thompson that the State Water Commission approve 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.

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

**APPROVAL OF ALLOCATIONS
FROM RESOURCES TRUST FUND
FOR 1995-1997 BIENNIUM**

The 1995 Legislature approved a spending limit of \$9,384,081 from the Resources Trust Fund as a part of the 1995-1997 State Water Commission

budget. Secretary Sprynczynatyk stated that as in the past, the State Water Commission has only allocated funds up to the most current estimate of available funds. The revenues to the Resources Trust Fund will be monitored throughout the biennium and, if revenues exceed estimates, a request can be made to the Emergency Commission for additional authority. The latest forecast released from the Office of Management and Budget shows a \$600,000 higher ending biennium balance in the Resources Trust Fund due to a larger turnback estimate and higher collections during the 1993-1995 biennium. However, in May, 1995, this amount was largely offset with a lower Oil Extraction Tax estimate of about \$430,000. Secretary Sprynczynatyk said, as a result, the amount approved by the Legislature appears to be reasonably close to the current estimate of funds available for grants during the 1995-1997 biennium.

Secretary Sprynczynatyk stated that the current estimates indicate \$2,680,181 is available from the Resources Trust Fund for general projects during the 1995-1997 biennium. He said this amount includes funds for the Baldhill Dam raise, the Maple River Dam, the Northwest Area Water Supply Project, and several smaller projects. Due to a shortage of funds in the 1993-1995 biennium, the State Water Commission deferred action on eight projects. Several additional requests have been received, resulting in a current request of \$985,422 which will be presented for the Commission's consideration at this meeting. Secretary Sprynczynatyk indicated cost share requests are anticipated during the 1995-1997 biennium for the Baldhill Dam raise and the Maple River Dam, and recommended \$1,000,000 be reserved for these projects.

Secretary Sprynczynatyk presented for the Commission's consideration the following recommendation for funding from the Resources Trust Fund for the 1995-1997 biennium:

General Projects <u>1/</u>	\$ 2,680,181
Hydrologic Investigations	500,000
Southwest Pipeline Project	950,000
Devils Lake Office	87,900
ProGold Corn Wet-Milling Plant	2,000,000
State Water Commission Operations	1,766,000
Carryover Projects	<u>1,400,000</u>
Total	\$ 9,384,081

1/ Includes \$25,000 for Project WET and \$26,187 for central service fee, both as appropriated by Legislature in the State Water Commission budget.

It was moved by Commissioner Ames and seconded by Commissioner Thompson that the State Water Commission approve the recommendation of the State Engineer for funding allocations from the Resources Trust Fund for the 1995-1997 biennium.

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

**PROGOLD LIMITED LIABILITY
COMPANY CORN WET-MILLING
FACILITY - APPROVAL OF COST
SHARING FROM CONTRACT FUND
FOR DESIGN AND CONSTRUCTION
OF WATER SUPPLY FACILITIES
(SWC Project No. 1880)**

At its March 16, 1995, meeting, the Commission was advised that ProGold Limited Liability Company had announced its site location for a corn wet-milling facility at Wahpeton, North Dakota.

Secretary Sprynczynatyk explained that under the authority granted to the State Water Commission in chapter 61-02 of the North Dakota Century Code, the Commission can provide funds and engineering assistance for water supply development. He said this has been done in the past on several occasions, including the water supplies for the sugar beet processing plants at Wahpeton, Hillsboro, and Drayton.

When the state's proposal was developed in June, 1994, for locating the corn wet-milling project in North Dakota, Secretary Sprynczynatyk indicated \$2,000,000 was included for developing the water supply for the project based on discussions with Chairman Schafer. He said this amount would include engineering assistance and funds from available resources.

On March 23, 1995, a request was received from ProGold Limited Liability Company for \$2,000,000 toward the design and construction of facilities for a water supply for the corn wet-milling plant at Wahpeton. At the April 26, 1995, Commission meeting, Secretary Sprynczynatyk explained that since adequate funding authorization did not exist in the 1993-1995 biennium, the Commission could not obligate funds until after July 1, 1995, the beginning of the next biennium. He indicated that the 1995 Legislature approved an additional 10 percent of the oil extraction tax to the Resources Trust Fund to insure sufficient funds are provided for developing the water supply for the project. Secretary Sprynczynatyk informed the Commission at its April 26, 1995, meeting, that it was his intent that during the Commission's first meeting after July 1, 1995, a recommendation would be made to approve \$2,000,000 of funding for the corn wet-milling plant, contingent upon the availability of funds.

It was the recommendation of the State Engineer that the State Water Commission approve \$2,000,000 from the Contract Fund to the ProGold Limited Liability Company for the design and construction of water supply facilities for the corn wet-milling plant near Wahpeton, North Dakota.

Secretary Sprynczynatyk informed the Commission members that a water permit was approved on June 2, 1995, allocating 6,000 acre-feet of water from the Red River, and holding an additional 6,000 acre-feet of water in abeyance. A water permit application was also filed by ProGold requesting the use of 12,000 acre-feet of ground water, which is currently being evaluated by the Commission staff.

It was moved by Commissioner Vogel and seconded by Commissioner Swenson that the State Water Commission approve \$2,000,000 from the Contract Fund to the ProGold Limited Liability Company for the design and construction of water supply facilities for the corn wet-milling plant near Wahpeton, North Dakota. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM BOTTINEAU
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
ON LAPORTE COULEE DAM
(SWC Project No. 1267)**

A request from the Bottineau County Water Resource District was presented for the Commission's consideration for cost participation on the LaPorte Coulee Dam.

Cary Backstrand, State Water Commission's Water Development Division, presented the request. The Commission deferred action on this request at its May 24, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

Commissioner Swenson stated that the design engineer for the LaPorte Coulee Dam is presently in his employment and, therefore, to avoid a conflict of interest, Commissioner Swenson requested to be excused from discussion of the project and that an abstention vote be recorded for him.

The LaPorte Coulee Dam is located on the LaPorte Coulee, a tributary to the Souris River, and approximately three miles east of the city of Newburg. The dam has a maximum depth of 21 feet and the capacity to hold 206 acre-feet at the principal spillway. The dam's principal spillway is a 30-inch diameter CMP riser with a 24-inch CMP barrel, and the emergency spillway is a cut earth (grassed covered) overflow 200 feet wide. There is a 6-inch PVC gated low-level drawdown through the embankment.

The dam was completed in the fall of 1993; however, in the spring of 1994, piping along the low-level drawdown caused a portion of the embankment to wash out. The low-level drawdown has been reinstalled and the embankment repaired. Water held upstream behind a number of "create-a-wetland structures" was released later in the year. The dam was filled to its operating level and a public swimming beach has been completed.

The Bottineau County Water Resource District has stocked the dam with fish. The public benefits include recreational opportunities, an increase in migratory waterfowl habitat, a decrease in the erosion potential of the area, ground-water recharge, and an improved water quality. Public access to the reservoir will be improved through a roadway upgrade scheduled for completion this summer.

The total cost of the dam and recreation area, including improved access to the recreational facilities, is \$64,240, of which \$61,223 is eligible under the present State Water Commission's policy and guidelines for 33 percent cost sharing as a recreational project. The request before the State Water Commission is to cost share in the amount of \$20,520 from the Contract Fund.

Clifford Issendorf, Chairman of the Bottineau County Water Resource District, offered additional information relative to the project and requested the Commission's favorable consideration for cost sharing.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 33 percent of the eligible costs, not to exceed \$20,520 from the Contract Fund, for the LaPorte Coulee Dam.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve cost sharing in 33 percent of the eligible costs, not to exceed \$20,520 from the Contract Fund, for the LaPorte Coulee Dam in Bottineau County. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, 1995

Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. Commissioner Swenson abstained from voting. The Chairman declared the motion carried.

**CONSIDERATION AND APPROVAL
OF REQUEST FROM BOTTINEAU
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
FOR WHITE SPUR - STONE CREEK
PROJECT
(SWC Project No. 1737)**

A request from the Bottineau County Water Resource District was presented for the Commission's consideration for cost participation for the White Spur - Stone Creek project.

Commissioner Swenson stated that the design engineer for the White Spur - Stone Creek project is presently in his employment and, therefore, to avoid a conflict of interest, Commissioner Swenson requested to be excused from discussion of the project and that an abstention vote be recorded for him.

Cary Backstrand presented the request. In 1988, the State Water Commission allocated \$206,115 toward the White Spur - Stone Creek project in Bottineau County. The project encountered legal problems concerning the need for a Clean Water Act Section 404 permit from the Corps of Engineers. The legal problems have been resolved and a Section 404 permit issued. The project was completed last fall with a number a changes made to the original design.

From the original allocation, \$61,451 was transferred to the Bottineau County Water Resource District and the unused funds of \$144,664 were turned back to the Contract Fund. The District has submitted a request for cost sharing on the completed project, of which \$568,071 is eligible for 40 percent cost sharing under the State Water Commission's cost share policy and guidelines. The request before the State Water Commission is to cost share in the amount of \$227,229 from the Contract Fund.

Clifford Issendorf, Chairman of the Bottineau County Water Resource District, commented on the project and requested the Commission's favorable consideration of the cost sharing request.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$227,229 from the Contract Fund, for the White Spur - Stone Creek project.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$227,229 from the Contract Fund, for the White Spur - Stone Creek project in Bottineau County. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. Commissioner Swenson abstained from voting. The Chairman declared the motion carried.

**CONSIDERATION AND APPROVAL
OF REQUEST FROM CITY OF
HARWOOD FOR COST SHARING
IN HARWOOD FLOOD CONTROL
PROJECT
(SWC Project No. 1271)**

A request from the city of Harwood was presented for the Commission's consideration for cost participation in a flood control project for the city.

Cary Backstrand presented the project, which involves the reconstruction of a portion of an existing diking system along the Sheyenne River. The total cost of the project is estimated at \$480,000, of which \$188,750 are eligible for 50 percent cost sharing under the State Water Commission's cost share policy and guidelines. The city has received a CDBG grant in the amount of \$236,250, leaving a balance of \$243,750. The request before the State Water Commission is to cost share in the amount of \$94,375.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing of 50 percent of the eligible costs for the Harwood flood control project, not to exceed \$94,375.

It was moved by Commissioner Vogel and seconded by Commissioner Thompson that the State Water Commission approve cost sharing of 50 percent of the eligible costs, not to exceed \$94,375 from the Contract Fund, for the city of Harwood flood control project. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM CASS COUNTY
JOINT WATER RESOURCE BOARD
FOR COST SHARING IN SNAGGING
AND CLEARING PORTIONS OF RUSH,
MAPLE AND SHEYENNE RIVERS
(SWC Project No. 1813)**

A request from the Cass County Joint Water Resource Board was presented for the Commission's consideration for cost participation in snagging and clearing portions of the Rush, Maple and Sheyenne Rivers in Cass County.

Cary Backstrand presented the project, which was completed last fall and involved the removal of debris from portions of the Rush, Maple and Sheyenne Rivers. The joint board has received a \$385,000 grant from the Natural Resources Conservation Service.

The total cost of the project was \$610,000, of which \$225,000 is eligible for 25 percent cost sharing under the State Water Commission's cost sharing policy and guidelines. The request before the State Water Commission is to cost share in the amount of \$56,250 from the Contract Fund.

Representatives from the Cass County Joint Water Resource Board and the project engineer were in attendance to provide additional information.

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 \$56,250 from the Contract Fund, for snagging and clearing portions of the Rush, Maple and Sheyenne Rivers in Cass County.

It was moved by Commissioner Vogel and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 25 percent of the eligible costs, not to exceed \$56,250 from the Contract Fund, for snagging and clearing portions of the Rush, Maple and Sheyenne Rivers in Cass County. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM FOSTER COUNTY
WATER RESOURCE DISTRICT
FOR COST SHARING IN
CARRINGTON CREEK PROJECT
(SWC Project No. 1800)**

A request from the Foster County Water Resource District was presented for the Commission's consideration for cost participation in the Carrington Creek project.

Cary Backstrand presented the project, which involves the reconstruction of approximately 2 1/4 miles of the existing Carrington Creek channel. Carrington Creek has experienced excess flooding due to the wet conditions and additional storm water from the city.

The total project cost is estimated at \$30,500, of which \$29,700 is considered eligible for 40 percent cost sharing under the State Water Commission's policy and guidelines. The request before the State Water Commission is to cost share in the amount of \$11,880 from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$11,880 from the Contract Fund.

It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$11,880 from the Contract Fund, for the Carrington Creek project. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM GRAND FORKS
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING IN
REPAIRS TO ENGLISH COULEE
DIVERSION PROJECT
(SWC Project No. 1351)**

A request from the Grand Forks County Water Resource District was presented for the Commission's consideration for cost participation in repairs to the English Coulee Diversion project.

Cary Backstrand presented the request. Due to the recent failure of the super-span arch road crossing on English Coulee, the Water Resource District has proposed to replace the super-span with a timber bridge. The super-span item was installed in 1983 for the purpose of providing more waterway area at the crossing. A recent inspection of the failure indicated that the fabrication may have failed due to insufficient cover above the structure and that the local road maintenance crews may have bladed this crest down over the years, thus, reducing the cover to a point where the live loads were too large for the structure.

The estimated project cost is \$71,654, of which 50 percent of the costs are eligible for cost sharing under the State Water Commission's policy and guidelines. The request before the State Water Commission is to cost share in the amount of \$35,827 from the Contract Fund.

Helmer Lien, Vice Chairman of the Grand Forks County Water Resource Board, provided additional project information and requested the Commission's favorable consideration for cost sharing.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing of 50 percent of the eligible costs, not to exceed \$35,827 from the Contract Fund, for repairs to English Coulee.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 50 percent of the eligible costs, not to exceed \$35,827 from the Contract Fund, for repairs to the English Coulee Diversion project in Grand Forks County. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM GRAND FORKS
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
IN ENGLISH COULEE LATERAL
NO. 1 PROJECT
(SWC Project No. 1351)**

A request from the Grand Forks County Water Resource District was presented for the Commission's consideration for cost sharing on English Coulee Lateral No. 1 project.

Cary Backstrand presented the request. The Commission deferred action on this request at its October 14, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

The project has been designed by the Natural Resources Conservation Service and consists of cleaning out a sectionline road ditch and installing a dike and field culverts with gates to maintain wetlands adjacent to the drain. The primary purpose is for the diversion of water into English Coulee Dam more expediently and to reduce flooding of roads and farmsteads in the area of the watershed. Drain and dike permits have been approved for the project.

The cost estimate for the project is \$39,926.90, of which all the costs are considered eligible for 40 percent cost sharing under the State Water Commission's policy and guidelines. The request before the State Water Commission is to cost share in the amount of \$15,970 from the Contract Fund.

Helmer Lien, Vice Chairman of the Grand Forks County Water Resource Board, offered comments on the project and requested the Commission's favorable consideration of the cost sharing request.

It was recommended by the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$15,970 from the Contract Fund, for the English Coulee Lateral No. 1 project.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$15,970 from the Contract Fund, for the English Coulee Lateral No. 1 project, in Grand Forks County. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM CITY OF TAPPEN
FOR COST SHARING IN DRAINAGE
PROJECT
(SWC Project No. 1284)**

A request from the city of Tappen was presented for the Commission's consideration for cost participation in a drainage project for the city.

Cary Backstrand presented the request from the city of Tappen for the construction of a subsurface drainage system. The city has experienced a high ground-water table for many years and the problems have become more intense during the last three years due to above average wet conditions. More than 90 percent of the households and businesses within the city have or are continuing to experience water damage due to seepage. The city has received a CDBG grant of \$212,500, which requires a \$37,000 local cost share match.

Under the State Water Commission's policy and guidelines, the project costs are eligible for 40 percent cost sharing. The request before the State Water Commission is to cost share in the amount of \$14,800 from the Contract Fund.

Dale Berg, Mayor of the city of Tappen, elaborated on the project and requested the Commission's favorable consideration for funding assistance.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$14,800 from the Contract Fund, for the city of Tappen drainage project.

It was moved by Commissioner Vogel and seconded by Commissioner DeWitz that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$14,800 from the Contract Fund, for the city of Tappen drainage project, in Kidder County. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM NELSON COUNTY
WATER RESOURCE DISTRICT FOR
COST SHARING IN ENTERPRISE
LEGAL DRAIN NO. 1 PROJECT
(SWC Project No. 1688)**

A request from the Nelson County Water Resource District was presented for the Commission's consideration for cost participation on Enterprise Legal Drain No. 1.

Cary Backstrand presented the request. The pump drain was constructed a number of years ago and has been operating by using a tractor-driven pump. The Nelson County Water Resource District has completed the construction of a lift station on the drain, at a cost of \$55,837.84.

Under the State Water Commission's policy and guidelines for cost sharing, the project costs are eligible for 40 percent cost sharing. The request before the State Water Commission is to cost share in the amount of \$22,335 from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$22,335 from the Contract Fund, for the Nelson County Enterprise Legal Drain No. 1 project.

It was moved by Commissioner Hillesland and seconded by Commissioner Swenson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$22,335 from the Contract Fund, for the Nelson County Enterprise Legal Drain No. 1 project. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM RAMSEY COUNTY
WATER RESOURCE DISTRICT
FOR COST SHARING IN
STARKWEATHER COULEE
DRAIN PROJECT, PHASE I
(SWC Project No. 1298)**

A request from the Ramsey County Water Resource District was presented for the Commission's consideration for cost participation on the Starkweather Coulee Drain project, Phase 1.

Cary Backstrand presented the request. The Commission deferred action on this request at its December 7, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

The project consists of cleaning out and widening the Starkweather Coulee with some channel alignment to improve hydraulic characteristics of the watercourse to reduce flooding and crop damage in the area of the watershed. The overall project will be divided into phases and completed over a period of several years. Drain permit No. 2660 has been approved for the entire project.

The cost estimate for Phase I of the project is \$159,000. This estimate includes clearing and grubbing, excavation, seeding, and engineering, which are considered eligible for 40 percent cost sharing under the State Water Commission's policy and guidelines. The request before the State Water Commission is to provide cost sharing in the amount of \$63,600 from the Contract Fund.

Richard Regan, Chairman of the Ramsey County Water Resource Board, addressed the project and requested the Commission's favorable consideration for funding assistance.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$63,600 from the Contract Fund, for Phase I of the Starkweather Coulee Drain project.

It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$63,600 from the Contract Fund, for the Starkweather Coulee Drain project, Phase I. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM RICHLAND
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING FOR
RECONSTRUCTION OF RICHLAND
COUNTY DRAIN NO. 12
(SWC Project No. 1182)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost participation for the reconstruction of Richland County Drain No. 12.

Cary Backstrand presented the request. The Commission deferred action on this request at its May 24, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

The proposed project consists of resloping a portion of the existing drain channel and re-dimensioning the 1947 era drain. A drain permit has been approved for the project.

The total estimated cost of the project is \$623,383, with eligible project costs of \$464,261. Under the State Water Commission's policy and guidelines, 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 \$185,704 from the Contract Fund.

Representatives from the Richland County Water Resource Board were in attendance and offered additional information pertaining to the project. They expressed their appreciation to the Commission and requested favorable consideration on the cost sharing request.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$185,704 from the Contract Fund.

It was moved by Commissioner Bjornson and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$185,704 from the Contract Fund, for the Richland County Drain No. 12 project. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM RICHLAND
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
IN RECONSTRUCTION OF RICHLAND
COUNTY DRAIN NO. 31 PROJECT
(SWC Project No. 1191)**

A request from the Richland County Water Resource District was presented for the Commission's consideration for cost sharing in the reconstruction of Richland County Drain No. 31 project.

Cary Backstrand presented the request. The Commission deferred action on this request at its July 27, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

The proposal includes restoring the drain's bottom grade to its original grade, flattening the side slopes, and stabilizing the field inlets by installing corrugated metal pipe, and riprapping the 1945 era drain. A drain permit was approved for the project on July 12, 1994.

The total estimated cost of the project is \$140,000, with eligible project costs of \$139,000. 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 \$55,600.

Representatives of the Richland County Water Resource Board were in attendance to address the project and requested the Commission's favorable consideration for cost sharing.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$55,600 from the Contract Fund, for the Richland County Drain No. 31 project.

It was moved by Commissioner Bjornson and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$55,600 from the Contract Fund, for the Richland County Drain No. 31 project. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM ROLETTE AND
TOWNER JOINT WATER RESOURCE
BOARD FOR COST SHARING IN
HIDDEN ISLAND COULEE PROJECT
(SWC Project No. 1702)**

A request from the Rolette and Towner Joint Water Resource Board was presented for the Commission's consideration for cost sharing in the Hidden Island Coulee project.

Cary Backstrand presented the request. The Commission deferred action on this request at its May 24, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

In 1980, the State Water Commission completed a preliminary engineering study for the project, which included recommendations to alleviate flooding on the downstream reaches of Hidden Island Coulee in Towner County. The watershed for the coulee encompasses portions of Rolette and Towner Counties; therefore, this project has become a joint interdistrict project, with the two counties forming a joint board.

One of the recommendations in the 1980 report was to channelize approximately two miles of the coulee south of the United States-Canada border in Towner County, which is being pursued by the joint board. Since channelization would impact flows in Canada, the joint board joined the Canadian municipality of Roblin in developing a project on both sides of the border. The project on the Canadian side of the border, the outlet for the United States's project, received approval from Canadian authorities and has been constructed. The joint board agreed to provide \$75,000 toward the Canadian project and since it was for excavation of an outlet, this cost was considered eligible for cost sharing under the State Water Commission guidelines.

On October 31, 1990, the State Water Commission received a cost participation request from the joint board's attorney. On November 12, 1990, the State Water Commission received an updated cost estimate for the project from the project engineer. The total cost of the

project, excluding land rights and administration, is \$180,000, with approximately \$152,000 of the project costs eligible for 40 percent cost sharing. On December 3, 1990, the State Water Commission approved \$61,000 for the project.

On January 12, 1993, the joint board, through their attorney, requested a cost share payment of \$83,737.38 for project costs incurred to date. These costs were for culverts purchased, payment of the board's share in the Canadian project, and engineering. Project costs considered eligible for cost sharing totaled \$84,101.75, of which 40 percent is \$33,641. This payment was made in April, 1993.

This project was approved in the 1989-1991 biennium and carried over into the 1991-1993 biennium. The United States portion of the project was stalled due to a U.S. Fish and Wildlife easement, wetlands mitigation, and other concerns, and was not completed by the end of the 1991-1993 biennium.

Due to delays in the project, updated cost estimates were requested from the project engineer. The total estimated project cost is now \$193,259, of which \$185,711 of the project costs are considered eligible for 40 percent cost share, or \$74,284. Deducting the previous payment of \$33,641 leaves a balance of \$40,643 from the Contract Fund requiring reauthorization by the State Water Commission.

It was the recommendation of the State Engineer that the State Water Commission approve reauthorization of cost sharing in 40 percent of the eligible project costs, not to exceed \$40,643 from the Contract Fund, for the Hidden Island Coulee project.

It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve reauthorization of cost sharing in 40 percent of the eligible costs, not to exceed \$40,643 from the Contract Fund, for the Hidden Island Coulee project in Rolette and Towner Counties. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM STUTSMAN
COUNTY FOR COST SHARING IN
CRITICAL AREA TREATMENT
PROJECTS
(SWC Project No. 1046)**

A request from Stutsman County was presented for the Commission's consideration for cost participation of upgrading three Critical Area Treatment projects which failed in the spring of 1994.

Cary Backstrand presented the request. The Stutsman County Critical Area Treatment projects were constructed by the Natural Resources Conservation Service to reduce erosion along roadways preventing the movement of sediments into streams and rivers.

The estimated local share of the project costs is \$9,500. 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 \$3,800 from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 40 percent of the eligible project costs, not to exceed \$3,800 from the Contract Fund, for the Stutsman County Critical Area Treatment projects.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve cost sharing in 40 percent of the eligible costs, not to exceed \$3,800 from the Contract Fund, for the Stutsman County Critical Area Treatment projects. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM WALSH COUNTY
WATER RESOURCE DISTRICT FOR
REAUTHORIZATION OF FUNDS
FOR SNAGGING AND CLEARING
PARK RIVER IN WALSH COUNTY
(SWC Project No. 662)**

A request from the Walsh County Water Resource District was presented for the Commission's consideration for reauthorization of funds for snagging and clearing the Park River in Walsh County.

Cary Backstrand presented the request, which consisted of removing dead trees, stumps, snags and standing trees endangered of falling into the channel along a reach of the north and middle branches of the Park River. The Commission deferred action on this request at its May 24, 1994, meeting due to the revenue situation for the Resources Trust Fund in the 1993-1995 biennium.

At its April 2, 1992, meeting, the State Water Commission approved cost sharing of 25 percent of the eligible costs, not to exceed \$14,958 from the Contract Fund, for snagging and clearing the middle branch of the Park River, and \$4,625 for snagging and clearing the north branch of the Park River. One payment of \$4,841 was made. Snagging and clearing projects are normally done during the winter months, but because of the mild winters, this project was not completed until last year; therefore, the cost share agreement with the Walsh County Water Resource District is no longer valid. The actual completed reaches of the river that were snagged and cleared are different from the original plan.

Mr. Backstrand explained that because of the revenue situation for the Resources Trust Fund in the 1993-1995 biennium, it was decided not to reauthorize this project until funds became available. The total cost of the completed project was \$89,510.97. Under the State Water Commission's cost share policy and guidelines for snagging and clearing, the eligible project costs qualify for 25 percent cost sharing, which amounts to \$22,378. The request before the State Water Commission is to reauthorize \$17,537 from the Contract Fund (this amount includes the payment made of \$4,841).

It was the recommendation of the State Engineer that the State Water Commission reauthorize \$17,537 from the Contract Fund for snagging and clearing the Park River in Walsh County.

It was moved by Commissioner Vogel and seconded by Commissioner Hillesland that the State Water Commission approve reauthorization of cost sharing of 25 percent of the eligible project costs, not to exceed \$17,537 from the Contract Fund, for snagging and clearing the Park River in Walsh County. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM WELLS COUNTY
WATER RESOURCE DISTRICT FOR
COST SHARING IN SYKESTON DAM
(LAKE HIAWATHA)
(SWC Project No. 450)**

A request from the Wells County Water Resource District was presented for the Commission's consideration for cost participation on Sykeston Dam (Lake Hiawatha).

Cary Backstrand presented the request, which involves increasing the depth of the Lake Hiawatha recreation area located in Section 13, Township 146 North, Range 69 West, in Wells County. The area located adjacent to the park has filled with sediment, and cattail growth has been very significant over the past years. The project will consist of excavation of bottom sediment materials and cattails, which will sustain a swimming area and promote future recreational development.

The estimated cost of the project is \$80,000. Under the State Water Commission's policy and guidelines for cost sharing, \$25,000 of the eligible project costs qualify for cost sharing, of which \$10,000 would be provided by the Commission for engineering and contract administration services, and \$15,000 would be allocated from the Contract Fund.

It was the recommendation of the State Engineer that the State Water Commission provide cost sharing not to exceed \$25,000, of which \$10,000 will be provided by the Commission for engineering and contract administration services, and \$15,000 will be allocated from the Contract Fund.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve cost sharing not to exceed \$25,000 for the Sykeston Dam (Lake Hiawatha) project in Wells County, of which \$10,000 will be provided by the State Water Commission for engineering and contract administration services, and \$15,000 will be allocated from the Contract Fund. This motion is contingent upon the availability of funds.

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

**CONSIDERATION AND APPROVAL
OF REQUEST FROM WILLIAMS
COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
FOR FEASIBILITY STUDY OF
IRRIGATION DEVELOPMENT IN
NESSON VALLEY AREA
(SWC Project No. 1858)**

A request from the Williams County Water Resource District was presented for the Commission's consideration for cost participation for a feasibility study of irrigation development in the Nesson Valley area in Williams County.

Cary Backstrand presented the request. In 1994, a reconnaissance report was completed investigating the possibility of developing irrigation in Williams County. The report identified 5,000 acres of irrigable land in the Nesson Valley area. It appeared economically feasible to develop an irrigation project in this area and the report recommended conducting a feasibility study.

The estimated cost of the feasibility study is \$75,000. The local RC&D Council has committed \$10,000 to the feasibility study, leaving a non-federal cost share balance of \$65,000. Under the State Water Commission's policy and guidelines for cost sharing, the project costs are eligible for 50 percent cost sharing. The request before the State Water Commission is to cost share in the amount of \$32,500 from the Contract Fund.

Commissioner Ames offered support for the feasibility study for irrigation development in the Nesson Valley area. He said, "the Nesson Valley is a very unique, fairly flat valley, located near Lake Sakakawea. It is an area that has never been developed and irrigation would significantly increase land production and provide for economic opportunities."

It was the recommendation of the State Engineer that the State Water Commission approve cost sharing in 50 percent of the eligible project costs, not to exceed \$32,500 from the Contract Fund, for a feasibility study of irrigation development in the Nesson Valley area in Williams County.

It was moved by Commissioner Vogel and seconded by Commissioner Ames that the State Water Commission approve cost sharing in 50 percent of the eligible costs, not to exceed \$32,500 from the Contract Fund, for a feasibility study of irrigation development in the Nesson Valley area in Williams County.

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

**CONSIDERATION AND APPROVAL
FOR ADDITIONAL COST SHARING
FOR CONSTRUCTION OF PHASES I
AND II OF THE LOWER MAUVAIS
COULEE IMPROVEMENT PROJECT
IN BENSON AND RAMSEY COUNTIES
(SWC Project No. 1614)**

At its July 27, 1994, meeting, the State Water Commission approved cost sharing of 50 percent of the local costs, not to exceed \$41,800, for structural improvements along the Lower Mauvais Coulee in Benson and Ramsey Counties.

Cary Backstrand stated the improvements consist of a control structure for Lake Irvine and four new downstream bridges. The State Water Commission, the North Dakota Department of Transportation, the Devils Lake Joint Water Resource Board, and the Community Development Block Grant program will provide funding.

Bids were recently opened and were substantially higher than the original estimates. Other road construction in the Devils Lake basin limited the number of bids received, and materials such as rock riprap is becoming rather scarce in the area. The Lower Mauvais Coulee has substantial flow, therefore, water control became a substantial consideration, especially for the Lake Irvine bridge and control structure.

Mr. Backstrand stated that the Community Development Block Grant program provides over one-half of the total funding and these funds must be used before mid-1996. The joint board has developed a new cost share schedule and has received initial approval from the Department of Transportation and the Office of Intergovernmental Assistance for the Community Development Block Grant program. The revised estimated cost of the project is \$946,645, with the local costs increased to \$227,304. Under the State Water Commission's policy and guidelines for cost sharing, 50 percent of the local project costs qualify for cost sharing, which amounts to \$113,652.

Mr. Backstrand said a primary concern to the State Water Commission is the control structure for Lake Irvine. The original structure is non-functional and some type of control is needed. He said the present plan has been developed after many hours of negotiations and discussions and, as a result, it would be difficult to accept not moving ahead after the project has proceeded to this point.

Richard Regan, Chairman of the Ramsey County Water Resource District, provided additional project information and requested the Commission's favorable consideration of the additional funding.

It was the recommendation of the State Engineer that the State Water Commission approve additional cost

sharing of \$71,852 for Phases I and II of the Lower Mauvais Coulee project. This would increase the total amount approved by the State Water Commission to \$113,652, or 50 percent of the local eligible costs.

It was moved by Commissioner Vogel and seconded by Commissioner Ames that the State Water Commission approve additional cost sharing of \$71,852 for Phases I and II for structural improvements along the Lower Mauvais Coulee in Benson and Ramsey County. This increases the total commitment approved by the State Water Commission to \$113,652, or 50 percent of the local eligible costs for the project. This motion is contingent upon the availability of funds.

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

**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:

Contract 2-5A/7-2A - Transmission Line to Belfield and Rural Water Distribution in the Belfield Service Area: The contractor has installed approximately 13 miles of the 25 miles of rural distribution lines and 9 miles of the 18 miles of transmission line in the contract.

Contract 6 - System Telemetry: Operation and maintenance manuals have been received. Installation of the equipment for the components in service is complete. Telemetry for the New Hradec and Halliday reservoirs and the New Hradec buried pump station have not yet been installed.

Contract 7-1B - Rural Water Distribution in the Davis Butte, New Hradec, and Parts of Taylor Service Areas: The contractor has resumed work under this contract. (See separate section in these minutes under the Southwest Pipeline Project for a detailed report.)

Contract 7-2 - Rural Water Distribution in the New England Service Area: The contractor has installed 36 miles of piping, out of a total 243 miles in the contract. Work is progressing, although somewhat slowly because of the difficulty in finding workers in the area. The contractor's crews have been increasing lately and are expected to be augmented further.

The Lehigh area of the New England service area (near the Royal Oak plant just east of Dickinson) is underlain by abandoned coal mine tunnels. These structures present a surface subsidence problem that may make service to three users in the area very difficult. Options are being explored with the contractor, however, service may not be able to be provided to those users at a reasonable cost.

Contract 8-1 - New Hradec and Halliday Reservoirs: Construction on this contract is complete. Pre-final inspections will be scheduled in the near future.

Mr. Fay briefed the Commission members on future contracts. The phased development plan calls for construction of the Jung Lake service area next and the Bucyrus service area following. Before those components can be served, he said the raw waterline pump stations and the Dickinson treatment plant need to be upgraded. The raw water pump stations were originally equipped with only the smallest pumps. This would allow service to be provided to those areas without spending construction funds on the large pumps which would not be needed for several years. Three buried air chambers were also deferred for the same reason. When the decision was made to treat project water at Dickinson, a cost for increasing the capacity of that plant was included in the economic analysis. Both of these upgrades will need to be done to reliably serve users beyond those in service by the end of this year.

Designs for the upgrades are in progress and scheduled for construction in 1996. Designs for the transmission and rural distribution systems for the Jung Lake service area are also in progress and will be ready for construction in 1996 contingent upon the availability of funding. Mr. Fay said if funding is not available for the Jung Lake service area in 1996, it will be slated for construction in 1997. Future service to South Dakota impacts the design of the transmission system in the Jung Lake and Bucyrus service areas. Discussions with South Dakota have included the need to coordinate.

**SOUTHWEST PIPELINE PROJECT -
FUTURE PROJECT FUNDING
(SWC Project No. 1736)**

Development Service for funding for the Southwest Pipeline Project, contingent on legal advice, and to continue to explore this option for continued development for the project.

At the April 26, 1995, meeting, the Commission members passed a motion to file a pre-application with the Rural Economic and Community Development Service for funding for the Southwest Pipeline Project, contingent on legal advice, and to continue to explore this option for continued development for the project.

Tim Fay indicated the Rural Economic and Community Development Service has reviewed the

information provided to them and has determined that the State Water Commission is eligible to participate in the program; therefore, the pre-application is in progress.

**SOUTHWEST PIPELINE PROJECT -
CONSIDERATION AND APPROVAL
TO RESCIND NOTICE OF INTENT
TO TERMINATE CONTRACT 7-1B
(SWC Project No. 1736)**

At the June 14, 1995, telephone conference call meeting, the State Water Commission passed a motion, based upon information provided to the Commission and advice from its legal counsel, to serve

upon Mainline Construction, Inc., a Notice of Intent to Terminate Southwest Pipeline Project Contract 7-1B, pursuant to General Provision 7-14, Termination for Breach.

Tim Fay provided the following meeting developments on Southwest Pipeline Project Contract 7-1B since the June 14, 1995, State Water Commission telephone conference call meeting:

June 16, 1995: The Notice of Intent to Terminate was sent, and the 10-day "Cure Period" begins.

June 21, 1995: At the request of the Contractor, a meeting was held in Dickinson to discuss the status of the contract and to determine what, if any, corrective action the Contractor can take. The Contractor offered to retain a project manager from outside of their company, and his responsibilities would include resolving the problems with the contract. This project manager was identified as Larry Baccari, P.E., of Sheridan, Wyoming. They also offered to reassign the individuals involved in the threats so they would have no contact with representatives of the State Water Commission or Bartlett & West/Boyle Engineering. They also said that, with Mr. Baccari's participation, they would develop a corrective plan to address each of the eight points in the Notice of Intent to Terminate.

It was agreed to extend the "Cure Period" to July 20, 1995, to allow time to implement the corrective plan and determine whether it adequately resolves the problems on the contract.

June 26, 1995: A field meeting was held with Mr. Baccari. The eight points of the Notice and corrective measures were discussed in detail. Mr. Baccari made satisfactory commitments. Two issues, resolution of landowner complaints, and correction of defective work, were not discussed on a detailed basis, since they involve many individual occurrences. Rather, the Contractor proposed procedures for addressing them, with a schedule to be developed. Each of these will be monitored in detail by the appropriate State Water Commission staff members.

June 28, 1995: A resume work conference was held with the Contractor. Details of construction and implementation of the corrective plan were discussed.

June 29, 1995: The Contractor resumed work.

A summary of the corrective plan and current status are as follows:

1) HOSTILE AND DANGEROUS WORK ENVIRONMENT:

Corrective Plan: The Contractor agreed to reassign the two employees in question so they are not in a position which would require communication with the Owner's representative. Each crew will have a designated Contractor's representative, who will be the contact person for that crew. Larry Baccari, the new project manager, will oversee the Contractor's activities, including working relations with the Owner's representative.

Current Status: At this time, it appears the Contractor is following this provision. One of the employee involved in the threat has left the contract. The other has issued a personal statement of assurance, as has Mainline Construction, Inc. Mr. Baccari, whom we thought would be on-site continuously, has returned to Sheridan, and will continue his role from there, returning when necessary.

2) DISREGARD FOR AUTHORITY OF THE OWNER'S REPRESENTATIVE:
(General Provisions 5-1, 5-3 and 5-6)

Corrective Plan: The Contractor agreed to act on, and in accordance with directives and clarifications provided by the Owner's representative, and to discontinue making multiple requests for the same clarification.

Current Status: At this time, it appears the Contractor is following this provision.

3) COOPERATION AND COORDINATION:

Landowners: (Standard Specification 01012(B))

Corrective Plan: The Contractor will review the landowners complaints to establish a program to deal with each complaint. The program will establish priority of complaints and schedule for resolution. The Contractor has committed to calling, or making personal contact within 48 hours of receipt of new landowner complaints. Periodic updates on status will be issued.

Existing complaints will be reviewed and a schedule for their resolution will be developed. We will provide input on the priority of these complaints. These landowners will be contacted as soon as possible.

It is important to note in this regard that there may be complaints that are not valid and that the Contractor is owed an opportunity to attempt to resolve those that are.

Current Status: Some progress has been made in landowner contact. A number of the complaints have been "resolved" by denial. We have not yet made a determination that these resolutions are satisfactory. The Contractor has not yet developed a schedule for resolving the existing landowners complaints.

Utilities: (Standard Specifications 01010(G); 01012(A); 01012(D)(2); and General Provision 505)

Corrective Plan: The Contractor has committed to working with the utilities to resolve existing problems and to improve coordination for future work.

Current Status: At this time, it appears relations with the utilities have improved considerably and are now working smoothly.

4) PROTECTION OF PROPERTY: (General Provisions 4-6 and 7-7; and Standard Specifications 02233(D) and 02933)

Corrective Plan: The Contractor has committed to protect property in future activities and to be open to input on items that have occurred to date.

Current Status: At this time, it appears the Contractor is following this provision.

5) UNAUTHORIZED CLAIMS AND WORK: (General Provision 5-13)

Corrective Plan: The Contractor acknowledges that their claim for additional road work has been denied, and they withdraw it "at this time." The Contractor does state that they will follow the proper procedure for submitting claims (as opposed to ordinary documentation of work completed for payment). They have also stated that they may perform work at their own risk, which they think is necessary, and decide whether or not to submit a claim.

Current Status: At this time, it appears the Contractor is following this provision; however, it is still puzzling that the Contractor would desire to do additional work, particularly at stream crossings, for which he has been told he will not be paid.

6) FRAUDULENT CLAIMS:

CorrectivePlan: The Contractor claims that their requests for payment for crossings could not be found and for crossings that had already been paid resulted from problems with the records and accounting of crossings. They state that items completed and submitted for payment as bid items are to be in full compliance with specifications, and that future claims will be submitted in accordance with the contract provisions.

Current Status: At this time, it appears the Contractor is following this provision.

7) VIOLATION OF EASEMENT AND PERMITS:

CorrectivePlan: The Contractor will strive for better cooperation between himself, the landowner, and the Owner's representative to minimize problems. They state that it is difficult to do backhoe work within the 30-foot easement, but will also take care regardless of easement width. Care will also be taken in the reclamation of disturbed areas and to avoid disturbance where no easements are in place.

Current Status: At this time, the Contractor appears to be complying with this provision.

8) DEFECTIVE WORK: (General Provision 5-13)

CorrectivePlan: The Contractor will develop a plan with input from the Operation and Maintenance staff for response to warranty items. They will also exercise additional care in flushing lines to assure removal of highly chlorinated water. They also have committed to correcting currently noted defective work.

Current Status: The Contractor has been working with the Operation and Maintenance staff to develop measures to respond to and correct defective work. Compliance with this provision appears to be progressing well.

Mr. Fay stated the Contractor appears to be making an effort to comply with his corrective plan, although the effort at times appears to be minimum and begrudging. For a number of the provisions of the corrective plan, compliance can only be measured by observing the Contractor's continued performance. With good working conditions, the contract could be completed in 8-10 weeks. He said it appears the best course of action at this time is to allow the Contractor to continue. However, he said there is the possibility that working conditions will again deteriorate if the Notice of Intent to Terminate is rescinded. The Contract documents allow issuance of a Notice of Intent without specific action by the Commission.

It was the recommendation of the State Engineer that the State Water Commission rescind the current Notice of Intent to Terminate Southwest Pipeline Project Contract 7-1B and allow Mainline Construction, Inc. to proceed with the remaining work, with the understanding that if conditions again deteriorate, another Notice of Intent to Terminate can be issued by the State Engineer without further action by the State Water Commission.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission rescind the current Notice of Intent to Terminate Southwest Pipeline Project Contract 7-1B and allow Mainline Construction, Inc. to proceed with the remaining work, with the understanding that if conditions again deteriorate, another Notice of Intent to Terminate can be issued by the State Engineer without further action by the State Water Commission.

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

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

Pinkie Evans Curry, Assistant Project Manager for the Southwest Pipeline Project, reported that the legal counsels for the State Water Commission and the Southwest Water Authority are reviewing the draft Agreement for Transfer of

Management, Operations, and Maintenance Responsibilities for the Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority.

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

Tim Fay briefed the Commission members on a meeting held June 14, 1995, with representatives of the Perkins County, South Dakota, rural

water system. The purpose of the meeting was to address funding prospects for service from the Southwest Pipeline Project to South Dakota, the engineering details, and a water service contract.

Mr. Fay discussed options the South Dakota system has for gaining federal authorization for their project. One option would be to have it recognized as a part of the Southwest Pipeline and included in the legislation resulting from the Collaborative Process. Another option would be to have it attached to some other new rural water system in South Dakota; although the South Dakota representatives indicated they do not feel their project is large enough to justify its own authorizing legislation.

Due to the reluctance of Congress to authorize new systems, South Dakota feels its best prospect is the Collaborative Process, however, they can still pursue the other option.

Mr. Fay discussed possible funding scenarios. With an MR&I allocation of \$2 million, only upgrades on the raw water line and the treatment plant would be done. In this case, no construction would take place on the transmission facilities in 1996. If additional funds became available, design would begin on the next phase of the Phased Development Plan, the Jung Lake service area. A commitment would then be required from Perkins County to include additional capacity. In this case, the latest date on which a response could be received from Perkins County would be in December, 1995.

The details of expanding the Southwest Pipeline's 2-4A and 2-4B transmission lines to carry the additional capacity for Perkins County was discussed, including the possibility of amending the design criteria so that it can be done without sacrificing system reliability. Four points of water delivery have been located. Delivery to multiple points along the border will decrease the incremental cost.

Mr. Fay said it was agreed that efforts to resolve the outstanding issues by September, 1995, would be attempted. We would then be in a position to respond to the results of the Collaborative Process or other funding developments.

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

James Lennington, Project Coordinator for the Northwest Area Water Supply project, reported on the testing of the effectiveness of 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 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, and May 16, 1995.

The first set of water samples from November 7, 1994, was tested for disinfection byproduct (DBP) formation. The results from these tests indicated that chloramination would not form DBP's in excess of regulatory levels.

The second set of water samples, collected January 9, 1995, was tested for virus inactivation. Results from these tests indicated that 99.999 percent (5 logs) of the virus was inactivated within one minute.

The third set of water samples was collected on March 12, 1995, which was the first set of samples tested for Giardia. The results of these tests indicated 99.9 percent (3 logs) of inactivation of the Giardia after less than three hours contact time at 4 mg/L of chloramine. Three logs of inactivation was achieved in only two minutes when a sample was exposed to 2 mg/L of ozone. Travel time of water from the intake to the Continental Divide is approximately 7 hours at peak flow rates and 12-15 hours at normal flow rates.

The fourth set of water samples of Lake Audubon water was collected on May 16, 1995, at the conclusion of the 1995 pumping operations at the Snake Creek pumping plant. Those samples are being tested for the inactivation of the Giardia protozoan when exposed to chloramine and ozone.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
THREE AFFILIATED TRIBES
ADVISORY BOARD REPRESENTATIVE
(SWC Project No. 237-4)**

James Lennington informed the Commission members that Austin Gillette, Natural Resources Director for the Three Affiliated Tribes, has been appointed to replace Don Morgan as the tribe's representative

on the Northwest Area Water Supply advisory board.

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

On June 23, 1995, the Northwest Area Water Supply advisory board met to review and plan the construction schedule for the project.

In developing the construction schedule for the Northwest Area Water Supply project, James Lennington explained options that are being considered for the first phase of project construction. He said two options appear to be the most viable for further consideration at this time, which include the construction of the pipeline from Lake Audubon to Minot (Minot option); and the expansion of the water treatment plant at Rugby (Rugby option). He explained the proposed financial and construction schedules for these options, but emphasized the final decision will depend on the availability of federal Garrison MR&I funds and other sources of funding.

In discussing the Northwest Area Water Supply project development options and funding alternatives, Secretary Sprynczynatyk was asked to provide a status report on the Garrison collaborative process. He said technical groups are currently looking at the municipal, rural and industrial (MR&I) water needs of the more densely populated Red River Valley; the statewide MR&I needs; the total water needs on the three major Indian reservations; and the feasibility of plans for canal-side irrigation in conjunction with a wetlands management program in the Turtle Lake area. He said the results of the statewide MR&I needs and the assessment of the Red River Valley water needs will provide a basis for proposing federal legislation to address many of the water need issues.

The Commission members voiced concerns regarding project development and revenue needs within the state. Secretary Sprynczynatyk made reference to Senate Concurrent Resolution 4033 passed by the 1995 legislature, which directed the Legislative Council to study the financing and funding 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. Testimony was provided by the State Water Commission staff, on behalf of the State Engineer, at the committee's initial meeting on June 23, 1995.

It was the recommendation of the State Engineer that funding options for expansion of the Rugby water treatment plant be further explored for first phase-development of the Northwest Area Water Supply project.

It was moved by Commissioner Olin and seconded by Commissioner Ames that funding options for the expansion of the Rugby water treatment plant be further explored for first-phase development of the Northwest Area Water Supply project.

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

**NORTHWEST AREA WATER
SUPPLY PROJECT -
SELECTION OF
CONSULTING ENGINEER
(SWC Project No. 237-4)**

The selection of a consulting engineer for the Northwest Area Water Supply project was discussed. It was the recommendation of the State Engineer that the selection process for a consulting engineer for the

project be initiated. After discussion, the motion was reworded to "explore the need for an engineer selection for the final design of the Northwest Area Water Supply project", which will include policy, law, and past experience. A recommendation will be provided to the Commission for its consideration.

It was moved by Commissioner Olin and seconded by Commissioner Ames that the State Engineer be directed to explore the need for an engineer selection for the final design of the Northwest Area Water Supply project.

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

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

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

The North Dakota Water Management Collaborative Process efforts to refocus the direction of the Garrison Diversion Project were discussed. Mr. Jamison provided a status report on the studies to review the municipal, rural and industrial (MR&I) water needs in the Red River Valley, the statewide MR&I needs, the total water needs on the three major Indian reservations, and the feasibility plans for canal-side irrigation in conjunction with a wetlands management program in the Turtle Lake area. The Red River Valley Municipal, Industrial and Rural Water Needs Assessment draft report will be available for review and comment in August.

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.

Mr. Jamison discussed concerns related to the Missouri River mainstem power system. The hydropower system, built and operated under the 1944 Pick Sloan program, provided a financial resource to assist the irrigators in the state with repayment of the large cost associated with bringing a small, but critically important, supply of water to the intended irrigation areas. He said even today, the existing rates charged by the Western Power Administration for power sold to power customers throughout the upper Missouri region are based on anticipated financial assistance to the irrigators under the Pick Sloan program. The reduced Garrison irrigation acreage, as provided in the 1986 Reformulation Act, calls for nearly \$800 million of power revenues to be used as aid to the irrigation program.

Mr. Jamison said the Garrison Diversion Conservancy District is working 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.

The Administration's Fiscal Year 1996 proposed budget includes \$24.9 million for the Garrison Diversion Project, of which approximately \$11.0 million is allocated for the MR&I Water Supply program.

Mr. Jamison reported on a meeting held by the Garrison Diversion Conservancy District's MR&I subcommittee on July 17, 1995. The subcommittee reviewed the proposed Fiscal Year 1995 budget, which included three requests for funding feasibility study costs. The requests included total study costs of \$20,000 for Pierce County Rural Water; \$81,000 for North Valley Water Users; and \$200,000 for Ransom-Sargent Rural Water. The project sponsors have indicated the hardship to find the funding for the feasibility studies. The Conservancy District's MR&I subcommittee discussed the current funding policy, which has a maximum MR&I grant of 25 percent toward feasibility study costs and a 65 percent grant toward design and construction costs. Because of the hardship expressed by the project sponsors, the subcommittee recommended a 75 percent MR&I grant for North Valley Water Users and for Pierce County Water Users, and an additional \$20,000 for Ransom-Sargent Rural Water. The studies would be funded in the Fiscal Year 1995 budget by reducing the Southwest Pipeline Project.

The Garrison Conservancy District MR&I subcommittee reviewed the city of Grand Forks's funding request for an additional 65 percent MR&I grant of \$722,260 for the water treatment plant. The subcommittee decided the entire request should be reviewed for funding and that \$260,000 be funded in Fiscal Year 1995 and the balance be funded in Fiscal Year 1996.

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

Jeffrey Mattern, MR&I Water Supply Program Coordinator, provided the following program status report:

Burleigh Water Users: The expansion and improvement project will add approximately 600 new rural water users and five new bulk water users to the existing 920 water users. The city of Bismarck would provide bulk water service to the Burleigh Water users. Plans and specifications should be completed for the project design by the end of September. 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. The State Engineer approved water permit No. 4888 for Dickey Rural Water. Plans for the Dickey Rural Water project, Phase I, are being reviewed and include a new well field, main transmission pipeline, and a water treatment plant. Project plans for Phase II will be submitted for review in July, 1995, and include the pipeline distribution system. The project is scheduled to start construction in late summer.

Fargo Water Supply Project: The raw water intake contractor is finishing minor work inside the building and will complete the landscaping this summer.

Grand Forks Water Treatment: The project's purpose is to achieve compliance with the 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 their water treatment plant control system with construction to begin in July, 1995, and to be completed in July, 1996.

Langdon Water Treatment Project: The project's purpose is to provide 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 clearwell storage and an automatic control system. The contractor has installed the clearwell and is working on the control system.

Missouri West Rural Water System, Phase II: Phase II completion of the Missouri West project is proposed to serve the city of Flasher and 370 rural water users in southern Morton County. The city of Mandan would provide bulk service to the project. The cultural resources survey and environmental requirements are being reviewed. Design has begun and is expected to be completed in late 1995, with possible construction in the spring of 1996. The estimated cost of Phase II is \$7,729,400.

Northwest Area Water Supply Project: The consulting engineer is conducting chloramination and ozonation testing on water samples from Lake Audubon and Lake Sakakawea. The project construction schedule is being developed.

Ramsey County Rural Water Project: The contractor has completed the water treatment plant with the final payment to be made this summer.

Ransom-Sargent Rural Water Project: This new rural water system is proposed to serve over 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 feasibility study of \$200,000 includes cultural resource surveys and water supply investigations.

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

Commissioner Vogel leaves meeting for another commitment.

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

The Garrison Diversion Unit federal appropriation for Fiscal Year 1995 is \$32 million, which includes \$14,500,000 for the MR&I Water Supply program.

The State Engineer presented the projects which qualify for Fiscal Year 1995 funding and recommended the following proposed Fiscal Year 1995 MR&I budget, contingent upon the availability of funding and subject to future revisions:

<u>Project</u>	<u>Approved</u>	<u>Proposed</u>	<u>Changed</u>
Dickey Rural Water, Phase II	\$ 7,800,000	\$ 7,800,000	\$ 0
Northwest Area Water Supply	500,000	0	(500,000)
Southwest Pipeline Project	5,425,000	5,879,850	454,850
Missouri West, Phase II	150,000	150,000	0
Burleigh Water Users	187,000	204,500	17,500
Grand Forks Water Treatment	0	260,000	260,000
Ransom-Sargent Water Users	0	130,000	130,000
Pierce County Rural Water	0	13,000	13,000
North Valley/Walhalla	0	52,650	52,650
Feasibility Studies	25,000	0	(25,000)
Unallocated Funding	260,000	0	(260,000)
Administration	153,000	10,000	(143,000)
Totals	\$14,500,000	\$14,500,000	0

The current funding policy has a maximum MR&I grant of 25 percent toward feasibility study costs, unless there are conditions of hardship, and a 65 percent grant toward design and construction costs. Secretary Sprynczynatyk discussed the requests for funding

the feasibility study costs for the Pierce County Rural Water and the Ransom-Sargent County Rural Water projects. The project sponsors have expressed conditions of hardship. Therefore, it was the recommendation of the State Engineer that funding for feasibility be increased to 65 percent for the Pierce County Rural Water project and the Ransom-Sargent County Rural Water project, based on conditions of hardship, which is consistent with the maximum grants funding policy.

Charles Vein, representing the Ransom-Sargent Rural Water Users, provided additional information and requested the Commission's favorable action for MR&I funding for the feasibility study.

Secretary Sprynczynatyk discussed a request from the North Valley Rural Water Association for funding a feasibility study for inclusion of the city of Walhalla into their system. The city of Walhalla is experiencing water quality problems and is exploring options that may be available. The cost of the feasibility study is estimated at \$81,000. The project sponsor has indicated hardship concerns, therefore, it was recommended by the State Engineer that a 65 percent grant be approved for funding the feasibility study in Fiscal Year 1995.

The Grand Forks water treatment project was discussed. The city has requested additional MR&I grant funding to meet turbidity requirements of the Surface Water Treatment Rule, which requires a filter upgrade, an automatic pH system, and a supplemental backwash system at a cost of \$400,000. The funding request also included a cost increase of \$711,169 in the approved clearwell modifications and automatic control system. The total cost is \$2,564,417, with a 65 percent MR&I grant requested of \$1,666,871. The project has been approved for a 65 percent MR&I grant of \$944,611. The additional MR&I grant requested is \$722,260. It was the recommendation of the State Engineer that an additional grant of \$260,000 be approved for Fiscal Year 1995 funding for the additional items that address the turbidity requirements.

Ken Vein, Grand Forks City Engineer, provided additional information relative to the Grand Forks water treatment plant project, and urged the Commission's favorable consideration of the city's initial request for an additional MR&I grant of \$722,260.

Concern was expressed by the Commission members that allowing for conditions of hardship and increasing the MR&I grant to 65 percent for feasibility studies for the Pierce County Rural Water, Ransom-Sargent County Rural Water, and the North Valley Rural Water projects could be setting a precedent for future requests for feasibility studies. The MR&I funding policy was briefly discussed, which included a discussion of the local commitment.

It was moved by Commissioner Hillesland and seconded by Commissioner Thompson that the State Engineer's recommendation be approved for the proposed Fiscal Year 1995 Garrison MR&I Water Supply program budget. This motion is contingent upon the availability of funding and is subject to future revisions.

Commissioners Bjornson, Hillesland, Olin, Thompson, and Chairman Schafer voted aye. Commissioners Ames, DeWitz, and Swenson voted nay. The recorded vote was five ayes; three nays. The Chairman declared the motion carried.

**GARRISON DIVERSION PROJECT -
APPROVAL TO ENTER INTO
SECURITY AGREEMENT FOR NORTH
VALLEY WATER ASSOCIATION
(SWC Project No. 237-4)**

North Valley Water Association is a rural water system which serves approximately 1140 users in Cavalier and Pembina Counties and the communities of St. Thomas, Cavalier, Mountain, Milton, and

Osnabrock. North Valley has three sub-systems: (1) Gardar System, serving the southwest corner of Pembina County and the southeast corner of Cavalier County; (2) Akra System-Neché Branch, serving the north half of Pembina County; and (3) Akra System-South, serving the south half of Pembina County.

North Valley is proposing to make improvements to the Gardar System to improve the water quality and reliability of service. Improvements include the installation of pre-treatment and the addition of filtration capacity at the Gardar water treatment plant, upgrading the existing pump station, and the construction of additional reservoir-pump stations. The estimated cost is \$1,389,555. Project funding will be provided by FmHA through a grant of \$950,000 and a loan of \$439,555. The project bids were higher than estimated and North Valley will need additional funding of \$535,000. Project funding will be provided by the Rural Economic and Community Development through a grant of \$400,000 and a loan of \$135,000.

The State Water Commission has an existing loan with North Valley for an expansion project completed on the Akra System-South. The loan requires approval of future North Valley expansion projects.

Secretary Sprynczynatyk explained that the Rural Economic and Community Development agency requires first security interest in any portion of the project that they fund. Thus, there is a conflict between the State Water Commission's existing loan and the Rural Economic and Community Development agency's requirements for obtaining future funding.

In order to resolve the conflict between the State Water Commission's existing loan and the Rural Economic and Community Development agency's requirements for obtaining future funding, it was the recommendation of the State Engineer that the State Water Commission enter into an agreement to permit shared security interest on the expansion of the North Valley project, which would allow the State Water Commission and the Rural Economic and Community Development agency to proportionately divide any collateral upon liquidation of the North Valley Association system.

It was moved by Commissioner Olin and seconded by Commissioner Ames that the State Water Commission enter into an agreement to permit shared security interest in the expansion of the North Valley project, which would allow the State Water Commission and the Rural Economic and Community Development agency to proportionately divide any collateral upon liquidation of the North Valley Association system.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried. The Agreement To Permit Shared Security Interest is attached hereto as APPENDIX "C".

**GARRISON DIVERSION PROJECT -
INTERIM MR&I COMMITTEE
REPORT
(SWC Project No. 237-3)**

The Interim MR&I Committee met on June 15, 1995, to continue its discussion of the MR&I priority point system and to address the North Dakota Water Coalition's recommendation for modifications to the point system. Secretary Sprynczynatyk stated that the discussions indicate that most parties developing water supply systems have similar basic priorities dealing with a loss of water supply, a violation of primary water quality, inadequate water supply, and a violation of secondary water quality.

Secretary Sprynczynatyk explained that the Interim MR&I Committee's recommendation would create a priority system without numbers. He said the point system recommended by the Interim MR&I Committee may be considered subjective, and it may not provide MR&I applicants and other interested parties an opportunity to see a numeric ranking of projects that would be in line for MR&I grant funding. A numeric point system minimizes the subjective ranking of projects for funding. The point system recommended by the Interim MR&I Committee is attached hereto as *APPENDIX "D"*.

The Interim MR&I Committee presented the following recommendations to the State Water Commission and the Garrison Diversion Conservancy District board of directors:

That the statement of intent and the listing of priorities contained in the memo of June 1, 1995, from the North Dakota Water Coalition be adopted, and that the point system which accompanied the memo be adopted without the numbers and used as a supplemental guide for decision-makers.

That Secretary Sprynczynatyk and Warren Jamison jointly review and recommend an appropriate differential rate impact (monthly water rate per capita) that could be considered by the Commission and the Board as the threshold level that would be necessary in order to qualify for any funding.

Secretary Sprynczynatyk stated the recommendations were presented to the Garrison Diversion Conservancy District's board of directors at its July 6, 1995, meeting. The board deferred action pending review by its MR&I subcommittee.

It was the recommendation of the State Engineer that the State Water Commission defer action on changes to the priority point system and continue to use the current point system. Secretary Sprynczynatyk stated he and Mr. Jamison will continue to address the issues raised by the committee and will provide the information to the Commission and the board. The Commission concurred with the State Engineer's recommendation to defer action on the Interim MR&I Committee's recommendations.

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

Secretary Sprynczynatyk reported that Devils Lake continues to rise, with the elevation on this date being 1435.8. He said this is a record high

for the lake for the past 110 years. Since July, 1993, Devils Lake has risen steadily from an elevation of 1422.6.

Senate Bill 2463, passed by the 1995 legislature, appropriated funds for a State Water Commission office in Devils Lake. The objective of the Devils Lake office would be to locate an engineer in the area to provide technical assistance in addressing water-related problems throughout the 3,800 square-mile Devils Lake basin. Gregg Thielman of the State Water Commission staff has been assigned to the Devils Lake office, which is located in the Ramsey County Courthouse, effective July 1, 1995.

Secretary Sprynczynatyk reported on the Corps of Engineers and the Bureau of Reclamation's collaborative, interagency efforts to develop a plan of study for a feasibility study of the Devils Lake basin. 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.

Secretary Sprynczynatyk informed the Commission members that on July 7, 1995, he executed an amendment to the Corps of Engineers agreement for Stage 1A of the Devils Lake Feasibility Study. The amendment included language for developing a scope of work for the main feasibility study. The original agreement and the amendment requires the State Water Commission to pay 50 percent of the total cost of Stage 1A, of \$377,000; and 50 percent for Stage 1B, of \$145,000, allowing for in-kind services. The estimated State Water Commission's in-kind services cost is \$160,000 for Stage 1A, and \$62,000 for Stage 1B. The total contribution from the Contract Fund is estimated at \$39,000, which will be paid from funds previously approved by the State Water Commission for Devils Lake.

Language is being developed by the Congressional delegation directing the Corps of Engineers to complete the feasibility study. Because the Devils Lake basin problems are both intra-state and international, and involve tribal interests and the federal trust responsibility, Secretary Sprynczynatyk said it is appropriate for the federal government to assume a greater share of the costs for Phase II of the feasibility study.

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:

- Team I Inundation of Land Resources (sheet erosion and agriculture production loss)

- Team II Inundation of Transportation Systems (roads, bridges, railroads, access to recreation and reservation)

- Team III Inundation of Infrastructure (sewage treatment lagoons, transmission lines, grain elevators, water and gas lines under Devils Lake, general utilities)**
- Team IV Inundation of Buildings and Development (homes, businesses and support facilities)**
- Team V Loss of Water Quality (siltation, dissolved solids, soil salinization, eutrophication in Devils Lake)**
- Team VI Economic Disruption (loss of economic production (existing and proposed development), agriculture loss, recreation loss, unemployment, deterrent of in-migration, normal commerce disruption)**
- Team VII Loss of Fish and Wildlife and Their Habitat (use of easements and permits, habitat maintenance, reforestation)**
- Team VIII 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)**
- Team IX Lake Inlet/Outlet Options (lake stabilization)**

Secretary Sprynczynatyk indicated the State Water Commission has been assigned to Team IX to develop inlet and outlet emergency options for the basin. A report was presented to the Devils Lake Basin Interagency Task Force at its meeting on July 12, 1995. The report is attached hereto as *APPENDIX "E"*.

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

Secretary Sprynczynatyk briefed the Commission members on the status of the Missouri River flow releases from the Garrison Dam. The Corps of Engineers peak projection for Lake Sakakawea in 1995 exceeds 1850 feet. The current level of the lake is 1850.7. The Corps has indicated the present level has reached what the Corps terms a "sacred level" - its exclusive flood control zone. The Corps held water behind the dam this spring to constrict flows to flooded downstream states which, in turn, dropped the Missouri River's level, exposing sandbars and attracting the piping plovers and least terns to nest on the Missouri River sandbars. Approximately 375 birds are protected under the Endangered Species Law.

Secretary Sprynczynatyk explained the Corps' proposal to increase the existing Garrison Dam releases of 13,000 cubic feet per second (cfs) to 16,000 cfs by the end of July. Beginning August 1, the Corps intends to increase the Garrison Dam releases to an eventual fall flow of about 35,000 cfs. He said boosting the rate to 16,000 cfs would threaten about 90 eggs and chicks occupying seven sandbars near Bismarck. Efforts are underway to relocate the birds to higher ground and some of the late-nested eggs could be moved and hatched elsewhere in anticipation of the Corps's increased releases.

Secretary Sprynczynatyk explained that it is crucial for the Corps of Engineers to begin lowering Lake Sakakawea before next spring's runoff. In the meantime, the river's low levels continue to cause problems for irrigators and boaters, while at the same time the Garrison Dam could lose hydropower revenues. Larger releases from Garrison Dam could trigger riverbank erosion. He said, "we're looking at hundred of thousands or millions of dollars in impacts." He said federal and state officials are working in an effort "to try and deal with Mother Nature to protect the endangered birds, deal with high lake levels and flooding, coupled with irrigation concerns and potential erosion. It is very difficult to try and balance this."

Secretary Sprynczynatyk provided a status report on the Corps of Engineers draft Environmental Impact Statement for the Missouri River Master Control Manual review and update. In June, 1995, the Corps proposed another delay in the Master Manual review process. On June 26, 1995, the four upper basin governors sent a joint letter to the Corps of Engineers expressing strong opposition of their proposal. On June 28, 1995, the upper basin governors met with Colonel Thuss of the Corps of Engineers to discuss the issues relating to the Missouri River management. The letters from the upper basin governors are attached hereto as *APPENDIX "F"*.

The Missouri River Basin Association met on July 7, 1995, with Colonel Thuss and Dr. John Zirschky, Acting Assistant Secretary for Civil Works, Department of Army. Secretary Sprynczynatyk briefed the Commission members on the meeting and cited the following commitments made by Colonel Thuss and Dr. Zirschky which are considered vital to the Missouri River Basin Association's participation in the completion of the Master Manual review process:

- 1) A willingness to carry out a collaborative process with the MRBA and specifically a willingness to do everything possible to work toward completion within 12 months based upon a compressed schedule.
- 2) A willingness to allow the MRBA to define the operational issues of the Master Manual, and a willingness to allow other agencies to assist in identifying other non-operational issues.

3) A willingness to implement interim operational measures upon the occurrence of a drought. Exactly what and how these measures would be implemented needs to be further defined.

4) An agreement to provide a detailed work plan for the collaborative process to the MRBA by July 31, 1995, the next scheduled meeting of the MRBA. In order for MRBA to evaluate that work plan, it must contain the following:

- Specific tasks
- Justification for the specific tasks
- Completion dates for the specific tasks
- Role of the states in carrying out the specific tasks

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

Linda Weispfenning, State Water Commission's Planning and Education Division, provided a status report on the Cannonball River Basin study, which is attached hereto as *APPENDIX "G"*.

**PRESENTATION BY
ATMOSPHERIC
RESOURCE DIVISION**

Because of the interest of time, the Atmospheric Resource Division's presentation was deferred until a future Commission meeting.

**NEXT STATE WATER
COMMISSION MEETING**

The next meeting of the State Water Commission is scheduled for October 16, 1995, in Richardton, ND.

There being no further business to come before the State Water Commission at this time, it was moved by Commissioner Thompson, seconded by Commissioner Hillesland, and unanimously carried, that the State Water Commission meeting adjourn at 5:15 PM.

SEAL

/S/ Edward T. Schafer

Edward T. Schafer
Governor-Chairman

/S/ David A. Sprynczynatyk

David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

