

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

July 14, 2000

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on July 14, 2000. Governor-Chairman, Edward T. Schafer, called the meeting to order at 9:00 AM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Florenz Bjornson, Member from West Fargo
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

MEMBER ABSENT:

Judith DeWitz, Member from Tappen

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 APRIL 10, 2000 STATE WATER
COMMISSION MEETING -
APPROVED, AS CORRECTED**

The minutes of the April 10, 2000 State Water Commission meeting were considered. Reference was made to Appendix "D", page 1, paragraph 2, under the Twin Lakes

Route section, in which the township was incorrectly listed in the memorandum. The sentence should read, "The intake consists of a floating pump station located in Section 8, Township 46~~2~~ 152 North, Range 66 West. ..."

It was moved by Commissioner Olin, seconded by Commissioner Thompson, and unanimously carried, that the minutes of the April 10, 2000 State Water Commission meeting be approved, as corrected.

**CONSIDERATION OF MINUTES
OF MAY 24, 2000 STATE WATER
COMMISSION TELEPHONE
CONFERENCE CALL MEETING -
APPROVED**

The minutes of the May 24, 2000 State Water Commission telephone conference call meeting were approved by the following motion:

It was moved by Commissioner Olin, seconded by Commissioner Thompson, and unanimously carried, that the minutes of the May 24, 2000 State Water Commission telephone conference call meeting be approved, as prepared.

**FINANCIAL STATEMENT -
AGENCY PROGRAM BUDGET
EXPENDITURES**

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures for the period ending May 31, 2000, reflecting 46 percent of the 1999-2001 biennium. **SEE APPENDIX "A"**

On June 7, 2000, the Emergency Commission, and subsequently the Legislative Council's Budget Section, approved an agency request for increases in spending authority for four programs including the U.S. Geological Survey Stream Gaging Program, the Flood Mitigation Assistance Program, the Devils Lake Outlet Awareness Manager, and the Dam Safety Program.

**FINANCIAL STATEMENT -
RESOURCES TRUST FUND**

On April 10, 2000, the State Water Commission passed a motion to seek a request to the Emergency Commis-

sion for an additional \$1 million of spending authority from the Resources Trust Fund to provide cost share assistance for water development projects. The request

was approved on June 7, 2000 by the Emergency Commission. Secretary Sprynczynatyk stated that oil revenues continue to exceed the agency's budget estimate, which is shown on **APPENDIX "B"**. If this trend continues, the Resources Trust Fund could receive approximately \$3 million in excess of the agency's current spending authority for the 1999-2001 biennium.

The Projects-Contract Fund spread-sheet, attached hereto as **APPENDIX "C"**, is based on the agency's current authorized funding appropriation from the Resources Trust Fund. With the \$1 million of additional spending authority, \$1,392,000 of unobligated funds are available for allocation.

**FINANCIAL STATEMENT -
2001-2003 BUDGET**

Secretary Sprynczynatyk reported the agency's budget for the 2001-2003 biennium is being prepared for submission to the Office of Management and Budget by August 15, 2000. The base budget is based on 100 percent of the current general fund appropriation. Requests for funds above the base budget are requested as optional adjustments.

The budgets for the Resources Trust Fund and the North Dakota Water Development Trust Fund Program are being prepared and will be presented for the State Water Commission's consideration at its next meeting.

**NORTH DAKOTA WATER
DEVELOPMENT TRUST
FUND BOND PROGRAM
(SWC Project No. 1907-02)**

On March 23, 2000, the bond sale relating to the North Dakota Water Development Trust Fund Program was completed in regard to Senate Bill 2188. The bond sale, which totalled \$32.1 million, will provide \$23 million for Grand Forks and \$4.5 million for the Southwest Pipeline Project during the 1999-2001 biennium. Secretary Sprynczynatyk reported that, to date, \$7.6 million has been provided to Grand Forks for primarily land acquisition and relocations. He said it is expected the \$23 million included in this bond sale will be spent by the end of 2001, at which time another sale is anticipated. Senate Bill 2188 provided up to \$52 million for the Grand Forks project.

Secretary Sprynczynatyk stated that in June, 2000, bids were requested for the investment of money in two accounts related to the bonding. The project account includes the project money that is drawn down as needed. The bonding program provided \$27.5 million to projects that will be paid out over the next two years. The second account is the debt reserve account dedicated for making bond payments during special situations. The debt reserve account has \$2,741,000, which is the amount required to make

payments for one year. Most interest money earned must be paid to the federal government as arbitrage payments. The federal government requires the arbitrage payments to be as high as possible, and bidding is one way to prove that the highest interest rates possible are being received.

The high bidder for the project account was a German bank, Bayersche Landesbank Girzentrale, with a bid of 7.05 percent. The Bank of North Dakota was the high bidder for the debt reserve account at 7.75 percent. Since the bonds are insured, both banks had to be approved by the bond insurance company (MBIA), and meet several other stringent requirements.

Secretary Sprynczynatyk reported that of the \$4.5 million in bonds provided for the Southwest Pipeline Project, \$2.8 million has been spent. The bond dollars are being combined with primarily federal USDA, Rural Development bonds to expand the pipeline to New Leipzig, Elgin, Carson, and to approximately 230 rural users.

The Corps of Engineers is continuing to work on flood control projects for the city of Wahpeton and the city of Grafton. A draft project report for Wahpeton is scheduled for release in July, 2000. Construction is not expected to begin until the spring of 2001, with final completion anticipated for late 2002 or early 2003. The Corps is currently working on a General Re-Evaluation Report for Grafton. Actual construction is not scheduled to begin before 2002.

**APPROVAL OF REQUEST FROM
SOUTHEAST CASS COUNTY
WATER RESOURCE DISTRICT
FOR COST SHARE IN RECON-
STRUCTION OF CASS COUNTY
DRAIN NO. 21
(SWC Project No. 1075)**

A request from the Southeast Cass Water Resource District was presented for the Commission's consideration for cost share for the reconstruction of Cass County Drain No. 21.

Todd Sando, Director of the State Water Commission's Water Development Division, presented the project. The reconstruction project consists of lowering the existing channel bottom approximately one foot and flattening the channel side slopes from the existing 3:1 to 4:1. Included in the reconstruction is the removal of a section line road bridge and replacing it with three 14-foot square box culverts. The project will start at the drain's outlet into the Sheyenne River and proceed in a southerly direction upstream for approximately 1.3 miles.

The total estimated project cost is \$605,000, of which \$585,000 is considered eligible for a 35 percent cost share. The request before the State Water Commission is to cost share in the amount of \$204,750. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during the 1999-2001 biennium.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for the reconstruction of Cass County Drain No. 21, and defer consideration of the remaining cost share request (\$68,750) until the 2001-2003 biennium.

Kent Ritterman, Moore Engineering, Fargo, ND, provided technical information relative to the project.

The Commission members expressed concerns relating to negative downstream impacts that could be caused by drainage. In processing the drainage permit application, Mr. Sando explained an analysis and determination was made that the project is not of interdistrict or statewide significance, and the impacts of the project are minimal. The Commission members directed the State Engineer and staff to provide the results of the downstream impact analysis for all drainage project requests considered for future cost share in the memorandum to the Commission.

It was moved by Commissioner Hanson and seconded by Commissioner Swenson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for Cass County Drain No. 21. The remainder of the cost share request (\$68,750) is to be deferred for consideration during the 2001-2003 biennium. This motion is contingent upon the availability of funds.

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

APPROVAL OF REQUEST FROM NORTH CASS AND RUSH RIVER JOINT WATER RESOURCE DISTRICT FOR COST SHARE ON CONSTRUCTION OF CASS COUNTY DRAIN NO. 29A (SWC Project No. 1081)

A request from the North Cass and Rush River Joint Water Resource District was presented for the Commission's consideration for cost share on the construction of Cass County Drain No. 29A.

Todd Sando presented the project, which is an assessment drain established along the east-west boundary line of Arthur, Amenia, Gunkel, Gardner, Rush River, and Berlin townships. The drain will be located immediately west of Argusville, ND. The main channel

begins on the north side of the corporate limits of Argusville at Interstate Highway 29 and extends west to ND State Highway 18. This is on the borderline between Townships 141 and 142 North, Ranges 50, 51 and 52 West. The project consists of enhancing 13.5 miles of existing section line road ditches, which includes the installation of section line road culverts.

The engineer's cost estimate for the construction of Cass County Drain No. 29A is \$1,220,000, of which \$713,555 is considered eligible for a 35 percent cost share. The request before the State Water Commission is to cost share in the amount of \$249,745. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during the 1999-2001 biennium.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for the construction of Cass County Drain No. 29A, and defer consideration of the remaining cost share request (\$113,745) until the 2001-2003 biennium.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for the construction of Cass County Drain No. 29A. The remainder of the cost share request (\$113,745) is to be deferred for consideration during the 2001-2003 biennium. This motion is contingent upon the availability of funds.

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

**APPROVAL OF REQUEST FROM
MAPLE RIVER AND RUSH RIVER
JOINT WATER RESOURCE DISTRICT
FOR COST SHARE IN CONSTRUCTION
OF I-94 SWAN CREEK DIVERSION
(SWC Project No. 847)**

A request from the Maple River and Rush River Joint Water Resource District was presented for the Commission's consideration for cost share for the construction of the I-94 Swan Creek diversion.

Todd Sando presented the project, which is part of a long-term improvement for the Swan Creek watershed. The construction project consists of a ditch with a 20-foot bottom width and 4:1 side

slopes. The diversion ditch is located in the north ditch of I-94, beginning at its intersection with Swan Creek and proceeding east approximately 2.5 miles to the Maple River. Construction Permit No. 1448 was approved by the State Engineer for this project, and permission to use the interstate highway right-of-way was granted by the North Dakota Department of Transportation.

The engineer's cost estimate for this project is \$205,000, of which \$200,000 is considered eligible for a 35 percent cost share. Under the State Water Commission's policy and guidelines for rural flood control projects, 35 percent of the eligible costs qualify for cost share. The request before the State Water Commission is to cost share in the amount of \$70,000.

William Hejl, Rush River Water Resource District, provided technical information relative to the project, and requested the Commission's favorable consideration of the funding request.

The Commission members reiterated previous concerns relating to the negative downstream impacts which could occur as a result of this project.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$70,000 from the Contract Fund in the 1999-2001 biennium, for the I-94 Swan Creek diversion.

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$70,000 from the Contract Fund in the 1999-2001 biennium, for the I-94 Swan Creek diversion project. This motion is contingent upon the availability of funds.

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

**APPROVAL OF REQUEST FROM
STEELE COUNTY WATER RESOURCE
DISTRICT FOR COST SHARE ON
CONSTRUCTION OF STEELE
COUNTY DRAIN NO. 4
(SWC Project No. 1911)**

A request from the Steele County Water Resource District was presented for the Commission's consideration for cost share on construction of Steele County Drain No. 4.

Todd Sando presented the project, which is an assessment drain established in Steele, Grand Forks, and Traill counties. The project consists of cleaning and enhancing existing section line roads and railroad rights-of-way ditches. Included in the project is the installation of roadway culverts.

The drain is located immediately northeast of Hatton, ND. The main channel and three laterals are along section lines of the 10 sections in the extreme northeast corner of Newburgh township in Steele county. Two short length laterals from Sections 34 and 35, Northwood township, Grand Forks county come into the main channel running along the Steele-Grand Forks county line. Drain No. 4 discharges into a tributary of the Goose River in Section 13, Newburgh township, which exits into Traill county approximately one mile south in Section 24.

The engineer's cost estimate for this project is \$556,934, of which \$455,414 is considered eligible for a 35 percent cost share. The request before the State Water Commission is to cost share in the amount of \$159,395. Under the State Water Commission's policy and guidelines for drainage projects, funding is limited to 5 percent of new funding per biennium for any specific project, and a \$136,000 funding limitation during the 1999-2001 biennium.

Donald Elston, chairman of the Steele County Water Resource District, and Robert Boone, project engineer, provided technical information relative to the project, and requested the Commission's favorable consideration of the funding request.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for the Steele County Drain No. 4 project, and defer consideration of the remaining cost share request (\$23,395) until the 2001-2003 biennium.

It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$136,000 from the Contract Fund in the 1999-2001 biennium, for Steele County Drain No. 4. The remainder of the cost share request (\$23,395) is to be deferred for consideration during the 2001-2003 biennium. This motion is contingent upon the availability of funds.

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

**COST SHARE ASSISTANCE IN
RURAL RING DIKE PROJECTS
(SWC Project Nos. 1271, 1280, 1312, 1705)**

The State Water Commission has granted funding at 25 percent of the eligible costs, not to exceed a total of \$400,000 from the Contract Fund, for

cost share participation in rural ring dike projects in Walsh, Cass, and Grand Forks counties. To date, payments totalling \$25,532 have been made by the Commission toward the construction of two farmstead ring dikes.

Because of concerns expressed on behalf of the landowners that the level of funding approved would not be adequate for the landowners to pursue the program, the Commission directed the State Engineer to pursue options for a partnership of funding for the program that could involve the Red River Joint Water Resource Board, the local water resource district, the landowner, and the state.

At its meeting on April 10, 2000, it was the consensus of the Commission members that the State Engineer continue discussions with the Red River Joint Water Resource Board and the local water resource boards in an effort to increase the cost share percentage for rural farmstead ring dikes. The State Engineer was also directed to provide for the Commission's consideration at its next meeting, an economic analysis of the funding capability of the Joint Board and the local water resource boards, and to revisit the farmstead ring dike design criteria required for state cost share assistance.

Todd Sando provided background information relative to the rural ring dike projects, and specific information pertaining to the State Water Commission's April 10, 2000 direction, which is summarized on the following page. A detailed memorandum prepared by the Commission staff, dated July 14, 2000, is attached hereto as ***APPENDIX "D"***.

Construction permit approval for ring dikes require a dike to meet minimum design criteria for height, side slopes and top width. These standards were implemented to ensure the safety of individuals and the protection of property. By law, the State Engineer cannot approve the construction of unsafe structures.

Counties may levy a tax of up to 4 mills for the general administration of water resource districts. Nearly all of the districts along the Red River are currently levying the maximum 4 mills in order to meet expenses. In addition to any other taxes levied, a special tax of up to 2 mills may be levied for contribution to a joint board. All member districts forward 1 mill to the Red River Joint Water Resource District. Currently, not all member districts assess the special levy; at least one district contributes 1 mill from their general levy to the Joint Board. Of those member districts assessing the special tax, no more than 1 mill is levied.

For calendar year 2000, approximately \$458,788 has been allocated toward the Joint Board's budget from member districts. The Joint Board currently holds approximately \$800,000 in savings and \$4,300,000 in certificates of deposit. As of December 31, 1999, obligations totalled \$4,246,160 for 11 active projects.

The Joint Board initially approved a motion to participate in rural ring dike projects in January, 1999. This motion was rescinded in April, 1999, due to concern by their legal counsel over the issue of common benefit. The Joint Board vocally expressed its interest in providing cost share assistance for rural ring dike projects at the December 10, 1999 State Water Commission meeting. No formal action has been taken in regard to a rural ring dike cost share policy by the Joint Board since the April 10, 2000 Commission meeting.

Secretary Sprynczynatyk said the current standards for rural ring dikes are required to ensure public safety. By law, the State Engineer cannot issue a permit for an unsafe structure. Therefore, he recommended these standards not be relaxed or modified in order to ensure the safety of individuals and property.

Of the 9 water resource districts located in counties bordering the Red River, most are currently already assessing the maximum 4 mills allowed under the general levy in order to meet expenses in their individual districts and, therefore, may not have any funds available for additional cost share participation in ring dike projects. Secretary Sprynczynatyk said, by statute, an additional 2 mills could be assessed under a special levy by the Red River Joint Water Resource District member districts. At this time, he said no more than 1 mill is currently being assessed by any member district under this

special levy. He explained it appears, at present, that the Joint Board has the financial capability to fund rural ring dike projects within its jurisdiction even without assessing the remaining 1 mill allowed by law under the special levy.

Secretary Sprynczynatyk explained that the Joint Board has not committed to cost share participation in these projects due to its strict interpretation of the statute regarding the disbursement of special levy proceeds which requires common benefits to more than one district. A judicial confirmation action has been proposed by the Joint Board's attorney in order to confirm their spending authority to participate in the cost share of rural ring dike projects. He said even if the expenditure was confirmed, the Joint Board would not be obligated to cost share in rural ring dike projects.

Secretary Sprynczynatyk said it would be appropriate for the State Water Commission to consider an increased state cost share provided there is a cost share match by a local entity. Although there are questions about the legality for the Joint Board to fund an individual project without demonstrating benefits outside of the individual's water resource district, Secretary Sprynczynatyk said he believes that the Joint Board can cost share because protecting a farm can amount to a savings to the county and to the state. He said that is the justification the state has used appropriately to approve a cost share, and he believes the same would apply at the local level.

The State Water Commission members were in concurrence that the level of funding currently provided by the state is not adequate for the landowners to pursue the program. The options that could be made available for an increased state cost share were discussed, but the Commission members also expressed the importance of involving a local entity cost share as well. The Commission agreed to request that the Red River Joint Water Resource Board seek an attorney general's opinion confirming its spending authority to participate in the cost share of rural ring dike projects.

It was moved by Commissioner Johnson and seconded by Commissioner Bjornson that the State Water Commission:

1) continue to provide a 25 percent state cost share grant for the rural ring dike projects (previously approved by the State Water Commission);

2) approve up to an additional 15 percent state cost share grant, contingent upon an equal cost share match by a local entity; and

3) request the Red River Joint Water Resource Board seek an attorney general's opinion confirming the Board's spending authority to participate in the cost share of rural ring dike projects.

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

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-02)**

Secretary Sprynczynatyk reported heavy rains in eastern North Dakota touched the fringes of the Devils Lake basin, but did not cover large enough

areas within the basin to have a significant effect on the level of Devils Lake. A small portion of the heavy precipitation event that occurred on June 12, 2000 did contribute to Stump Lake and raised its level 1.3 feet. The current elevation of Devils Lake is 1446.21. At this elevation, the lake covers 118,000 acres.

On June 21, 2000, the National Weather Service issued the final Devils Lake flood outlook for 2000, barring any significant change in conditions. The outlook is for Devils Lake to remain nearly steady or fall slowly throughout the summer based on normal precipitation and evaporation through August. If precipitation is above normal, rising conditions would be possible.

Secretary Sprynczynatyk stated that due to the proximity of the June 12, 2000 Turtle River storm to the Devils Lake basin and the potentially major consequences of such a storm to Devils Lake, the Commission staff investigated the impact such a storm could have had on the level of Devils Lake. Using rainfall data and the corresponding areas the rainfall covered, it is estimated that the event could have generated 500,000 acre-feet of inflow to the lake. Without regard to any flow that would reach Stump Lake, this volume would raise Devils Lake to elevation 1450. Water would begin spilling to Stump Lake at elevation 1446.5, reaching a maximum flow of approximately 200 cubic feet per second.

The Commission members were provided a fact sheet developed by the State Water Commission, the U.S. Geological Survey, and the University of North Dakota summarizing a climate shift that occurred about 1977, the effects of the climate shift on the level of Devils Lake, and the potential effects an outlet could have on the level of Devils Lake. Secretary Sprynczynatyk explained that according to the USGS probability model, which assigns probabilities to future lake levels, Devil Lake has about a two percent chance of spilling to the Sheyenne River in the next 15 years. With a 300

cubic feet per second outlet, the chance of a spill is reduced to less than one percent. The fact sheet will be distributed to the public in late July or early August.

**DEVILS LAKE
EMERGENCY OUTLET
(SWC Project No. 416-01)**

Secretary Sprynczynatyk reported on the federal, state and local efforts being pursued to develop an emergency outlet from Devils Lake to the Sheyenne River. A memorandum pre-

pared by the State Water Commission staff, which is attached hereto as **APPENDIX "E"**, provides technical information relating to the alternatives being considered.

At its July 5, 2000 meeting, the Legislative Council's Garrison Diversion Overview committee discussed the possibility of the state assuming the Corps of Engineers Section 404 program. Secretary Sprynczynatyk indicated the state had previously considered this effort, and the 1991 Legislature changed the law to give the State Engineer the authority to assume the program contingent upon federal funds being made available to subsidize the administration of the program. He said the federal funds have never been made available. The Garrison Overview Committee agreed to request that Governor Schafer initiate the state's assumption of the Section 404 program.

**DEVILS LAKE EXTENDED
STORAGE ACREAGE
PROGRAM (ESAP)
(SWC Project No. 1882-01)**

The Available Storage Acreage Program (ASAP) was started in 1996 to provide compensation for landowners who would store water on their land rather than allow it to runoff into

Devils Lake. The program was initiated as a temporary emergency program to provide flood relief for Devils Lake and remained funded through 1999. In 1999, the State Water Commission and the North Dakota Wetlands Trust offered contracts to four landowners to store water under a 10-year joint program. On April 10, 2000, the State Water Commission passed a motion for the reallocation of the 1999 carry-over Available Storage Acreage Program funds of approximately \$120,000 to implement a long-term ASAP program in cooperation with the Devils Lake Basin Joint Water Resource Board. The name of the cooperative program has been changed to the Extended Storage Acreage Program (ESAP).

Under ESAP, the State Water Commission and the Joint Board will enter into agreements with the landowners for 10-year water storage contracts. The contracts will have a maximum payment rate of \$40 per water storage acre. No compensation for upland acreage is provided. Once the contracts are in place, the carry-over 1999 ASAP funds will be turned over to the Joint Board, who will annually inspect the sites and make yearly payments to the landowners. Any remaining funds after the ESAP program is complete will be used by the Joint Board to help carry out the Basin Water Management Plan.

Secretary Sprynczynatyk said the ESAP contracts are in the process of being developed with the landowners who were enrolled in the ASAP program and who have submitted applications for the ESAP program. Construction costs will be saved by offering long-term contracts to landowners involved in the ASAP program because the water storage structures are already in place. An estimated 800 acre-feet of annual storage, at an approximate cost of \$13,000 per year, will be provided by ESAP.

GARRISON DIVERSION PROJECT - PROJECT UPDATE - The Dakota Water Resources Act of 1999 (S. 623) was heard before the Subcommittee on Water and Power of the U.S. Senate Committee on Energy and Natural Resources on May 27, 1999 in Washington, DC. The companion bill (H.R. 2918) was heard before the U.S. House of Representatives Committee on Resources, Subcommittee on Water and Power, on September 30, 1999.

The concerns that were expressed by the environmental groups, the Canadian government, and the states of Minnesota and Missouri relating to the Dakota Water Resources Act were discussed. The efforts being pursued to resolve the differences included a workshop held on May 15, 2000 in Washington, DC with the appropriate parties from the State of Missouri. Although no final decisions were reached, the group agreed to a concept, subject to the development of acceptable language and all parties being able to get concurrence from constituencies in their respective state.

Language has been drafted by the staff of the Senate Energy and Water Committee. The financial numbers remain the same, and language has been added which provides that if the Secretary selects a project feature that would transfer water from the Missouri River to the Sheyenne River release facility, Congress would require a report containing the environmental impacts and considerations. Subsequent approval by Congress would be necessary before construction begins. North Dakota has indicated their changes to the language, and are in anticipation of Missouri's response in the near future.

Distribution was made to the Commission members of a fact sheet the Garrison Diversion Conservancy District is using to explain the Dakota Water Resources Act; and an editorial from the June 29, 2000 edition of the Winnipeg Free Press. Secretary Sprynczynatyk said Warren Jamison and others recently met with members of the Canadian government as well as the minority party in Manitoba to discuss the Dakota Water Resources Act.

On July 5, 2000, the State Water Commission, the Garrison Diversion Conservancy District, and the Bureau of Reclamation entered into a Memorandum of Understanding to provide an organization and a process for cooperation among state, federal, and local interests in the completion of a special study to evaluate the feasibility of alternatives to meet the future municipal, rural and industrial water needs in eastern North Dakota. The specific goals and objectives will be identified in the Plan of Study and other activities that are undertaken. Some of the primary items to be included in the Plan of Study are the environmental analysis and impacts, cost allocation studies, financial aspects, and evaluation and selection of alternatives. The Bureau of Reclamation is the lead federal agency, and the State Water Commission and the Garrison Diversion Conservancy District are the primary state agencies in the planning, development and construction of the Garrison Diversion Unit. It is the responsibility of all three parties to work collaboratively with all interests regarding water development for eastern North Dakota. Other stakeholders will be involved at various levels, as well as the states of Minnesota and Missouri.

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

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

All Seasons Rural Water System 4: The first portion of the project is near completion and provides water to 24 rural users and the city of Bisbee. The project involves a reservoir/pump station, pipelines, and in-line booster stations. The construction contracts were awarded to Ronald Peterson Construction for the pipeline and to Wanzek Construction for the reservoir.

The next phase will expand the current system into western Towner county, with the addition of 139 rural users and the community of Rock Lake. This phase would add pipelines, expand the well field, increase the water treatment plant capacity, increase the reservoir capacity, and add a booster station. The estimated cost is \$4 million, with MR&I being \$2.6 million.

All Seasons Rural Water System 5 (Pierce County): The project engineer has completed the System 5 feasibility study. The new rural water system would serve 263 rural users and the city of Willow City. The estimated project cost is \$6.1 million. The rural monthly minimum would be \$48.50, with \$4.50 per 1,000 gallons. The Bureau of Reclamation is working on the environmental assessment.

Plans for a transmission pipeline from the city of Rugby's well field in the Pleasant Lake aquifer have been delayed because a hydrologic analysis of the aquifer showed that the impacts of additional development in the well field would be detrimental to senior water rights in the area. The city of

Rugby and the All Seasons Water Users are coordinating their efforts to locate an area in the aquifer where impacts of development would be acceptable. All Seasons proposes to develop a rural water system in Pierce county using water supplied by the Rugby water treatment plant.

Northwest Area Water Supply, Phase II (Minot Component): The project is being reviewed for compliance with the National Environmental Policy Act and the Boundary Waters Treaty of 1909. A risk analysis being completed on biota transfer.

The first 7.4 miles of pipeline has an estimated cost of \$5.5 million. The Bureau of Reclamation's plans and specifications review is pending.

Ramsey County Rural Water: The feasibility study of the proposed rural water expansion into Eddy and Foster counties is complete. The preferred alternative is to provide water from the existing Ramsey water treatment plant to the rural users, with the city of Sheyenne served from the city of New Rockford. The estimated total cost is \$9.3 million, with a 65 percent MR&I grant being \$6 million. The project would serve 560 water users including service to the communities of Glenfield, Grace City, McHenry, Sheyenne, and 333 rural users. An engineering review is being made of the service area involving the Stutsman Rural Water District in Foster county.

Ransom-Sargent Rural Water: The 2000 project phase includes adding rural users in the core service area around the city of Lisbon, with an estimated cost of \$10 million. The final phase involves a water treatment plant expansion in Lisbon, a new well field, and a raw water transmission pipeline, with an estimated cost of \$7 million. The total estimated project cost is \$20 million, and would serve 800 rural users and the communities of Cogswell, Elliott, Fingal and Marion. The proposed MR&I funding approved is \$14.3 million. If needed, an adjustment to the MR&I funding could be made to keep the monthly minimum cost to \$45. The design and construction of the final phase could be started if Fiscal Year 2000 funding is made available.

Southwest Pipeline Project: The 2001 USDA, Rural Development funding for the Mott-Elgin phase is being finalized. The preliminary engineering for the Bowman-Scranton phase is underway. The preliminary cost estimate is \$14.7 million. The Southwest Water Authority's final Bowman-Scranton sign-up campaign will be in August, 2000.

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

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

Contract 2-3H - Hebron Service Area, Main Transmission Pipeline:

Several landowner releases were not obtained by the contractor, Karas Construction of Larimore. This represents a possible liability for the State Water Commission, although the contractor has a one-year bonded maintenance warranty. A portion of retainage will be kept for one year to offset possible claims.

Contract 2-6B - Burt Service Area, Main Transmission Pipeline:

The contractor, Northern Improvement Company, has installed approximately 31 miles out of a total of about 45.9 miles on the contract. The pipeline has been installed from Mott to New Leipzig and Elgin. The contractor has installed about 4 1/2 miles of pipeline east of Elgin with about 9 1/2 miles of pipeline left to install to Carson. The underground booster pump station, located about 3 miles east of Mott along Highway 21, has been installed. The control vault for the Burt tank should be installed the week of July 17, followed by the meter control vault for New Leipzig. The contract has the following intermediate completion dates: service to New Leipzig by September 15, 2000; service to Elgin by October 15, 2000; and service to Carson by November 30, 2000. The final completion date for the contract is January 14, 2001.

Contract 5-6, Burt Tank: The contractor, Engineering America, Inc., of White Bear Lake, Minnesota, completed erection of the 400,000 gallon glass-fused bolted steel tank. The remaining work includes site work and disinfection. The tank is 48 feet tall with a diameter of 38 feet. The completion date for the contract is September 2, 2000.

Contract 5-14 - Hebron Reservoir: The contractor, Engineering America, Inc., of White Bear Lake, Minnesota, completed erection of the 500,000 gallon glass-fused bolted steel reservoir. Construction of the access road and the overflow piping has also been completed and the contractor has begun disinfecting the tank. The tank is 43 feet tall with a diameter of 45 feet, and was put into service on July 3, 2000. The completion date for the contract is August 26, 2000.

Contract 7-3B/7-5B - Southeast Jung Lake and South Hebron Pocket Service Areas: This contract was awarded by the State Water Commission on February 29, 2000 to Northern Improvement Company. The contract totals about 112 miles of pipeline serving about 60 rural service connections in two pockets of users.

The contractor has completed the installation of the pipe and service lines in the South Hebron pocket and has commenced hydrotesting. All pipe has been installed on the Southeast Jung Lake pocket and the contractor is now installing service lines. The contract has an intermediate completion date of August 1, 2000 for the 23 hookups in the South Hebron pocket, and a substantial completion date of September 1, 2000 for the 40 hookups in the Southeast Jung Lake pocket. The intermediate completion of this contract could be impacted because of a delay in the delivery date of the South Hebron pocket VFD booster vault. Final completion is required by October 16, 2000.

Contract 7-5A - Hebron Service Area, Rural Distribution System: This contract has been completed, and final payment has been made.

Contract 7-6A - Burt Service Area, Rural Distribution System: This contract was awarded on June 9, 2000. The contractor, Northern Improvement Company, began plowing in the lines the week of July 10, 2000, which includes approximately 235 miles of pipe serving about 167 service connections. The contract has an intermediate completion date of August 20, 2000 for 40 users in the vicinity of Elgin, and a substantial completion date of July 1, 2001 for the remaining users.

Contract 7-6B - Coffin Buttes Service Area, Rural Distribution System: Contract 7-6B was originally named the Plum Butte Service area. The name has been changed to the Coffin Buttes Service area because of the location of the tank on the coffin buttes.

This contract is scheduled for construction in 2001 as the third and final portion constructed under the Mott-Elgin phase of the Southwest Pipeline Project. The determination of signup percentage was recently completed, with 56 percent of the occupied dwellings signing up within the hydraulic boundary identified for this area for rural water. This exceeds the feasibility criteria limit of 50 percent and the engineer was instructed to proceed with the final design for the area.

The proposed funding for this contract totals \$3 million and consists of \$500,000 from the previously approved \$1.5 million loan through the State Revolving Loan Program, a \$500,000 loan from USDA, Rural Development, and a \$2 million grant from USDA, Rural Development. The total estimated cost to serve the 104 signups in the service area is approximately \$4 million,

leaving a \$1 million shortfall. Several pockets within the service area have been identified as potentially high cost and, if these pockets are removed, the number of users served drops to 82, and the estimated cost drops to \$3 million.

Discussions are underway with the Southwest Water Authority concerning signups and funding alternatives. It is possible that several of the pockets may become feasible if more users signup or other factors are considered. For this reason, the USDA application for funding was increased by \$500,000 in the loan portion. We anticipate approximately \$375,000 in carry-over money from the first two phases, and the increased loan amount, along with the carry-over, should be adequate to add the pockets, should they prove to be feasible.

Dickinson Water Treatment Plant Influent Piping: This contract has been completed and the final payment has been made.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF SALE OF
TAYLOR TANK SITE
(SWC Project No. 1736)**

The Taylor Community Activities, Inc. (TCA) has indicated an interest in purchasing the Southwest Pipeline Project Taylor tank site. TCA is the non-profit community organization

currently sponsoring the Taylor Horsefest. The 1.86 acre tank site on the west side of the city of Taylor was acquired in 1992 for a total purchase price of \$1,860 from Ronald and Jeanette Urlacher.

James Lennington explained that in 1992, the preliminary plans included a tank at Taylor, a tank 6 miles south of Hebron, and a tank 10 miles southeast of Glen Ullin. As the preliminary plans progressed, the three tanks were replaced with one tank, the Hebron reservoir, near Young Man's Butte east of Richardton.

Section 61-24.3-10 of the North Dakota Century Code provides the State Water Commission with the authority to construct, operate, and maintain the Southwest Pipeline Project and, thereunder, describes the specific authority of the Commission. Subparagraph 5 to Section 61-24.3-10 states the Commission has the authority to:

Sell, transfer, or exchange property acquired for the southwest pipeline project provided the commission determines the property is not necessary for the operation, maintenance, or construction of the southwest pipeline project. For a period of sixty days, the property must first be offered for sale, transfer, or exchange to the current owner of the surrounding property which from the property was obtained. Any parcel of property sold, transferred, or exchanged

under this section may not exceed two acres [.81 hectare]. Section 54-01-05.2 and 54.01-05.5 do not apply to the sale, transfer, or exchange of property pursuant to this subsection.

Mr. Lennington stated the site is crossed by the potable water pipeline serving Taylor, Richardton, Hebron, Glen Ullin and rural users in Stark and Morton counties. The value of a pipeline easement and payment for appurtenances on the site would have been \$620. The \$1,860 paid by the State Water Commission, less the \$620 for the easement, is \$1,240. By action of its governing board on June 4, 2000, TCA has agreed to a price of \$1,000 for the site, which amounts to \$537.63 per acre. TCA acquired the adjoining land, which is partially developed, from the Urlacher's for \$730 per acre. Mr. Lennington said that although the offer of \$1,000 is less than was paid for the adjoining property, the property contains a pipeline easement.

Secretary Sprynczynatyk said the offer of \$1,000 from TCA to purchase the Taylor tank is fair and reasonable and it is in the best interest of the State Water Commission to accept it.

It was moved by Commissioner Johnson and seconded by Commissioner Swenson that the State Water Commission accept the offer of \$1,000 for the Taylor tank site from the Taylor Community Activities, Inc. SEE APPENDIX "F"

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF SOLE SOURCE
AMENDMENT TO CITY OF SCRANTON
WATER SERVICE CONTRACT
(SWC Project No. 1736)**

The city of Scranton has agreed to an amendment to its water service contract for sole source service from the Southwest Pipeline Project. Capacity to meet this request will be available in Contract 2-4C, which is scheduled for construction in 2001. Under sole

source service, a user agrees to use pipeline water for all of its needs. In exchange, the provisions in the water service agreement requiring purchase of a minimum amount each month are waived. The user is billed for the actual amount of water used each month.

James Lennington explained that the city of Scranton's previous contract was for 10 million gallons per year, which compares to their reported annual use over the last five years of about 15 million gallons, although some of this consumption may be due to leaks.

It was the recommendation of the State Engineer that the State Water Commission approve a sole source amendment to the water service contract for the city of Scranton. The Southwest Water Authority approved the sole source amendment at its meeting on July 3, 2000.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve a sole source amendment to the Southwest Pipeline Project water service contract for the city of Scranton. SEE APPENDIX "G"

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

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF SOLE SOURCE
AMENDMENT TO CITY OF BEACH
WATER SERVICE CONTRACT
(SWC Project No. 1736)**

The city of Beach has agreed to an amendment to its water service contract for sole source service from the Southwest Pipeline Project. Capacity to meet this request will be available in Contract 2-5C, which is scheduled for construction in 2004. Under sole

source service, a user agrees to use pipeline water for all of its needs. In exchange, the provisions in the water service agreement requiring purchase of a minimum amount each month are waived. The user is billed for the actual amount of water used each month.

James Lennington explained that the city of Beach's previous contract was for 10 million gallons per year, which compares to their reported annual use over the last five years of about 50 million gallons, although some of this consumption may be due to leaks.

It was the recommendation of the State Engineer that the State Water Commission approve a sole source amendment to the water service contract for the city of Beach. The Southwest Water Authority approved the sole source amendment at its meeting on July 3, 2000.

It was moved by Commissioner Hanson and seconded by Commissioner Johnson that the State Water Commission approve a sole source amendment to the Southwest Pipeline Project water service contract for the city of Beach. SEE APPENDIX "H"

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

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

The United States Section of the Garrison Consultative Group met in Denver, Colorado on August 11, 1999. Representatives of the Department of

the Interior, the Environmental Protection Agency, and the State Department agreed to conduct a biota transfer risk analysis for the Northwest Area Water Supply Project. The Bureau of Reclamation agreed to provide funding for the analysis.

James Lennington reported the Comparative Risk Analysis report for NAWS is scheduled for completion July 14, 2000. This report will be used as supporting documentation by the Department of the Interior, the Environmental Protection Agency, and the Department of State in their determination of whether the project will violate the 1909 Boundary Waters Treaty. This determination is required by the 1986 Garrison Diversion Reformulation Act and is the final step, along with the concurrent signing of the Finding of No Significant Impact (FONSI) by the Department of the Interior in the NEPA process for NAWS.

The draft plans and specifications for the first phase of construction on the Minot segment of the main transmission pipeline were forwarded to the Garrison Joint Technical Committee on May 27, 1999 as discussed in the NAWS project approval process developed by the Garrison Joint Technical Committee in 1997. The final plans and specifications were received from the project engineer in September, 1999 and submitted to the North Dakota Department of Health and the Bureau of Reclamation on December 21, 1999, for review and comment. The North Dakota Department of Health approved the plans and specifications in December, 1999. The Bureau of Reclamation has declined to approve the plans and specifications until the NEPA process is complete. Reclamation representatives have assured us there would be no delay in approving the plans and specifications once the project is approved as specified in the 1986 Garrison Diversion Reformulation Act and the FONSI has been signed. If there is no delay, the advertisement for bids could take place as soon as approval is received.

The first phase of construction will involve approximately 7.4 miles of pipeline from the Minot water treatment plant to a pressure reducing valve located along U.S. Highway 83. The estimated cost of this first segment is approximately \$5.5 million.

Plans for a transmission pipeline from the city of Rugby's well field in the Pleasant Lake aquifer have been delayed because a hydrologic analysis of the aquifer showed that the impacts of additional development in the well field would be detrimental to senior water rights in the area. The city of Rugby requested the State Water Commission conduct additional studies of the Pleasant Lake aquifer to locate an area where the impacts of developing water supplies for the city and All Seasons Water Users would be acceptable. All Seasons proposes to develop a rural water system in Pierce County using water supplied by the Rugby water treatment plant. If, and when, a suitable area is located, transmission pipeline facilities would be constructed to join the new area to the existing well field. The pipeline would be constructed in conjunction with an expanded pipeline from the existing well field to Rugby.

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

A major component of the 1999 State Water Management Plan was the identification of various statewide water management projects and programs, estimated costs, and progress. During the 1999 Legislative Assembly, Senate Bill 2188 was passed into law to codify the Plan and fund the state's share of the water development needs. Also passed was House Bill 1475 to develop the Water Development Trust Fund, which will receive 45 percent of the North Dakota tobacco settlement revenues. These funds are in addition to existing revenue sources.

In order to maintain the 1999 State Water Management Plan and to meet the requirements of Senate Bill 2188, a Water Development Biennial Report is being developed. The first component of the report is an updated list of water projects that local sponsors have identified as needs for the 2001-2003 biennium. Information about the potential projects has been gathered and entered into a database. The database now contains \$317 million dollars of projects for the 2001-2003 biennium. Under the State Water Commission's cost share policies, the state's share would total \$73 million.

At its meeting on April 10, 2000, the State Water Commission members were provided a status report of the draft Water Development Biennial Report. Secretary Sprynczynatyk stated since the last Commission meeting, the scope of discussion of the water development program has grown which is due, in part, to input from the North Dakota Water Coalition. He said the discussion now encompasses three major areas: 1) the State Water Commission's general concepts for funding; 2) priority funding for the 2001-2003 biennium; and 3) a prioritization process for evaluating specific projects for the timing of cost share. A memorandum to the State Water Commission, attached to these minutes as **APPENDIX "I"**, addresses each of

these areas in detail, the projected water development funding, and the efforts being pursued for generating a priority recommendation for the 2001-2003 biennium as requested by the Legislature. Included with **APPENDIX "I"** is a memorandum from the North Dakota Water Users Association relative to North Dakota's critical water needs.

Secretary Sprynczynatyk stated that although the prioritizing process can function independently as a budgeting tool to meet the legislative intent, it is designed to also guide the State Water Commission's cost share decision making. The process, as currently drafted, provides the ability to base decisions upon the project's merits and the expected benefits to the state. It provides structure to the decision making process, but still allows the State Water Commission's discretion for special circumstances. He said the adoption of this prioritizing methodology as part of the State Water Commission's policy will allow for an integrated comprehensive statewide water development program, which is consistent with the legislative intent of Senate Bill 2188.

Secretary Sprynczynatyk discussed the projected water development funding from the Resources Trust Fund and the General Fund. He said funding can also come from the Water Development Trust Fund, supported by revenues from the tobacco settlement, that could allow a balance to accrue in the Water Development Trust Fund so that when the tobacco settlement revenues end, the balance in the Water Development Trust Fund would generate enough revenue to support approximately \$10 million annually as a permanent source of funds.

Commissioner Thompson expressed concerns relative to the distribution of funds throughout the state. He emphasized that the Commission needs to concentrate its funding efforts on the smaller water development projects in the state as well as the major projects.

Governor Schafer directed the State Engineer and staff to proceed with the development of new project assessments and cost share policies for consideration by the State Water Commission, based on the prioritization process being written for the Water Development Biennial Report, which would then become integral components of a new comprehensive statewide water development program.

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

In 1994, the U. S. Army Corps of Engineers circulated a draft Environmental Impact Statement (EIS),

which identified a preferred alternative for the future operation of the Missouri River mainstem reservoir system. As required by the National Environmental Policy Act, the draft EIS was subject to a full public review. In response to the

public comments, the Corps agreed to conduct additional technical studies, re-initiate the alternative analysis, and prepare a revised draft EIS. The Corps agreed that the revised draft EIS would present a preferred alternative for public review and comment.

Current efforts of the Missouri River Basin Association and other interest groups have shown considerable progress in regard for the potential for consensus building in the basin. To maximize the potential for consensus building regarding the operation of the reservoir system, the Corps of Engineers elected to prepare and circulate a preliminary revised draft EIS, which did not present a preferred alternative, but presented data on eight alternatives that represent the range of interests in the basin.

In August, 1999, the Missouri River Basin Association unanimously consented to draft compromise recommendations for a new management plan for the Missouri River. The draft recommendations were submitted to the Corps of Engineers, which included acquiring and developing additional fish and wildlife habitat along the river system, adjusting flows between the upstream reservoirs to benefit the endangered pallid sturgeon, and retaining more water in the reservoir system during droughts.

At the State Water Commission meeting on September 13, 1999, Secretary Sprynczynatyk commented that this is a significant achievement for the basin. The Association has overcome some longstanding differences and acted in the interests of the basin as a whole. Getting the states to agree on a management plan is, in itself, a historic event considering the basin's history of conflict and litigation. Although the Missouri River Basin Indian tribes are a part of the Association, they did not vote on the plan that was forwarded to the Corps of Engineers because of their concerns relating to tribal cultural and economic resources. The Association continues its consultations with the tribes on these issues.

The final compromise recommendations were forwarded to the Corps of Engineers on November 19, 1999. The State of Missouri did not support all of the recommendations, but indicated its support for the process and continued participation in the Missouri River Basin Association.

Secretary Sprynczynatyk stated one of the Missouri River Basin Association's recommendations focused on habitat restoration, which is essential for the recovery of threatened and endangered species and to prevent future listings of threatened and endangered species. Formal consultation between the U.S. Fish and Wildlife Service and the Corps of Engineers under the Endangered Species Act, Section 7, commenced on April 1, 2000. Under Section 7(a)(2), the Corps is required to consult with the Fish and Wildlife Service to insure that any action it carries out "is not likely to jeopardize

the continued existence of any listed species or results in the destruction or adverse modification of critical habitat.” Upon the conclusion of this consultation, the Fish and Wildlife Service issued its final biological opinion on July 1, 2000.

On January 13, 2000, the Corps of Engineers released a fact sheet that summarized key points of the Northwestern Division preferred alternative for the Missouri River Master Water Control Manual. The full text of the Revised Draft Environmental Impact Statement (RDEIS) was published in April, 2000. A public comment period on the RDEIS will extend through the spring and summer of this year and will include a series of workshops hosted by the Corps and formal hearings to allow people to submit oral or written testimony. The Corps continues to compile and analyze data, including computer simulations, to determine how any changes to the Master Manual would affect the people and the environment of the Missouri River basin. The Northwestern Division’s preferred alternative is one result of those studies. The Corps’ schedule for the Master Manual revision is as follows:

Formal Consultation Begins	April, 2000
Draft Biological Opinion from USFWS Issued	May 31, 2000
Final Biological Opinion from USFWS Issued	July 1, 2000
RDEIS Published	September, 2000
Public and Tribal Comment Period Ends	March, 2001
Final EIS Published	December, 2001
Washington, DC Level Review of Final EIS	June, 2002
Record of Decision Issued	August, 2002
Master Manual Revised	August, 2002
Final Annual Operating Plan Issued	January, 2003
Final Annual Operating Plan Implemented	March, 2003

Todd Sando reported on the in-state efforts relating to the Missouri River. The Missouri River Coordinated Resource Management Program was formed by the Burleigh, Oliver, Morton, Mercer and McLean Joint Water Resource Board (BOMMM), with cost share assistance from the State Water Commission, as a means to coordinate the efforts of groups with interests in the reach of the river between the Garrison Dam and Lake Oahe. The program has brought together representatives from various county, state, and federal agencies, as well as private citizens and organizations who are stakeholders in the Missouri River, in an attempt to reach a consensus on the river’s management.

The program’s role is to facilitate meetings, provide a review of existing studies, develop proposals for the necessary studies, develop the appropriate communication materials, and coordinate federal, state and private citizens associated with the Missouri River. The program is composed of the Missouri River Vision Group and the Missouri Assessment Program Technical Group.

During the week of June 19, 2000, members of the two groups, state and federal representatives, and others participated in a two-day tour of the Missouri River to view the 36 erosion sites listed in the State Water Commission's December, 1997 report. The tour was conducted in an effort to reach an agreement that some of the erosion sites listed within the report are in need of stabilization to protect them from further erosion.

**MISSOURI RIVER -
APPROVAL OF SUPPORT
OF FEDERAL HYDROPOWER
(SWC Project No. 1392)**

On January 20, 2000, the North Dakota Irrigation Caucus presented a discussion proposal to the North Dakota Rural Electric Cooperatives concerning use of federal hydropower

for irrigation and rural water systems in North Dakota. After further discussion and developments, on June 15, 2000 the North Dakota Irrigation Caucus adopted the following position concerning the allocation of federal hydropower for irrigation and rural water systems:

The North Dakota Irrigation Caucus believes that federal hydropower allocated for irrigation development as part of the Pick-Sloan Missouri Basin Program should still be allocated and utilized for irrigation, and should also be made available for rural water systems.

The North Dakota Irrigation Caucus recognizes that under the Pick-Sloan Missouri Basin Program, federal hydropower was allocated to the pumping of water to irrigation districts from the Missouri River at the project pumping rate. Thus, the North Dakota Irrigation Caucus will work with the North Dakota Rural Electric Cooperatives to secure federal hydropower for irrigation districts, at the project pumping rate, for projects involving the pumping of water to the point of distribution to individual irrigators by the irrigation district.

The North Dakota Irrigation Caucus also supports Congressional authorization of the allocation of federal hydropower for statewide irrigation districts for energy and power requirements of irrigators, who are included in such irrigation districts, at the firm or preference power rate utilized for other preference customers.

Finally, since irrigation development under the Pick-Sloan Missouri Basin Program was intended to provide benefits to upstream areas for the loss of land permanently flooded by the mainstem reservoirs, the North Dakota Irrigation Caucus supports the allocation of federal hydropower at the firm power rates for rural water systems.

On July 6, 2000, the Garrison Diversion Conservancy District Board of Directors adopted a similar position. The thrust of both actions is to restore benefits to the upper basin states to offset the loss of permanently flooded land.

It was the recommendation of the State Engineer that the State Water Commission adopt the position previously stated for distribution of Pick-Sloan hydropower for irrigation and rural water systems in states that have lost land to the development of the Pick-Sloan mainstem reservoirs.

It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission adopt the position as previously stated for distribution of Pick-Sloan hydropower for irrigation and rural water systems in states that have lost land to the development of the Pick-Sloan mainstem reservoirs.

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

**APPROVAL OF RESOLUTION
OF APPRECIATION TO
GARY D. MCDOWALL, STATE
WATER COMMISSION EMPLOYEE
(SWC Resolution No. 2000-7-488)**

A draft resolution of appreciation to Gary D. McDowall, State Water Commission employee, was presented for the Commission consideration. Gary McDowall retired on May 31, 2000, after having served the State of

North Dakota for 31 years; 4 years with the North Dakota Department of Transportation, and the following 27 years with the State Water Commission.

It was moved by Commissioner Olin, seconded by Commissioner Thompson, and unanimously carried, that the State Water Commission approve Resolution No. 2000-7-488, In Appreciation to Gary D. McDowall, State Water Commission Employee. SEE APPENDIX "J"

There being no further business to come before the State Water Commission, Governor Schafer adjourned the meeting at 11:40 AM.

SEAL

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

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