

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

October 29, 1997

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on October 29, 1997. 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
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Mike Ames, Member from Williston
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

MEMBER ABSENT:

Robert Thompson, Member from Page

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA

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

**CONSIDERATION OF MINUTES
OF SEPTEMBER 11, 1997 STATE
WATER COMMISSION MEETING -
APPROVED**

The minutes of the September 11, 1997 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Swenson, and unanimously carried, that the minutes of the September 11, 1997 State Water Commission meeting be approved as prepared.

**FINANCIAL STATEMENT -
AGENCY OPERATIONS**

ending September 30, 1997, reflecting 13 percent of the 1997-1999 biennium. *SEE APPENDIX "A"*

Dale Frink, Assistant State Engineer, presented and discussed the Program Budget Expenditures for the period

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

approved approximately \$5.5 million from the Contract Fund, with \$9.7 million unobligated. The \$9.7 million includes \$2 million earmarked for the Maple River Dam and \$2 million for Devils Lake bonding.

Dale Frink reviewed and discussed the Contract Fund for the 1997-1999 biennium. *SEE APPENDIX "B"*

Mr. Frink reported the oil revenues for the first three months of the biennium were 14.6 percent below earlier forecasts. He said if this continues, it could result in more than a \$1 million shortfall to the Resources Trust Fund.

The State Water Commission has

**APPROVAL OF REQUEST FROM
RANSOM COUNTY WATER
RESOURCE DISTRICT FOR
ADDITIONAL COST SHARE IN
COBURN DRAIN NO. 2
(SWC Project No. 1299)**

On July 19, 1996, the State Water Commission approved 40 percent cost share assistance of the eligible costs, not to exceed \$58,028, for emergency construction work at Coburn Drain No. 2 in Ransom County which was completed in 1994.

The original cost share request submitted in 1995 by the Ransom County Water Resource District inadvertently listed the emergency expenses as "administrative" costs without a further breakdown. Because "administrative" expenses are not eligible for cost share

under the State Water Commission's policy and guidelines for cost share, the emergency expenses were declared ineligible. Secretary Sprynczynatyk explained that the error was brought to the District's attention, and the District was advised to submit a second cost share request for the emergency work after the original cost share agreement was completed. This request was received from the District on September 5, 1997.

A request from the Ransom County Water Resource District was presented for the Commission's consideration for additional cost share for the 1994 emergency construction work on Coburn Drain No. 2 for those items that were inadvertently listed as "administrative" in the original request. The total cost of the additional emergency construction items was \$8,226, all of which are eligible for cost share. Under the State Water Commission's policy and guidelines for cost share, 40 percent of the eligible costs qualify for cost share. The request before the State Water Commission is to cost share in the amount of \$3,290.

It was the recommendation of the State Engineer that the State Water Commission approve additional cost share of 40 percent of the eligible costs, not to exceed \$3,290 from the Contract Fund, for the emergency construction work on Coburn Drain No. 2. Commission approval would increase the State Water Commission's cost share to \$61,318.

It was moved by Commissioner Johnson and seconded by Commissioner Swenson that the State Water Commission approve additional cost share in 40 percent of the eligible costs, not to exceed \$3,290 from the Contract Fund, for emergency construction work on Coburn Drain No. 2 in Ransom County. This motion is contingent upon the availability of funds.

This action increases the State Water Commission's cost share contribution to \$61,318.

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

**APPROVAL OF REQUEST FROM
CITY OF FARGO FOR ADDITIONAL
COST SHARE IN MIDTOWN DAM
MODIFICATION PROJECT
(SWC Project No. 1889)**

On July 22, 1997, the State Water Commission approved a request from the city of Fargo for cost share assistance in the amount of \$30,000 for modifications to the Midtown Dam. The total project cost was estimated at

\$230,000. The Minnesota Department of Natural Resources granted \$75,000 and the North Dakota Game and Fish Department granted \$20,000 towards the project.

The Midtown Dam, a low-head channel dam, was constructed by the Corps of Engineers in 1976 to replace a structure that was constructed in the 1940s for the purpose of providing a pumping pool for the city of Fargo's municipal water intake. As with many low-head channel dams, downstream turbulence is a major public concern. The Minnesota Department of Natural Resources expressed concerns about the dam blocking fish migration on the river as well as dam safety.

The Corps of Engineers completed a reconnaissance study on the Midtown Dam. The study analyzed options to solve the safety concerns as well as the fish migration issue raised by Minnesota. The recommended option proposed to construct a rock slope on the downstream side of the dam at a five percent grade.

Secretary Sprynczynatyk presented a request from the city of Fargo for the Commission's consideration for an additional \$20,000 cost share for the Midtown Dam modification project.

It was recommended by the State Engineer that the State Water Commission approve an additional \$20,000 from the Contract Fund for the Midtown Dam. Commission approval would increase the State Water Commission's contribution to \$50,000.

It was moved by Commissioner Hillesland and seconded by Commissioner Bjornson that the State Water Commission approve an additional \$20,000 from the Contract Fund to the Fargo Midtown Dam modification project. This motion is contingent upon the availability of funds.

This action increases the State Water Commission's contribution to \$50,000.

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

APPROVAL OF COST SHARE ASSISTANCE FROM FLOOD MITIGATION ASSISTANCE PROGRAM FOR CITY OF MOTT (SWC Project No. 1896)

The National Flood Insurance Program initiated the Flood Mitigation Assistance Program as a result of the National Flood Insurance Reform Act of 1994. The purpose of the program is for acquisition of

structures meeting the repetitive loss or the substantial loss definitions by the National Flood Insurance Program. The State Water Commission has been designated by the Governor to administer the program. On an annual basis, program cost share funding will be available to the State Water Commission based on a formula of flood insurance policies in effect within the state.

Secretary Sprynczynatyk explained the following features of the Flood Mitigation Assistance Program:

Technical Assistance Grant - funding to be used by the State Water Commission to help administer the planning grant and the project grant implementation efforts

Planning Grant - funding to a community to develop or update a flood mitigation plan

Project Grant - funding to a community to implement a project based on the flood

The Federal Emergency Management Agency (FEMA) made available \$123,000 for Fiscal Years 1996 and 1997 for the program. Program cost share is 75 percent federal and 25 percent non-federal. The non-federal share is the state and community contribution, of which one-half can be in-kind services. Available funding for Fiscal Year 1998 has not been determined to date because FEMA's overall budget has not been approved by Congress.

Secretary Sprynczynatyk presented a planning grant application from the city of Mott for Flood Mitigation Assistance Program funding to update an existing flood mitigation plan and to implement an acquisition project.

It was the recommendation of the State Engineer that the State Water Commission approve cost share assistance of 50 percent of the eligible costs, in an amount not to exceed \$20,500 from the Flood Mitigation Assistance Program, for both the planning and project grants for the city of Mott.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve cost share assistance of 50 percent of the eligible costs, in an amount not to exceed \$20,500 from the Flood Mitigation Assistance Program, for the planning and project grants for the city of Mott.

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

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

Warren Jamison, Manager of the Garrison Diversion Project, reported on the District's staff efforts to the state's negotiating team on the draft

amendments to the Garrison legislation, and related matters including wetlands and ground-water recharge.

**GARRISON DIVERSION PROJECT -
MR&I WATER SUPPLY PROGRAM
(SWC Project No. 237-03)**

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

Benson County Rural Water: On October 9, 1997, a meeting was held to discuss the Benson project with the surrounding systems of All Seasons Rural Water, Langdon Rural Water Users, Wells County Water Association, and the city of Maddock. The water service areas discussed for Benson Rural Water were: All Seasons Rural Water interior system with service to Bisbee; a 12-inch transmission pipeline from Langdon to central Benson; upgrade the Langdon water treatment plant; upgrade the water supply capacity from Mt. Carmel Dam; and service to one of several other areas. Those other areas include southern Benson with water service from Minnewaukan, Maddock, Wells, or any combination; All Seasons with service to Rocklake and Langdon Rural Water Phase 4.

Burleigh Water Users, Phase 2: Northern Improvement Company is working on distribution pipelines with over 400 new water users to date. Advanced Tank and Construction has completed the Driscoll elevated tank located east of Sterling, the Apple Creek tank southeast of the city of Lincoln, and the Hay Creek tank northeast of Bismarck.

Dickey Rural Water: Pipeline connections have been made to the communities of Berlin, Edgeley, Ellendale, Fullerton, Fredonia, Gackle, Jud, and over 350 rural users. The remaining 200 rural

water users construction is anticipated to be completed in 1997. Southeast Water Users is doing the operation and maintenance of the Dickey water system.

Grand Forks Water Treatment: The contractors have completed the work on modifying the water treatment plant's existing clear wells and control system. The controls were damaged during the flood and will be repaired with FEMA funding.

Missouri West Rural Water, Phase 2: Northern Improvement Company is working on getting materials for the water distribution system, with construction to be completed in 1998.

North Valley Water Association/Walhalla-Neche Branch: The project is planned for phased construction, with Phase 1 being the water treatment plant expansion and the connection to the city of Walhalla in 1997. Peterson Construction has installed the large diameter pipeline to Walhalla. L.T.P. Enterprises, Inc. has installed the new wells. Wick Construction, Inc. is installing the new water reservoirs and pump stations. Phase 2 is the addition to the city of Neche and the rural water users, with an estimated cost of \$3.5 million.

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

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

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

**GARRISON DIVERSION PROJECT -
APPROVAL OF CONTINUATION
OF CONTRACT WITH WILL &
CARLSON, WITH COST SHARE
UP TO \$25,000 FROM CONTRACT
FUND, THROUGH JUNE 30, 1998
(SWC Project No. 237-03)**

Secretary Sprynczynatyk presented a request from the Garrison Diversion Conservancy District to continue participation in support of the Will & Carlson contract in the amount of \$25,000. Since 1991, the State Water Commission has pledged financial support of \$130,000 for the consulting services of Peter Carlson, Will & Carlson, in Washington, DC.

Secretary Sprynczynatyk explained that Mr. Carlson provides a comprehensive monthly report on activities in Washington affecting water issues important to the mission and goals of the State

Engineer and the State Water Commission. This information assists in tracking changes in Washington that affect the regulation and management of water resources dealing with the welfare and prosperity of the people of North Dakota. Changes deal with annual federal appropriations, Garrison Diversion, stabilization of Devils Lake, Missouri River, and other water issues in Washington.

The next major project for Will & Carlson will be to assist in the Garrison Diversion Completion Plan. Secretary Sprynczynatyk explained that this plan includes benefits to the communities and industries in the Sheyenne, Red, and James River basins by working towards providing access to the Missouri River. Will & Carlson will assist in providing extra support in obtaining annual appropriations and assuring that new members and staff of key committees are fully informed of North Dakota's needs and expectations.

It was the recommendation of the State Engineer that the State Water Commission approve up to \$25,000 from the Contract Fund to continue the Will & Carlson contract through June 30, 1998. The funds would be used to cost share with the Garrison Diversion Conservancy District.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve continuation of the Will & Carlson contract through June 30, 1998, up to \$25,000 from the Contract Fund. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, 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)**

James Lennington, Project Manager for the Southwest Pipeline Project, provided the following contract and construction status report:

Contract 2-4B - Transmission Line to Reeder and Hettinger: The contractor has completed installation and pressure testing of the pipeline to Reeder and Hettinger and has installed most of the appurtenances. Late delivery of the pre-fabricated pump station, meter vaults, and pressure reducing vault resulted in an extension of the contract completion date to November 8, 1997. With progress on contracts 2-4B and 5-5, it is anticipated that service may be available to Reeder and Hettinger in late November or early December, 1997.

Contract 4-4 - Jung Lake Pump Station: Award of contract will be detailed under a separate section in these minutes.

Contract 5-4 - Jung Lake Reservoir: The contract was awarded to Landmark Structures of Fort Worth, Texas, on September 11, 1997. The contractor has begun work on the tank's foundation. The completion date of the contract is September 20, 1998.

Contract 5-5 - Bucyrus Reservoir: The reservoir has been constructed and painted. The paint on the tank requires a curing period before it can be placed into service. Curing of the paint is affected by temperature and humidity, and the contractor has chosen to let the paint cure naturally.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF AWARD OF CONTRACT
4-4, JUNG LAKE PUMP STATION
(SWC Project No. 1736)**

On October 8, 1997, bids were opened for Southwest Pipeline Project Contract 4-4 for the Jung Lake pump station. In accordance with NDCC § 48-01.1-06, separate bid schedules

and scopes of the work were provided on the project for the general, electrical, and mechanical contracts. The combined single bid was also provided on the project to include all of the individual bid schedules and scope of work.

James Lennington stated three bids were received for the general construction, two bids were received for the mechanical construction, and a single bid was received for the electrical construction. Three bids were received for the combined single bid.

The total of the apparent low bids submitted for the individual contracts was lower than the apparent low combined single bid. The apparent low bids on the individual contracts are as follows:

<u>Schedule</u>	<u>Low Bid</u>	<u>Contractor</u>
<u>Part I -</u> General Construction	\$471,700	Moorhead Construction Co., Inc. Moorhead, Minnesota
<u>Part II -</u> Mechanical Construction	\$ 56,800	Central Mechanical, Inc. Mandan, ND
<u>Part III -</u> Electrical Construction	\$269,736	Berger Electric, Inc. Dickinson, ND

Mr. Lennington indicated the bids have been reviewed and were found to be responsive.

It was the recommendation of the State Engineer that the State Water Commission approve the award of Southwest Pipeline Project Contract 4-4 to the above listed contractors.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve the award of Southwest Pipeline Project Contract 4-4 for the Jung Lake pump station as recommended by the State Engineer.

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF SOLE SOURCE
WATER SERVICE CONTRACT
FOR CITY OF GLEN ULLIN
(SWC Project No. 1736)**

James Lennington presented a request for the Commission's consideration from the city of Glen Ullin for a sole-source water service contract with the Southwest Pipeline Project. Capacity to meet the request will be available in Contract 2-3H, which is scheduled for construction in 1998.

Under sole-source service, a user agrees to pipeline water for all of its needs. For exchange, the provisions in the water service contract requiring purchase of a minimum amount each month is waived.

It was the recommendation of the State Engineer that the State Water Commission approve a sole-source water service contract with the city of Glen Ullin.

It was moved by Commissioner Johnson and seconded by Commissioner DeWitz that the State Water Commission approve a water service contract with the city of Glen Ullin for sole-source service.

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

Mr. Lennington informed the Commission members that a request has been received from the city of New England for an amendment to its water service contract for sole-source service. This contract was transferred to the Southwest Water Authority as part of the transfer of operations agreement in 1996. The State Water Commission staff and the Southwest Water Authority are reviewing the request.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
(SWC Project No. 237-04)**

James Lennington, Project Manager for the Northwest Area Water Supply Project, reported that several options are being explored for financing the

non-federal share of the construction costs in Rugby through revenue bonds. One of the options is the issuance of revenue bonds through the North Dakota State Water Development Bond program. The other option is selling bonds through the North Dakota Municipal Bond Bank's Capital Financing program.

In the latter case, the bonds would actually be the city of Rugby's bonds issued through the Bond Bank. One concern with the latter approach is the appearance that the Rugby phase might be dis-associated with the rest of the NAWS project. It needs to be clear that Rugby is a part of the NAWS project; and users in Rugby are paying for capital costs of the NAWS project, not just those in Rugby. For this reason, it is best for the NAWS project to proceed with developing a financing package for the Rugby phase of the NAWS project through the North Dakota State Water Development Revenue Bonding program.

At its October 9, 1996 meeting, the Commission adopted a resolution of intent creating the bond program. The resolution stated the Commission's intent to issue and sell North Dakota State Water Development Revenue bonds in one or more series during the following four years for the development of water supply projects in the state.

The next step in developing bond financing for the Rugby phase of the NAWS project would be the development and adoption of a resolution of intent to issue bonds for financing. Following that would be the development of a preliminary official statement and series resolution. A recommendation will be presented for the Commission's consideration at a future meeting.

Final design plans for the city of Rugby's water treatment plant should be ready for bidding in January, 1998, with construction to follow in the spring. The current cost estimate for the Rugby phase totals about \$4.6 million, with \$2.9 million in construction scheduled for

1998. Of the \$2.9 million in construction, it has been determined that approximately \$2.4 million is eligible for MR&I funding. The remaining \$500,000 is considered deferred maintenance and/or replacement, based on past precedent, and would be the city's costs. Discussions are underway with the city concerning the items that have been identified to be non-eligible.

The draft Northwest Area Water Supply Project Biota Transfer Control Facilities and Criteria, dated October, 1997, which was prepared by Houston Engineering, in association with American Engineering and Montgomery Watson, is being reviewed by the Commission staff. The final report will be submitted to the Garrison Joint Technical Committee.

Mr. Lennington informed the Commission members that Gene Sloan, Mayor of Parshall, resigned as the NAWS advisory committee member-at-large. Alan Lee, Mayor of Berthold, has been appointed to replace Mr. Sloan.

**NORTHWEST AREA WATER
SUPPLY PROJECT -
APPROVAL OF CONTRACT
FUND ALLOCATION
(SWC Project No. 237-04)**

Section 61-24.6-05 of the North Dakota Century Code states that the State Engineer may employ full-time personnel and may allocate funds from the Contract Fund for salaries and expenses of persons employed for

development of the Northwest Area Water Supply project. In the 1995-1997 biennium, the State Water Commission approved the allocation of \$50,000 from the Contract Fund for the salary and expenses of the NAWS project manager. At the June 19, 1996 meeting, the Commission approved creation of a NAWS project manager and the \$50,000 allocation from the Contract Fund was obligated for the position. A portion of those funds was not used in the last biennium.

Secretary Sprynczynatyk explained that an additional \$50,000 from the Contract Fund was earmarked for the project in the 1997-1999 biennium, which was included in the NAWS budget for the biennium. He said most of the expenses are paid with federal funds through the MR&I program, however, a 25 percent non-federal match is required. The non-federal funds used to match the federal funds currently being used to pay the final design engineering fees came from the non-federal funds which were used to pay the engineering fees on the pre-final design which ended in 1995.

It was the recommendation of the State Engineer that the State Water Commission approve the allocation of \$69,219 from the Contract Fund for NAWS operating costs including salaries, operations, and equipment. The amount includes \$19,219 of carryover funds from the 1995-1997 biennium, and \$50,000 earmarked in the 1997-1999 biennium.

It was moved by Commissioner Swenson and seconded by Commissioner Ames that the State Water Commission approve the allocation of \$69,219 from the Contract Fund for the Northwest Area Water Supply Project for operating costs including salaries, operations, and equipment. This motion is contingent upon the availability of funds.

This action includes \$19,219 of carryover funds from the 1995-1997 biennium, and \$50,000 earmarked for the project in the 1997-1999 biennium.

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

**SAFE DRINKING WATER ACT -
APPROVAL OF PROJECT
PRIORITY LIST IN FISCAL YEARS**

At the October 29, 1997 meeting, the Commission members were provided information relative to the Safe

1997 AND 1998 INTENDED USE

Drinking Water Act and the role of

**PLAN, DATED SEPTEMBER 19, 1997
(SWC File No. AS/HEA)**

the State Water Commission.

The Drinking Water State Revolving Loan Fund was authorized by Congress in 1996 under the Safe Drinking Water Act with the intention of assisting public water systems in complying with the Act. It provides funding in the form of loans and is administered by the Environmental Protection Agency through the states. When including the 20 percent match by the state generated through the sale of bonds, approximately \$23.6 million will be provided to the fund for the first two years. Funding in North Dakota, for public water systems, is in the form of a loan program administered by the Environmental Protection Agency through the North Dakota Department of Health. North Dakota anticipates receiving federal capitalization grants totalling \$19.7 million for fiscal years 1997 and 1998. North Dakota Century Code § 61-28.1, Safe Drinking Water Act, gives the Department the powers and duties to administer and enforce the safe drinking water program, with the approval of the State Water Commission.

Section 1452(b) of the Safe Drinking Water Act requires each state to annually prepare an Intended Use Plan. The plan is to describe how the state intends to use the funds to meet the program objectives and further the goal of protecting public health. A public review period is required prior to submitting the annual plan to the Environmental Protection Agency as part of the capitalization grant agreement. The North Dakota Department of Health held public hearings on the draft Intended Use Plan on September 29 and October 1, 1997, with the comment period ending on October 15, 1997.

Wayne Kern, North Dakota

Department of Health, provided a summary of the comments received as part of the public hearing process. As a result of the comments received, he said the Department does not intend to make changes for Fiscal Years 1997 and 1998 to the project priority list primarily because the majority of the comments were supportive and dealt more with procedural questions on implementation of the program rather than concerns regarding the project priority list or the project ranking system from which the project priority list was developed. The Department is anticipating to finalize the Intended Use Plan by November 15, 1997, based on public review and comment. The Department will submit the 1997 and 1998 capitalization grant application to the Environmental Protection Agency by December 1, 1997. This will allow the Department to receive applications for and make financing available for eligible drinking water projects, in priority order, by May 1, 1998. The priority list of projects for which the Department intends to disburse loan funds will be brought before the Commission for consideration at a future meeting.

Mr. Kern presented the Fiscal Years 1997 and 1998 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, dated September 19, 1997, for the State Water Commission's consideration. The Intended Use Plan is attached hereto as *APPENDIX "C"*. The project priority list includes 44 projects, with a cumulative total project cost of \$132.5 million. Total fiscal years 1997 and 1998 program funding available for loans is \$21.2 million. Mr. Kern said the process of prioritizing projects will be completed on an annual basis.

It was the recommendation of the State Engineer that the State Water Commission approve the project priority list for Fiscal Years 1997 and 1998 as listed in the Intended Use Plan, dated September 19, 1997.

The priority ranking criteria for financial assistance through the program was discussed, with specific reference to affordability, water rate impacts, infrastructure operation and maintenance, and water conservation.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve the project priority list for Fiscal Years 1997 and 1998 as listed in the Intended Use Plan for the North Dakota Drinking Water State Revolving Loan Fund, dated September 19, 1997.

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

Mr. Kern stated the Department is a party to a group established by a memorandum of understanding to “establish greater communication and coordination between the parties on water supply development funding in North Dakota.” Members of this group include representatives from the Department, Bureau of Reclamation, Rural Development, Garrison Diversion Conservancy District, State Water Commission, and the Municipal Bond Bank.

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-01)**

Secretary Sprynczynatyk reported the current level of Devils Lake is 1442.6. The lake has receded approximately 4 inches since the first of August,

1997. The lake is expected to rise after the first hard frost and after the evapo-transpiration lessens. Graphical information and current and long-term hydrograph information relative to Devils Lake were provided.

Secretary Sprynczynatyk briefed the Commission members on the efforts of the three-part solution to control record Devils Lake flooding which includes water storage, the construction of an outlet to allow the water to flow out of the lake into the Sheyenne River and eventually into the Red River, and to provide for infrastructure for protection around the lake.

On October 23, 1997, a hearing was held before the Senate Environment and Public Works committee in Washington, DC. Testimony was provided by the congressional delegation, federal, state and local representatives relative to the problems at Devils Lake and the need for construction of an outlet as part of the overall solution of addressing the problems. Governor Schafer’s testimony, which was presented by Secretary Sprynczynatyk, is attached as *APPENDIX “D”*.

**CITY OF DEVILS LAKE
LEVEE PROJECT
(SWC Project No. 416-02)**

On August 22, 1996, the State Water Commission passed a motion to approve a 50 percent cost share of the non-federal costs for the 1996 Stage 1

city of Devils Lake levee raise project. The state cash contribution was \$175,000. Stage 1 was completed in the fall of 1996.

The project raised and extended the existing dikes around the city of Devils Lake by five feet and provides protection to a lake elevation of 1445. The dikes currently protected the city to elevation 1440. The total cost of the project was estimated at \$7.2 million. The Corps of Engineers provided a 75 percent federal cost share, leaving a non-federal requirement of \$1.8 million.

On March 26, 1997, the State Water Commission passed a motion to allocate \$409,000 from the Contract Fund and approved the transfer of title of two gator pumps for a credit of \$67,680 towards the state's remaining contribution for the city of Devils Lake levee raise project. A Community Development Block Grant of \$249,000 was also approved for the project. The Corps of Engineers advertised for the remainder of the project and awarded the bid in April, 1997. Construction is scheduled to be completed in 1997.

On June 12, 1997, President Clinton signed the 1997 Emergency Supplemental Appropriations Act (Public Law 105-18), which provides for funds to expedite a raise of the levee at the city of Devils Lake beyond elevation 1445. The bill has provisions to allow a further raise of the levee to provide protection from a lake level of 1450, with a top of levee elevation of 1457. The Corps intends to have the entire levee system raised to elevation 1454 by freeze-up. The remainder of the work won't be completed until the summer of 1998. The Corps has indicated that at all times the integrity of the levee protection for the city of Devils Lake from the high lake levels will be maintained.

William Spychalla, St. Paul District Corps of Engineers, reported the contract for Stage 1 of the levee raise, which includes levee raises from ND Highway 19 to Ramsey County Road #1, is nearly complete. This stage currently provides protection for a lake elevation of 1445 in the area. The contract for Stage 2 of the levee raise, which includes levee raises from ND Highway 20 to US Highway 2, is scheduled for completion in October, 1997. When completed, this stage will provide protection for a lake elevation of 1445 in this area as well.

Ramsey County and Creel Township have requested the Corps to evaluate a west end extension of the Stage 1 levee to provide protection to several areas outside of the city of Devils Lake. An economic analysis of the west end extension conducted by the Corps found the alternative to be feasible, and the city of Devils Lake and Ramsey County are developing the necessary agreements to allow construction of the west end extension to proceed.

On October 7, 1997, the Corps of Engineers received assurance from the city of Devils Lake that the city would provide \$500,000 for construction of the Creek Township pumping station. A total of \$2 million is available for construction of the pump station and site work in the immediate vicinity. Work on the pump station began on October 8, 1997.

The total cost for the additional raise of the Devils Lake levee to provide protection to elevation 1450 (1457 top of levee) is estimated to be \$44 million. This includes the cost of the west end extension. The non-federal portion of the cost is approximately \$11 million. Ramsey County and the city of Devils Lake have committed \$7 million in HUD grant money towards

the project. The remaining \$4 million of the non-federal cost will be provided by the State of North Dakota. Discussions are underway between the city of Devils Lake, the Corps of Engineers, and the State Water Commission concerning the necessary amendments to the Project Cooperation Agreement for the increase in costs.

The Corps intends to submit Flood Insurance Study maps to FEMA by the end of October, 1997, showing the reduction in flooding potential resulting from the construction of the dikes at the end of 1998. The Corps believes this information will allow the dikes to be certified as protecting the city from a 100-year event and possibly the 500-year event, removing the area protected by the dikes from the floodplain.

Secretary Sprynczynatyk explained that the city of Devils Lake levee raise is an important part of the infrastructure protection. He said that in addition to the levee raise, a considerable amount of federal, state and local expense has been incurred in the efforts to provide infrastructure protection.

**CORPS OF ENGINEERS
DEVILS LAKE EMERGENCY OUTLET -
RECONSIDERATION OF SWC JULY 22,
1997 ACTION RELATIVE TO**

**COMBINATION ALTERNATIVE;
TO PIPELINE ALTERNATIVE
(SWC Project No. 416-01)**

On July 22, 1997, the State Water Commission endorsed the Peterson Coulee outlet route from Devils Lake to the Sheyenne River, and the

preliminary plan using a combination of pumped storage, pipeline, and open channel components, with a design flow capacity of 300 cubic feet per second.

William Spychalla reported that the Corps of Engineers and their consultant, Barr Engineering, are continuing work on the pre-construction engineering and design of an emergency outlet from Devils Lake to the Sheyenne River via Peterson Coulee. The Corps and Barr Engineering met with State Water Commission staff and other state agencies on September 12 and October 8, 1997 to present the current status of their technical review. Seven alternatives consisting of various combinations of pumped storage, open channels, and pipe have been investigated. The preliminary cost estimates vary from \$35 to \$39.7 million.

Mr. Spychalla indicated that the preliminary environmental evaluation, the estimate of environmental mitigation and survey costs, and the preliminary design, permitting, and construction evaluation favor the selection of a pipeline for the entire length of the outlet. He said further analysis of the pipeline alternative is required, especially to determine the features required to control surge in the pipeline.

An appropriation of \$5 million was passed by Congress and signed by the President, enabling the Corps of Engineers to begin construction of the outlet in 1998, with operation beginning in late 1999 or early 2000. Secretary Sprynczynatyk indicated that although a local sponsor has not yet been determined, the Commission staff has begun reviewing data provided by the Corps and the real estate acquisition requirements. The local sponsor will be responsible for the right-of-way acquisition for the project.

The Corps of Engineers has begun the scoping process to comply with the National Environmental Policy Act requirements. The Corps is working with the Council on Environmental Quality to expedite the procedure.

Subsequent to the Commission's action on July 22, 1997, which endorsed the Peterson Coulee outlet route using a combination of pumped storage, pipeline, and open channel components, Secretary Sprynczynatyk said that additional work done by the Corps of Engineers and Barr Engineering indicates a pipeline over the entire outlet route may have a similar cost and reduced environmental impacts compared to the combination plan. Based on the information from the Corps and the consultant, it was the recommendation of the State Engineer that the State Water Commission reconsider its endorsement (by motion of July 22, 1997) of the preliminary plan using a combination of pumped storage, pipeline, and open channel components, and endorse a pipeline alternative. If the Commission concurs with the recommendation, he said staff will continue to work with the Corps and Barr Engineering to develop a preferred plan based on cost, environmental impacts, and ease of construction.

It was moved by Commissioner Olin, seconded by Commissioner Johnson, and unanimously carried, that the State Water Commission reconsider its action of July 22, 1997 which endorsed the preliminary plan for the Peterson Coulee outlet route from Devils Lake to the Sheyenne River using a combination of pumped storage, pipeline, and open channel components, with a design flow capacity of 300 cubic feet per second.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission endorse a preliminary plan consisting of a pipeline alternative for the Peterson Coulee outlet route from Devils Lake to the Sheyenne River.

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

**DEVILS LAKE UPPER
BASIN MANAGEMENT -
AVAILABLE STORAGE
ACREAGE PROGRAM (ASAP)
(SWC Project No. 1882-01)**

On September 11, 1997, the State Water Commission passed a motion providing the second year option be exercised on the 1997 Devils Lake Available Storage Acreage Program (ASAP) contracts and that current

ASAP participants with expiring contracts be allowed to sign extensions into 1998.

Secretary Sprynczynatyk indicated that preparation to secure water storage in 1998 has begun. The sites with two-year contracts that were signed in 1997 are ready for 1998 storage, and that sites that had one-year contracts or two-year contracts expiring at the end of 1997 will require contract extensions. ASAP sites that no longer provide a storage benefit for the rest of the lake will no longer be used. These sites will be determined based on a predicted lake rise.

The Devils Lake basin manager will have a role in the ASAP program to ensure water is held on the sites as contracted and will have an integral part in conflict resolution over ASAP program disputes with unintentionally affected landowners.

**DEVILS LAKE BASIN JOINT WATER
RESOURCE BOARD MANAGER,
WAYNE SIMON
(SWC Project No. 416)**

On September 11, 1997, the State Water Commission passed a motion approving funding in the amount of \$23,000 for one year for a full-time manager position for the Devils Lake

Basin Joint Water Resource Board for water management work within the Devils Lake basin. The Commission also agreed to relocate the State Water Commission staff water resource engineer back to the Bismarck office and to enter into an annual agreement with the Devils Lake Joint Water Resource Board, in which they have agreed to contribute \$9,000 per year to retain the engineer's full-time commitment to the Devils Lake water projects.

Secretary Sprynczynatyk reported that the board advertised the position and 19 applications were received. On October 8, 1997, Wayne Simon, Hampden, North Dakota, was hired as the Devils Lake Basin Joint Water Resource Board manager.

Secretary Sprynczynatyk informed the Commission members that Gregg Thielman, the Commission's staff water resource engineer located at the Devils Lake office, resigned from the State Water Commission on October 10, 1997 to accept employment with Houston Engineering in Fargo, North Dakota.

**DEVILS LAKE OUTLET ADVISORY
MANAGEMENT COMMITTEE
(SWC Project No. 1712-01)**

The Devils Lake Outlet Advisory Management Committee was created with the passage of Senate Bill 2239 in the 1997 legislature. This bill, which became law on August 1, 1997, established a committee including the State Engineer who is the committee chair, one representative of the Red River Joint Water Resource Board, one representative of the Devils Lake Joint Water Resource Board, one county commissioner each from Benson and Ramsey counties, a representative of the Spirit Lake Nation, and three downstream representatives appointed by the Governor.

Secretary Sprynczynatyk said the committee's primary responsibility is to develop an annual operating plan for a Devils Lake outlet. This operating plan is to be submitted to the State Water Commission. The Commission may approve, recommend changes, or make changes to the annual operating plan.

The committee met on October 20, 1997 in Devils Lake. William Spychalla, St. Paul District Corps of Engineers, discussed the status of the emergency outlet plans through Peterson Coulee. Following status reports on flooding and the outlet, the committee was asked to focus on two main tasks: to identify an operating level or range of levels for the lake, and to develop an outlet operation plan to help achieve that lake level.

Committee members raised concerns about choosing an operating range that was higher than the average meander line and, therefore, holding the lake on deeded land. The effects of the increase in total sulfates brought into the lake, such as the level for a potential fish kill, will need to be known before a decision can be made about the lower end of an operating range. A lake level range will be sought that can balance flood protection against future drought conditions.

The next meeting of the committee is scheduled for December 18, 1997 in Valley City.

**ILLEGAL DRAINAGE IN
DEVILS LAKE BASIN
(SWC Project No. 1882-05)**

On June 5, 1997, Governor Schafer issued a press release directing the State Water Commission to identify illegal drainage in the Devils Lake basin and to work with the water resource boards to close the drains.

Section 61-32-07 of the North Dakota Century Code requires unauthorized drains to be closed. Secretary Sprynczynatyk explained that the closing of illegal drains is a part of the effort to properly

manage the water in the Devils Lake basin on a watershed basis. As the inventory is completed, the water resource boards in the basin will be requested to investigate the drains, which are identified as being built after 1957 and having a watershed of greater than 80 acres, so that a final determination of legality can be made by the water resource boards in the basin.

Secretary Sprynczynatyk reported the State Water Commission staff is continuing its investigation on possible illegal drainage in the Devils Lake basin. To date, 30 of the 145 townships have been completed and 29 more are near completion. Townships completed include 13 in Ramsey County, 12 in Towner County, and 5 in Cavalier County. A total of 141 drains have been identified as possible illegal in these 30 townships. The water resource districts are reviewing their records and doing a follow-up investigation to determine a course of action.

**DEVILS LAKE
DEBRIS REMOVAL
(SWC Project No. 1882-04)**

The 1997 legislature enacted Senate Bill 2260 authorizing the State Engineer to order removal, modification, or destruction of dangers in, on the

bed of, or adjacent to a navigable lake. Devils Lake is a navigable lake, and since the bill became law on April 3, 1997, the State Engineer has ordered five individual landowners to remove structures and debris on their property which have been inundated by the raising water of Devils Lake. These orders have been issued because the individual landowner did not remove, in a timely manner, all or parts of submerged trailer houses, storage sheds, and one individual's junk yard which included old tires, fuel tanks, a metal transmission tower, and other assorted debris. The order gives the landowner 20 days in which to comply and clean up their debris.

Secretary Sprynczynatyk indicated the State Water Commission staff is working with the Lake Region District Health Unit in identifying which property owners are not following orders from the District Health Unit by removing their debris in a timely manner and then requiring an order from the State Engineer. The District Health Unit is monitoring whether the property owner is acting upon the order issued by the State Engineer.

To date, 15 sites have been reviewed and 8 orders have been issued by the State Engineer. The State Engineer's office provides a 20-day period to remove the structure and/or debris. The order also affords the opportunity for a hearing or a time extension for good cause. Of the 15 sites reviewed, clean-up has been completed at 7 sites. At two of the sites, arrangements are being made to remove structures after freeze-up. In some cases, housemovers cannot get to the structure until the ground is frozen.

**SPIRIT LAKE NATION INDIANS,
ET AL. V STATE OF NORTH
DAKOTA, CITY OF DEVILS LAKE,
AND NORTH DAKOTA STATE
WATER COMMISSION -
WATER PERMIT LAWSUIT UPDATE
(SWC Project No. 416)**

The State and the city of Devils Lake were sued on June 27, 1997 by four members of the Spirit Lake Nation Tribe on behalf of the tribe and themselves. The complaint requested the court to prohibit the removal of water from the Warwick aquifer, a portion of which underlies the boundaries of

the reservation. It also seeks damages for losses suffered by the tribe as a result of the removal of water.

The State filed a motion to dismiss in response to the complaint based on eleventh amendment immunity, which bars claims of a tribe and its members against a state in federal court, and on grounds that the Tribe and individual members have not suffered any personal injury which would give them standing to bring this suit.

The plaintiffs' response to the State's motion to dismiss was due on August 30, 1997. The plaintiffs received an extension to file the response until September 3, 1997, and made a second request to extend the time to file a response until September 16, 1997. A response to the State's motion to dismiss was received from the plaintiffs, and on September 9, 1997, the State responded to their motion. Devils Lake also filed a response to the Plaintiffs' reply to the State's motion to dismiss.

The plaintiffs also filed a motion to amend their complaint naming the Governor, the Mayor of Devils Lake, and the Commissioner of Agriculture in their individual and official capacities as parties rather than the State, State Water Commission, and the city of Devils Lake. The State's motion to dismiss was based on grounds that the State is immune from suits. Sovereign immunity does not extend to state officials in their individual capacities. The State resisted the motion to amend the complaint because even if the complaint is amended it does not cure the other deficiencies in the complaint. Even if new defendants are named, there is not a case or controversy over which the court can exercise jurisdiction. The Spirit Lake Nation is still not a party, the Spirit Lake Nation has not authorized the action, and the plaintiffs have not suffered any personal injury to give them standing.

The Plaintiffs filed a response to the State's reply to their motion to amend the complaint. At this time, the State's motion to dismiss the original complaint and the Plaintiffs' motion to amend their complaint are pending before the court.

**APPROVAL OF RESOLUTION
OF APPRECIATION TO RAY HORNE,
DEVILS LAKE BASIN COORDINATOR
(SWC Resolution No. 97-10-476)**

A draft Resolution of Appreciation to Ray Horne, Devils Lake Basin Coordinator, was presented for the State Water Commission's consideration.

Mr. Horne worked under contract for the State Water Commission since November 1, 1992 as the Devils Lake basin coordinator. Effective November 1, 1997, Mr. Horne has decided to enjoy retirement.

*It was moved by Commissioner Swenson and seconded by Commissioner Olin to approve Resolution of Appreciation, No. 97-10-476, to Ray Horne.
SEE APPENDIX "E"*

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

Governor Schafer, Secretary Sprynczynatyk, and the Commission staff expressed their thanks and appreciation to Mr. Horne for his commitment of time and energy to sound water resource management in the Devils Lake basin.

**STATE INSTREAM FLOWS STUDY
(SWC Project No. 1729)**

In cooperation with several state agencies, the State Water Commission staff is participating in a State

Instream Flows task force study. In addition to the Commission staff, the task force group involves the State Department of Health, the State Game and Fish Department, and the State Parks and Recreation Department.

Secretary Sprynczynatyk explained the objectives of the study which includes determining the value of instream flow requirements to the people of North Dakota, identifying methodologies or a process that can determine instream flow requirements, and identifying how instream flow requirements can be implemented or put into place either through the existing authority of various agencies, through new legislation, or through some other means.

The task force has begun to identify important instream flow parameters and has reviewed various instream flow methodologies. It is anticipated that a case study of a river or reach of river will

be used to evaluate the selected process or methodology. The exercise would involve identifying the important instream flow parameters and their values to the state and the use of methodologies to determine instream flow requirements. Applying the process of a river or river reach would determine if it is indeed practical and workable.

Secretary Sprynczynatyk explained the complexity of the instream flows issue and said it is somewhat controversial. He said minimum instream flow requirements could have a significant effect on future water resource management and development in North Dakota.

**RED RIVER BASIN BOARD
(SWC File AOC/RBB)**

The Red River Basin Board was organized to develop and cause to be implemented, a comprehensive water management plan for the Red River basin addressing the needs on a watershed basis and to facilitate and pursue the resolution of inter-jurisdictional issues. The board of directors is comprised of five members each from Minnesota and North Dakota; seven members from Manitoba; two members from South Dakota; and two members from the tribal/aboriginal reservations in Minnesota, North Dakota, and Manitoba.

The Red River Basin Board was organized to develop and cause to be implemented, a comprehensive water

The organizational meeting of the Red River Basin Board was held on July 24, 1997 in Pembina, North Dakota. The board met on September 4, 1997 in Grand Forks, at which time Morris Lanning, Mayor of Moorhead, Minnesota, was elected to chair the board. Secretary Sprynczynatyk reported that of the 21-member board, 16 members have been identified.

The board's next meeting is scheduled for November 6, 1997 in Grand Forks. The board has contracted with Eugene Krenz, former State Water Commission employee, to develop the Red River Basin Water Management Plan outline and the coordination efforts for implementation of the plan.

**INTERNATIONAL JOINT
COMMISSION RED RIVER
BASIN TASK FORCE
(SWC Project No. 1431-08)
(SWC File AOC/RRB)**

The federal governments of the United States and Canada have formally requested the International Joint Commission to examine and report on the causes and effects of the flooding in the Red River basin and to make recommendations to the two governments by the end of 1998 on the means of reducing future risks from flooding. The International Joint Commission is a bi-national United States-Canada organization established by the Boundary Waters Treaty of 1909 and assists the governments in managing waters along the border for the benefit of both countries. It has built its reputation by producing cooperation among a variety of interests on both sides of the border.

The federal governments of the United States and Canada have formally requested the International Joint Commission to examine and report on the causes and effects of the flooding in the Red River basin and to

A task force has been appointed consisting of five members each from the United States and Canada. The task force members representing the United States are Donald Herndon, Corps of Engineers, Vicksburg, Mississippi, Co-Director; Secretary Sprynczynatyk; Kent Lokkesmo, Minnesota Department of Natural Resources; Professor Jay Leitch, North Dakota State University; and Craig Wingo, Federal Emergency Management Agency, Washington, DC.

Efforts of the task force will focus on flood forecasting, flood controls, emergency preparedness, land use practices, and related issues. The task force will submit an interim report to the International Joint Commission at the end of 1997, and the final report is anticipated at the end of 1998.

Concerns relative to the Grand Forks flood control proposals were expressed by the Citizens for Responsible Flood Control in a letter from the group's chair, dated October 29, 1997, which is attached as *APPENDIX "F"*. The group has requested an audience before the Commission at its December meeting.

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

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

Secretary Sprynczynatyk reported that since May, 1995, the Missouri River Basin Association has been

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

The Missouri River Basin Association developed a planning process to recommend the best methods for maximizing basin water uses and interests. The planning effort involved representation of the basin's primary water interests with state and tribal

representatives in a search for ways to obtain maximum benefits for all water uses. The following goals were identified to meet the needs of the water users and guide the management and operation of the Missouri River:

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

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

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

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

The Missouri River Basin Association has scheduled a conference of the interested river users on November 3 and 4, 1997 in Kansas City, Missouri. The Summary of Suggestions will be provided to the conference participants in advance of the meeting.

Secretary Sprynczynatyk made reference to an editorial in the *Missouri Resources* newsletter by David Shorr, Director of the Missouri Department of Natural Resources, relating to the Missouri River and the Garrison Diversion project. Governor Schafer expressed concern that the editorial incorrectly "portrays the State of North Dakota's goals in attempting to complete the Garrison Diversion water project." Secretary Sprynczynatyk said he hopes to have an opportunity to visit with Mr. Shorr during the Kansas City meeting about water management projects in North Dakota and Missouri.

**1999 STATE WATER PLAN
(SWC Project No. 322)**

the 1999 State Water Plan. Work on the plan will begin during the last part of 1997 and is scheduled to be completed by the end of 1998. The plan will be available for the 1999 legislative session.

The Planning and Education Division of the State Water Commission has begun the initial steps in developing

Secretary Sprynczynatyk said the 1999 State Water Plan will focus on water management for the 21st century. It will outline current and future management policies and will help serve as a guide for decision-makers. It is intended to be a realistic vision of water management with emphasis on regional and local projects that are appropriate to the plan's goals and objectives.

The previous update to the plan in 1992 focused on water projects. The current plan will emphasize current water policies and their effect on water management. The division has begun the process of collecting, documenting and reviewing all of the State Water Commission's water management, cost sharing, and permitting policies. In addition to the State Water Commission policies, the plan will reference appropriate water-related policies from the state's other natural resource agencies.

The public involvement process has begun to gather input on water issues and needs in the state. This process will take approximately four months to complete. Input will be gathered from surveys, public meetings, and special representative input groups.

The 1999 State Water Management Plan has three main goals: 1) to comprehensively illustrate how North Dakota water resources are currently managed and the responsibilities associated with that management; 2) to provide a vision or direction for how water could be managed into the 21st century; and 3) to reinforce the framework for implementation of the current water management plan and water development program, per the Fifty-fifth North Dakota Legislative Assembly Session laws, Chapter 15, Section 9, which reads as follows:

The legislative assembly finds that there is a critical need to develop a comprehensive statewide water development program. The state water commission shall develop and implement a comprehensive statewide water development program. The commission shall design the program to serve the long-term water resource needs of the state and its people and to protect the state's current usage of, and the state's claim to its proper share of Missouri River water.

NEXT STATE WATER COMMISSION MEETING

The next State Water Commission meeting is scheduled for December 1, 1997, in Dickinson, ND, beginning at 8:30 AM, Mountain Standard Time.

There being no further business to come before the State Water Commission, Governor Schafer adjourned the meeting at 4:00 PM.

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

SEAL

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

