

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

February 21, 1984

The North Dakota State Water Commission held a meeting on February 21, 1984, at the State Office Building, Bismarck, North Dakota. Acting Chairman, Kent Jones, called the meeting to order at 9:15 a.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

- Allen I. Olson, Governor-Chairman
- Kent Jones, Commissioner, Department of Agriculture, Bismarck
- Florenz Bjornson, Member from West Fargo
- Ray Hutton, Member from Oslo, Minnesota
- Garvin Jacobson, Member from Alexander
- Guy Larson, Member from Bismarck
- Bernard Vculek, Member from Crete
- Vernon Fahy, State Engineer and Secretary, North Dakota State Water Commission, Bismarck

MEMBERS ABSENT:

- Alvin Kramer, Member from Minot
- Henry Schank, Member from Dickinson

OTHERS PRESENT:

- State Water Commission Staff
- Approximately 35 persons interested in agenda items

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

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

CONSIDERATION OF MINUTES
OF DECEMBER 7, 1983 MEETING -
APPROVED

The minutes of the December 7, 1983 meeting were approved by the following motion:

It was moved by Commissioner Jacobson, seconded by Commissioner Bjornson, and unanimously carried, that the minutes of December 7, 1983 be approved as presented.

SOUTHWEST PIPELINE
PROJECT REPORT
(SWC Project No. 1736)

Bob Dorothy, Project Manager for Southwest Pipeline Project, reported that Bear, Sterns & Co., New York, has been selected as the Senior Managing Underwriter for the Project. Regional Co-Managers selected were Piper, Jaffray & Hopwood, Minneapolis, and Dain Bosworth Incorporated, Minneapolis. Mr. Dorothy said a meeting has been held with the Senior Managing Underwriter, and March 5 and 6, 1984 have been tentatively scheduled for them to meet in Bismarck.

Mr. Dorothy indicated that a land acquisition program has been initiated for the Project.

On February 23, 1984, a meeting has been scheduled with the Interim Natural Resources Committee to present a project update report. In the spring, the Budget Section of the Legislative Council will hear a similar report.

Bruce McCollom discussed the relocations of the pipeline in the coal areas and indicated that the net cost effect of the pipeline relocations in three areas resulted in a slight decrease from the cost of the original route.

Relative to progress on the final design, Mr. McCollom indicated that the surface borings on all of the pipeline have been completed. Ground surveys have been completed and an aerial map is approximately three-fourths completed. Work has commenced with right-of-way people to acquire a site for the water treatment plant and to acquire sites for the various pump stations and reservoirs along the pipeline. Mr. McCollom mentioned several North Dakota firms have been hired to perform various tasks for the project and indicated that currently the final design for the project will include a 326-mile system with the current total cost estimate at approximately \$102 million.

Governor Olson assumes chair.

Mr. McCollom discussed with the Commission members alternate construction standards to be used on the 6" through 12" pipe and stated that the Commission needs to make a decision whether or not the 6" through 12" pipe is to be designed to be laid to line and grade. Mr. McCollom discussed several factors that will result in a cost savings relative to the construction standards and it was the recommendation of the Consulting Engineer and the State Engineer that the Commission act favorably that the 6" through 12" pipe be laid to line and grade.

It was moved by Commissioner Larson, seconded by Commissioner Hutton, and unanimously carried, that the State Water Commission authorize the 6" through 12" pipe be designed to be laid to line and grade.

possibility of phasing construction of the water treatment plant. The Commission discussed the possibility of phasing construction of the water treatment plant. Mr.

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McCollom indicated that water purchase contracts have been executed by 19 cities for a minimum water purchase of 1,003 million gallons annually, which indicates the project is obligated to supply a maximum of 4.48 million gallons per day based on the contracts. The design flow for Plan B is 15.25 gallons per day. Mr. McCollom said that an initial treatment plant capacity of half the ultimate would still provide 70 percent more capacity than required by the contracts. Therefore, based on analysis, it has been recommended that the water treatment plant be constructed in two phases. The estimated initial cost savings is \$1.36 million. The estimated cost to complete the second phase in today's dollars is \$1.78 million.

It was moved by Commissioner Bjornson, seconded by Commissioner Larson, and unanimously carried, that the State Water Commission authorize that the final design of the water treatment plant be based on construction in two phases.

The Commission discussed storage reservoir criteria. Mr. McCollom presented information to the Commission for their use in making a decision whether or not the alternate reserve storage criteria given in Section 12.6 of the September, 1982 Final Report should be adopted for design. It was the recommendation of the Consulting Engineer and the State Engineer that such criteria be adopted and it was suggested that the site layout and preparation be set up to allow adding a second storage reservoir of the same size at a later date.

It was moved by Commissioner Jacobson, seconded by Commissioner Vculek, and unanimously carried, that the State Water Commission authorize the alternate reserve storage criteria given in Section 12.6 of September, 1982 Final Report be adopted for design and that the site layout and preparation be set up to allow adding a second storage reservoir of the same size at a later date.

The Commission discussed three possible sites for the location of the intake structure: 1) existing ANG-Basin Electric site - State share of facility \$5.25 million; 2) Alternate Site No. 1 which is located approximately one mile north of ANG-Basin site - in comparison to ANG-Basin site there would be cost savings of approximately \$750,000; and 3) Alternate Site No. 2 which is located approximately 1½ miles north and east of existing ANG-Basin site - in comparison to ANG-Basin site there would be an approximate cost savings of \$1 million.

Mr. McCollom presented detailed information to the Commission members on the three possible sites for the location of the intake structure, and noted there appears to be a cost

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savings potential in a state-owned independent intake site. It was recommended by the Consulting Engineer and the State Engineer that if it is the Commission's decision to consider a separate intake site location, that Alternate No. 2 be considered.

It was moved by Commissioner Jones, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission approve Alternate Site No. 2 as previously described as the location for the intake site in the final design of the project.

Secretary Fahy discussed right-of-way acquisition for 18 critical sites, which include the water treatment plant and pumping stations, and pipeline sites. Arrangements are in progress to obtain right-of-access and right-of-way acquisition for the water treatment plant. Relative to the pump station sites, Secretary Fahy said it will be necessary to acquire the sites and begin drilling as soon as possible. Acquisition for the pipeline will be by easement and should also begin as soon as possible.

At the Commission's December 7, 1983 meeting, the State Engineer suggested and the Commission members concurred that at this time the pipeline right-of-way be acquired by options rather than easements. The Legislature appropriated funds for the acquisition of right-of-way and correspondence from the West River Water Supply District has recommended that right-of-way should be acquired in total now instead of getting options. Therefore, Secretary Fahy indicated that the Commission may wish to reconsider its action of December 7, 1983.

It was moved by Commissioner Jacobson, seconded by Commissioner Jones, and unanimously carried, that the State Water Commission authorize the acquisition of easements for the pipeline right-of-way.

Secretary Fahy stated that in the acquisition of the pipeline easements, it will be necessary to hire professionals to negotiate with the landowners and make arrangements for acquiring the easements. It will be necessary to request proposals for this work. Secretary Fahy requested the Commission to consider authorizing the State Engineer to proceed in requesting separate proposals for the fee acquisition sites (18) and the pipeline easements for the Southwest Pipeline Project.

It was moved by Commissioner Larson, seconded by Commissioner Vculek, and unanimously carried, that the State Water Commission authorize the State Engineer to proceed in obtaining proposals

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for the professional work necessary in acquiring the right-of-way acquisition for 18 critical sites and the pipeline easements.

Mr. Michael Dwyer, retained to conduct research on mineral issues as they relate to the Southwest Pipeline Project, indicated that the Commission will be required to make decisions on how it should address the matter of mineral interests during right-of-way acquisition for the Project. Mr. Dwyer presented information on the legal nature, legal statutes, and other legal issues relating to the mineral interests as they may be affecting the Project.

Several issues and alternatives were discussed relative to mineral interests, and it was the consensus of the Commission members that a tentative policy of addressing this matter in the acquisition of right-of-way would be to agree to either relocate the pipeline or compensate for the value of the minerals when mining became imminent. The choice would be at the discretion of the State Water Commission. The Commission agreed that the Public Service Commission should be contacted to determine what effect, if any, its policies concerning exclusion and avoidance areas might have on project land acquisition.

It was moved by Commissioner Jacobson, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission approve the establishment of a tentative policy on mineral interests in the acquisition of right-of-way agreeing, at the discretion of the State Water Commission, to either relocate the pipeline or compensate the mineral owner for the value of the mineral interests at the time mining was imminent; and to seek an opinion from the Public Service Commission concerning the effects of its policies on location of project facilities with respect to avoidance and exclusion provisions.

Mr. McCollom noted at the completion of the Project-discussion that the action taken by the Commission at this meeting will result in a cost savings of approximately \$5 million; thus the total estimated cost to construct the project would be reduced to \$97 million.

FILING OF SOUTHWEST
PIPELINE PROJECT WATER
PERMIT APPLICATION
(SWC Water Permit No. 3688)

The State Water Commission filed an application with the State Engineer for a water permit for the Southwest Pipeline Project requesting to appropriate a total of 17,100 acre-feet of water annually (13,047 acre-feet for municipal use and 4,053 acre-feet for rural domestic use) from Lake Sakakawea. The point of diversion is to be located in the SE $\frac{1}{4}$ of Section 12, Township 146 North, Range 88

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West, in Mercer County. The landowners within a one-mile radius will be notified of the application and upon receipt of the Affidavit of Mailing a public hearing will be scheduled.

CONSIDERATION OF REQUEST
FROM RED RIVER JOINT BOARD
FOR AN ENGINEER/HYDROLOGIST
IN RED RIVER VALLEY
(SWC Project No. 1705)

On November 18, 1983, a request was received from the Red River Joint Water Resource Board for the State Water Commission to establish, within the Red River Valley, an office with an engineer/hydrologist.

The request indicated that the Joint Board would pay one-half of the total office, salary and mileage expense, with the remaining portion requested from the State Water Commission.

This proposal was further discussed at a Red River Joint Board meeting held in Dickinson on December 5 and the Board asked the State Water Commission to provide a written proposal. On January 18, 1984, the Joint Board held a meeting and a letter-proposal was presented at that time for their consideration. The intent of the proposal was to provide an engineer/hydrologist in the valley to work with the Joint Board as well as the 12 water resource boards of the Joint Board. The office would require an engineer/hydrologist and a part-time secretary. The engineer/hydrologist would work under the direct supervision of the State Engineer. The estimated cost for the office to be open through June, 1985 would be approximately \$84,500. The Commission's share would be \$42,250. At that meeting, the Joint Board voted to accept the proposal.

Secretary Fahy stated that the idea of a regional office of the State Water Commission is not a new one. The performance audit done for the Legislative Council in 1978 recommended that the Commission someday have a regional office in the eastern half of the State as well as the western half. Secretary Fahy indicated that in his last three budget submittals to the Legislature, he has indicated that it would be necessary to have regional offices in the future. He said an office in the Red River Valley would help the Red River Joint Board and would also help the water management activities of the individual Boards in the area. A regional office would also help to carryout the responsibilities of the State Water Commission and State Engineer in the Valley.

It was recommended by the State Engineer that the Commission consider approval to cost participate in establishing a regional office in the Red River Valley and grant \$42,250 for the project. The expense for the office should be cost shared with the Joint Board and the Commission's share of the funds should come from the Contract Fund. By utilizing the Contract Fund, the Commission would be honoring the intent of the Legislature to give a high priority for Contract Fund expenditures for flood damage reduction in the Red River Valley. Secretary Fahy indicated that in order to utilize funds from the Contract Fund it would be necessary to request the Emergency Commission to allow the transfer of money to the salaries and operating expense budgets. It would also be necessary to request the authorization of one and one-half full-time positions to include an engineer/hydrologist and secretary. Secretary Fahy indicated it should be recognized that there is a

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possibility that the Joint Board's request for sharing the costs of the office could extend into future bienniums. The recommendation made at this time would not be a commitment for funding in the future bienniums.

Mr. Robert Thompson, Chairman of the Red River Joint Board, reiterated that the Joint Board will cost share for the regional office, and the request is looking toward a long-range program. He indicated the establishment of a Regional office would assist in better communications between the State Water Commission and the Joint Board and urged favorable consideration of the request.

David Holter from Traill County indicated the county supports the idea of establishing a regional office in the Red River Valley.

It was moved by Commissioner Hutton, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission authorize the State Engineer to request from the Emergency Commission a transfer of \$42,250 from the Contract Fund to the salaries and operating expense budgets to establish and cost participate in the funding of a Regional office in the Red River Valley for the balance of the 1983-1985 biennium.

CONTINUED DISCUSSION OF
COST SHARING GUIDELINES
(SWC Project No. 1753)

A proposal from the North Dakota Water Resource Districts Association was presented at the Commission's December 7, 1983 meeting requesting that the State Water Commission's cost sharing policy be changed so that private engineering consultant services on water-related projects would be an eligible item for cost sharing from the Contract Fund. All types of engineering services; general investigations, preliminary engineering and feasibility studies, final design, construction engineering and construction inspection would be eligible for cost sharing under the proposal. It also has been proposed that the State Engineer develop uniform design criteria for construction of projects and participate in the selection process for private engineers for projects. The proposal also requests that the State Water Commission change its cost sharing policies as soon as possible.

Secretary Fahy presented criteria relative to the current cost sharing policy and several alternatives that could be considered if the State Water Commission is considering changing its policy. He said a decision must be made concerning the future role of the State Water Commission and noted that the Commission's engineering capability was created to promote, educate and help bring lower cost water resources development to the State, which is why the State Water Commission was created in 1937.

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Beverly Stone, Vice Chairman of the Water Resource Districts Association, presented APPENDIX "A", which is the proposal from the North Dakota Water Resource Districts Association to allow private engineering consulting services to be an eligible item for cost sharing from the State Water Commission Contract Fund.

Mr. Cliff Issendorf, Chairman of the Bottineau County Water Resource District, indicated that although Bottineau County is approximately 180 miles from the State Water Commission offices, there is a good working relationship between the Commission and the County. The problem appears to be that the State Water Commission has manpower, mileage and time problems preventing them from being able to investigate local problems. He stated that he understood that currently there is approximately a backlog of one year from the time a request from the local Board is made until the staff could conduct a preliminary survey. He stated he feels it would hasten development of projects if a local engineering firm could do some of the preliminary work and would also help to reduce the workload for the Commission staff.

Mr. Herb Urlacher from the West River area indicated that the proposal is not to change the mechanism of the State Water Commission but rather add to the Commission's services. He feels the proposal is very worthwhile and would allow for alternatives. The Advisory Committee of the Interim Committee on water project financing proposes that the State Water Commission be a blanket organization for water development in the State.

Mr. Norman Rudel, Chairman of the Wells County Water Resource District and the Joint Powers Board consisting of Wells, Foster and Eddy Counties, indicated they have four projects under consideration and it appears it will be necessary to hire local engineering firms to complete the preliminary engineering work on a timely basis. Therefore, he urged strong support in the concept of allowing private engineering consulting services to be an eligible item for cost sharing from the State Water Commission's Contract Fund.

Beverly Stone indicated that one of the projects that will be considered for cost sharing at this meeting is so critical that the county proceeded and hired private engineers to do the engineering work. She noted that the Water Resource Districts are not unhappy with the job the State Water Commission and State Engineer have been doing but complimented them. She said the Association realizes that staff and funds are limited and feels that the proposal could be of assistance in this respect.

Mr. Duane Breitling reiterated Mrs. Stone's comments concerning the quality and willingness of the State Water Commission, staff and State Engineer to work well with the Boards. He said that through a thorough analysis, the Water Resource Districts feel the most viable political method of increasing the funding is to work very closely with the State Water Commission to increase specifically the Contract Fund in its appropriation each biennium at the State level. This would make it more feasible to undertake projects, but in order to do this

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there is a need for technical ability to address the questions that have been arising on each of the projects. He noted that for several years, conscientious and aggressive Boards have had a need to procure the services of private consulting engineers on projects and the costs have been absorbed on the local level.

Mr. Breitling discussed governmental immunity and if such immunity provides protection to the public. After some discussion, Governor Olson suggested that an Attorney General's Opinion be requested regarding liability issues.

Mr. Breitling expressed concern regarding dam safety and indicated that the dams in North Dakota where there has been some question addressed as to their safety are also government-designed facilities.

Governor Olson stated he feels that it is perhaps time to expand the State Water Commission's capacity to build water projects and stated that he is inclined to support the proposal; however, he indicated that it is important that the State Water Commission address all of the ramifications pertaining to the proposal.

Governor Olson suggested, and it was concurred to by the State Water Commission, to approve in principle the proposal of the North Dakota Water Resource Districts Association, and that the Chairman of the State Water Commission appoint an Ad Hoc Committee consisting of the State Engineer, the Assistant Attorney General, and two representatives of the Water Resource Districts Association to negotiate and develop a policy to present before the Commission at their next meeting.

It was moved by Commissioner Bjornson and seconded by Commissioner Vculek that the State Water Commission approve in principle the proposal of the North Dakota Water Resource Districts Association, and that an Ad Hoc Committee be appointed by the Chairman of the Commission consisting of the State Engineer, the Assistant Attorney General, and two representatives of the Water Resource Districts Association to negotiate and develop a policy to present to the Commission at their next meeting.

In further discussion, Governor Olson also appointed Commissioner Guy Larson to the Ad Hoc Committee as a representative from the State Water Commission. He stated that the interests of the consulting engineers should be brought before the Committee.

The question was called on the motion. All members voted aye; the motion carried.

The meeting recessed at 12:00 noon; reconvened at 1:00 p.m.

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CONSIDERATION OF REQUEST
FROM PIERCE COUNTY WATER
RESOURCE BOARD TO RELEASE
APPROVED FUNDS FOR
HURRICANE LAKE
(SWC Project No. 559)

Murray Sagsveen updated the Commission members on the litigation status of three projects: Russell Drain, Hurricane Lake, and Channel "A".

Relative to Hurricane Lake, Mr. Sagsveen stated this project is the subject of litigation by the Hurricane Lake Joint Water Resource District against the U.S. Fish and Wildlife Service. The lawsuit was precipitated by the Fish and Wildlife Service's purchase of waterfowl production area easements ostensibly for the purpose of sabotaging the District's efforts to reconstruct the Hurricane Lake outlet.

On April 6, 1982, the State Water Commission granted funding towards the Hurricane Lake outlet project. The action was based on the following motion:

"It was moved by Commissioner Larson and seconded by Commissioner Schank, and unanimously carried, that the State Water Commission participate in 40 percent of the cost of the Hurricane Lake project, not to exceed \$28,000, contingent that all pending litigation has been resolved prior to the next State Water Commission meeting scheduled for June 17 and 18, 1982. If pending litigation has not been resolved prior to those dates, this action approving cost participation shall be reconsidered. The motion was also contingent upon the availability of funds."

Mr. Sprynczynatyk stated that on December 9, 1983, a request was received on behalf of the Hurricane Lake Joint Board for the Commission to allow partial payment on the work that has been completed on the project.

It has been a policy of the State Water Commission to suspend payments to water resource districts for a water management project if the project is the subject of litigation. Mr. Sprynczynatyk indicated that this policy may be counter productive, especially for projects which the State Water Commission has supported by review, approval and on cost-sharing requests.

Mr. Sagsveen, on behalf of the Hurricane Lake Joint Water Resource Board, requested that the State Water Commission reconsider its action of April 6, 1982, and release funds presently allocated for the Hurricane Lake outlet reconstruction.

Secretary Fahy stated that in view of the fact that the Commission has continually supported the Hurricane Lake project and that the work that has been done to date has been towards the completion of the project, it was his recommendation that the Commission reconsider its April 6, 1982 action and allow funds to be expended for the project even though all litigation on the project has not been resolved.

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It was moved by Commissioner Jones, seconded by Commissioner Vculek, and unanimously carried, that the State Water Commission reconsidered its action of April 6, 1982 and hereby allows funds to be dispersed for the Hurricane Lake Project for eligible items of work completed.

CONSIDERATION OF REQUEST
FOR RELEASE OF ALLOCATED
FUNDS FOR RUSSELL DRAIN
(SWC Project No. 1684)

Murray Sagsveen indicated that Russell Drain was the subject of litigation by the State Water Commission several years ago and the lawsuit led to compliance with the

drainage laws by the Bottineau County Water Resource District. The District approached the Commission on July 6, 1981 for financial assistance and the Commission approved such assistance with the following motion:

"Commissioner Kramer moved to approve financial participation in an amount not to exceed \$25,000 for eligible construction items to relocate the final reaches of Russell Drain, subject to the availability of funds and conditions required by the State Engineer. The motion was seconded by Commissioner Jacobson."

"The Vice Chairman stated that the Commission action today would not change the possibility of future court action and called for a vote regarding the motion. The motion unanimously carried."

Mr. Sagsveen stated that subject to the Commission action the Wildlife Society sued on the theory that the drainage permit was unlawfully granted. The payment of the \$25,000 was suspended.

On behalf of the Bottineau County Water Resource District, Mr. Sagsveen requested the Commission release funds already allocated for the Russell Drain Project.

It was the recommendation of the State Engineer that the Commission authorize the State Engineer to release funds allocated for the Russell Drain Project regardless of the current status of the litigation.

It was moved by Commissioner Jones, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission authorize the State Engineer to release allocated funds for eligible items of work completed on the Russell Drain Project.

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CONSIDERATION OF REQUEST
FROM SOUTHEAST CASS WATER
RESOURCE DISTRICT FOR COST
SHARING ON CASS COUNTY
DRAIN NO. 35
(SWC Project No. 1086)

A request received from the Southeast Cass Water Resource Board for cost sharing in the reconstruction of Cass County Drain No. 35 was presented to the Commission for consideration.

Dave Sprynczynatyk noted that on May 19, 1983, the Commission agreed to participate in Phase II of the reconstruction of Cass County Drain No. 35. The request being considered now is for cost participation in Phase III which involves reconstruction of one and one-half miles of channel at the upper end of the project.

The estimated cost of the third phase of the project is \$30,078. Since the actual cost for Phase II is less than the original estimate, a portion of the funds allocated for Phase II can be applied to Phase III.

It was the recommendation of the State Engineer that the Commission consider amending its present agreement for Cass County Drain No. 35 and approve an additional \$8,700 for completion of Phase III, which would be based on 40 percent of the actual construction costs and would be contingent upon the availability of funds.

Mr. Duane Breitling, representing the Southeast Cass Water Resource District, further discussed the project, and said that Phase I has been completed. He urged favorable consideration by the Commission of the recommendation made by the State Engineer.

It was moved by Commissioner Bjornson, seconded by Commissioner Jones, and unanimously carried, that the State Water Commission approve amending its present agreement for Cass County Drain No. 35, and that an additional \$8,700 be approved based on 40 percent of the actual construction costs, and contingent upon the availability of funds.

CONSIDERATION OF REQUEST
FROM TRAILL COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARING ON TRAILL COUNTY
DRAIN NO. 19
(SWC Project No. 1238)

A request received from the Traill County Water Resource Board to participate in the reconstruction of the Roseville Drain (Traill County Drain No. 19) was presented to the Commission for consideration.

Dave Sprynczynatyk explained that in February, 1978 a similar request was received from the Traill County Board, and in April, 1978 the Commission approved the Board's request to participate in the project in an amount not to exceed \$25,000 for the reconstruction of the drain. Before the project was constructed, landowners within the assessment district voted against the reconstruction project and the funds approved by the Commission were withdrawn. Since

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that time, a decision has been made to proceed with the reconstruction of the project and the landowners have agreed to go along with the project. The project includes the reconstruction of the channel and the construction of a drop structure. Mr. Sprynczynatyk stated that the Commission staff has reviewed and approved the design in the construction plans. The project has been completed and the total construction costs were \$59,630.67.

It was the recommendation of the State Engineer that the Commission consider cost participation in the reconstruction of Traill County Drain No. 19 allowing 40 percent of eligible items for cost sharing not to exceed \$14,070, contingent upon the availability of funds.

Mr. David Holter, Chairman of the Traill County Water Resource Board, further discussed the project and urged the Commission's favorable consideration of their request for cost sharing.

It was moved by Commissioner Hutton, seconded by Commissioner Vculek, and unanimously carried, that the State Water Commission approve cost sharing in 40 percent of eligible items in an amount not to exceed \$14,070 for the reconstruction of the Traill County Drain No. 19. This motion shall be contingent upon the availability of funds.

CONSIDERATION OF REQUEST
FROM RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARING ON RICHLAND COUNTY
DRAIN NO. 72
(SWC Project No. 1545)

A request received from the Richland County Water Resource District to cost participate in the completion of Richland County Drain No. 72 was presented to the Commission for consideration.

Dave Sprynczynatyk indicated that on August 12, 1981 the State Water Commission granted funds towards Phase I of this project. Phase II consists of the reconstruction of the upper portion of the main drain and work on Phase II was completed in the fall of 1983. Total construction costs for Phase II are \$100,372 of which \$90,916 are eligible for cost sharing.

Duane Breitling further explained the project, and noted that Phase II has been designed by the Soil Conservation Service and has met all of the standards and criteria for control factors. He commented that the local Board has spent a substantial amount of money to mitigate the loss of wetland acres. The entire project will be constructed in three phases over a period of 3-4 years.

It was the recommendation of the State Engineer that the Commission consider approval of 40 percent of the eligible cost sharing items not to exceed \$36,370, contingent upon the availability of funds.

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It was moved by Commissioner Jones, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission approve cost sharing of 40 percent of eligible items not to exceed \$36,370, for Richland County Drain No. 72. This motion shall be contingent upon the availability of funds.

CONSIDERATION OF REQUEST
FROM CITY OF ENDERLIN FOR
COST SHARING IN THE ENDERLIN
FLOOD CONTROL PROJECT
(SWC Project No. 1657)

A request received from the City of Enderlin for cost participation in a flood control project for the city was presented to the State Water Commission for consideration.

Dave Sprynczynatyk explained the project, stating the project is being designed and constructed by the St. Paul District, Corps of Engineers. In the Corps report dated July, 1982, the project was described to include the bank protection work on the State Highway 46 bridge, a series of levees within the city, interior flood drainage and control, and street and railroad modifications. The project will provide a 100-year flood protection for the city. The total cost estimate for the project including both federal and non-federal costs was \$4,300,000. The benefit-to-cost ratio for the project was 1.05.

Mr. Sprynczynatyk stated that recently the city of Enderlin was informed by the Corps that the cost estimate had been revised upward by approximately 4 percent and that the costs for construction, without land and right-of-way, will be \$4,144,000. This estimate is based on the actual costs for completion of Phases I and II for the project and the estimate for Phases III and IV. Mr. Sprynczynatyk explained that under the authority of Section 205 of the Flood Control Act of 1948, as amended, the local project sponsor must provide all costs in excess of \$4,000,000; thus, the city has been informed that they will have to provide \$144,000 of up-front money in order for the project to proceed. In the plan report of 1982, the cost for construction was estimated to be less than \$4,000,000 and therefore the city had not anticipated that they would have to provide up-front money as has been requested. The Corps has indicated that \$70,000 must be received by March 1 in order for them to follow their bid letting schedule. This schedule is critical to the Corps in order to let bids this spring and complete the project on time. In addition, \$36,000 is required by March 15 and \$38,000 is required by October 1, 1984.

Mayor Ed Morrow also discussed the project and requested favorable consideration of their request for financial assistance.

The State Engineer indicated the project is beneficial and feasible and noted the Commission office has been involved in the development of the plan and has supported the project in the past. Therefore, it was the recommendation of the State Engineer that the Commission consider approving cost participation for the Enderlin Flood

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Control Project in 50 percent of the non-federal costs in excess of \$4,000,000, not to exceed \$72,000. This would be contingent upon the availability of funds.

It was moved by Commissioner Vculek, seconded by Commissioner Larson, and unanimously carried, that the State Water Commission approve cost participation in the Enderlin Flood Control Project in 50 percent of the non-federal costs in excess of \$4,000,000, not to exceed \$72,000. This motion shall be contingent upon the availability of funds.

CONSIDERATION OF REQUEST
FROM MAPLE RIVER WATER
RESOURCE DISTRICT FOR
COST SHARING IN FLOOD
CONTROL DAM
(SWC Project No. 1271)

A request received from the Maple River Water Resource District for cost participation in a flood-water retention structure to be located on a tributary to the Maple River was presented to the Commission members for their consideration.

Mr. Sprynczynatyk explained that this request was presented to the Commission at its July 12, 1983 meeting, but the Commission deferred action at that meeting until more information was available.

The project being proposed is a dry dam located approximately seven miles east and three miles north of Enderlin. A preliminary engineering report for the project was received on February 7, 1984. The total cost estimate for the dam is \$785,000. Of this, \$475,000, including contingencies, is for the actual construction of the project.

Mr. Sprynczynatyk discussed the benefit analysis provided in the preliminary engineering report and noted that the benefit-to-cost ratio for the project was only 0.50. He noted that a permit for the construction of the dam has not been applied for. When the final design for the project is submitted, the Commission staff will do a thorough review and the project sponsor will have to develop an acceptable operation and maintenance plan for the project. During construction of the project, Commission staff will monitor the project to ensure that the information provided in the construction permit is adhered to. Mr. Sprynczynatyk indicated that there is strong local support for the project because of the belief that by providing small upstream storage areas the flood problems downstream can be reduced.

Mr. Harry Warner, Chairman of the Maple River Water Resource Board, indicated that approximately eight landowners are involved within the dam site and all are in favor of the project. He commented on the good cooperation with the landowners and the other Water Resource Boards.

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Mr. Duane Breitling explained that the reason for requesting an early commitment from the State Water Commission is because unless the commitment is known up-front, it is impossible for the Board to project if they can take care of the local costs of the project.

The State Engineer noted that in the past for feasible projects of this nature, the Commission granted 50 percent of the cost of eligible construction items. In this case it would not exceed \$237,500. Costs incurred by the State Water Commission for monitoring should be considered as part of the State Water Commission cost sharing. Approval of funds would be contingent upon the availability of funds.

It was moved by Commissioner Bjornson, seconded by Commissioner Hutton, and unanimously carried, that the State Water Commission approve cost participation in 50 percent of eligible construction items, not to exceed \$237,500, for the construction of a flood-water retention structure to be located on a tributary to the Maple River. Also the costs incurred by the State Water Commission for monitoring construction shall be considered a part of the Commission's 50 percent. This motion shall be contingent upon the availability of funds.

CONSIDERATION OF REQUEST
FROM RICHLAND COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARING IN A FLOOD CONTROL
DAM ON RICHLAND COUNTY DRAIN
NO. 65
(SWC Project No. 1207)

A request received from the Richland County Water Resource Board for cost participation in a flood control dam on Richland County Drain No. 65 was presented to the Commission members for their consideration.

Mr. Sprynczynatyk explained the proposal and indicated the dry dam would be located four miles east and two miles south of Hankinson. The purpose of the project is to decrease flood volumes on County Drain No. 65 and the Wild Rice River. Based on the hydrologic information provided, the dam would reduce the 100-year peak flow on Drain No. 65 by 33 percent. The preliminary engineering report included a description of the benefits for the project which were discussed by Mr. Sprynczynatyk. He noted there is strong local support for the project since there is belief that providing storage in small upstream retention reservoirs will help to reduce downstream flood problems.

Mr. Sprynczynatyk indicated a permit application for the construction of the dam has been received and the preliminary soils information and hydrology data have been provided. When the final design for the project is submitted, the Commission staff will complete a thorough review. An operation and maintenance plan for the project will be required. During construction of the project, Commission

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staff will monitor the project to ensure that the information provided for the construction permit is adhered to. The cost for construction of the project is estimated to be \$115,840, including contingencies.

Beverly Stone, Chairman of the Richland County Water Resource Board, indicated this is a very critical project and that private engineering services will be hired. She stated there is very erosive soil in this area and has affected another area downstream that washed out severely several years ago. She urged the Commission's favorable consideration for cost sharing in the project.

Lawrence Woodbury from Houston Engineers explained that a preliminary evaluation of Richland County Drain No. 65 was completed several years ago and indicated that the costs of improving the channel without any upstream storage would be almost prohibitive. The critical nature of this project will assist in making the potential feasible for future repairs of Drain No. 65. He noted that the numerous crossings downstream are basically along the drain itself. The preliminary work for this project has been completed and construction is ready to commence, except for the construction permit.

It was noted by the State Engineer that the Commission policy for cost sharing in feasible projects of this type has been 50 percent of the eligible items. In this case it would not exceed \$57,920. Costs incurred by the State Water Commission for monitoring should be considered as part of the State Water Commission cost sharing. Approval of funds would be contingent upon the availability of funds.

It was moved by Commissioner Jones, seconded by Commissioner Bjornson, and unanimously carried, that the State Water Commission cost share in 50 percent of eligible items, not to exceed \$57,920 for a flood-water retention structure on Richland County Drain No. 65, and the cost incurred by the State Water Commission for monitoring construction shall be considered a part of the Commission's 50 percent. This motion shall be contingent upon the availability of funds.

DISCUSSION OF MEETING BETWEEN
RED RIVER JOINT WATER RESOURCE
DISTRICT AND CONGRESSIONAL
DELEGATION REGARDING PROJECT
DEVELOPMENT AND FINANCING
(SWC Project No. 1705)

Mr. Duane Breitling reported on a meeting recently held with members of several Red River Valley Water Resource Boards, County Commissioners from Cass County, and area legislators meeting with the North Dakota Congressional Delegation to discuss the difficulties faced by local entities when attempting to procure federal funding and technical assistance on water retention projects.

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Mr. Breitling outlined three areas in which changes should be considered in order to expedite development of flood control measures in the State: 1) a revision in the standards for computation of the cost-to-benefit ratio; 2) an enlargement of the project limitation for Soil Conservation Service technical and financial assistance to local governments; and 3) consideration of federal block grant programs for flood control measures. He indicated that both the Red River Joint Water Resource Board and the North Dakota Water Resource Districts Association have adopted resolutions in support of the three above mentioned items.

On behalf of the Red River Joint Water Resource Board, Mr. Breitling requested the State Water Commission to provide the Congressional Delegation with the details necessary to put into motion efforts to achieve the goals as previously referred to and be the sponsor for such an effort and the voice of the constituents of the State of North Dakota who are interested in seeing the implementation of meaningful flood control projects.

In discussion, the State Water Commission agreed that the effort to obtain more flexibility in the utilization of federal funds and federal agency participation in local projects is very worthwhile and should be pursued by water resource interests under the Commission's sponsorship.

It was moved by Commissioner Bjornson, seconded by Commissioner Hutton, and unanimously carried, that the State Water Commission authorize the State Engineer to notify the Congressional Delegation that the State Water Commission supports the three recommendations to procure federal funding and technical assistance on water retention projects.

CONSIDERATION OF AGENCY
FINANCIAL STATEMENT

that in terms of the current fiscal position, the agency is within its limitations imposed by the Legislature.

Mr. Matt Emerson briefly discussed the agency's projects authorized and budget expenditures, indicating

CONSIDERATION OF REQUEST
FROM TOWNER COUNTY WATER
RESOURCE DISTRICT FOR COST
SHARING IN REPAIRS TO BIG
COULEE DAM
(SWC Project No. 1418)

City of Bisbee. The primary purposes of the dam are recreation and a water supply for the City of Bisbee.

Mr. Sprynczynatyk indicated that the State Water Commission first became involved in this project in 1967, and the multi-purpose dam was constructed in 1968. The dam is located in Towner County and is approximately two miles east of the

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In 1981, the Towner County Water Resource Board requested the State Water Commission to look into the possibility of replacing the spillway and to increase the height of the dam in order to provide more water, improve the water quality and water supply to the city, and to improve the recreational benefits. Estimated costs to replace the spillway and raise the dam are approximately \$430,000 in addition to land acquisition costs. The project sponsor is the Towner County Water Resource District. The District has requested the State Water Commission to consider cost sharing in 33 percent of the project. He indicated the Water Resource Board is going to submit a request for funding under the community block grant program for the City of Bisbee since this is a water supply dam.

It was the recommendation of the State Engineer that the Commission approve cost participation in 33 percent of the construction costs of the project not to exceed \$141,900, contingent upon the availability of funds.

It was moved by Commissioner Jones, seconded by Commissioner Larson, and unanimously carried, that the State Water Commission approve cost participation for repairs to Big Coulee Dam in Towner County in 33 percent of the construction costs of the project, not to exceed \$141,900, contingent upon the availability of funds.

STATUS REPORT ON SHEYENNE
RIVER FLOOD CONTROL
IMPROVEMENTS - PUBLIC MEETING
(SWC Project No. 1344)

Secretary Fahy stated that at the request of the Congressional Delegation, the St. Paul District of the Corps of Engineers and the State Water Commission are jointly

sponsoring a public meeting on proposed flood control improvements along the Sheyenne River in North Dakota. The public meeting will be held February 28, 1984 in the Griggs County Courthouse in Cooperstown.

He stated that the Corps of Engineers and the State Water Commission are recommending a series of measures to reduce flood damages in the Sheyenne River Basin. Federal actions with non-federal participation are: levees and a flood diversion channel at West Fargo/Riverside; a flood diversion channel from Horace to West Fargo; and a raise of Baldhill Dam for flood control. State and local actions recommended are: regulation of private levees along the Sheyenne River; regulation of drainage activities in the watershed; and regulation of development activities in flood-prone areas. He indicated that the State Water Commission has indicated its intent to work with local units of government to provide the items required of non-federal interests to implement the proposal.

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DEVILS LAKE
LITIGATION REPORT
(SWC Project No. 416)

Murray Sagsveen provided the Commission members with a status report on the Devils Lake litigation to determine the entire ownership of lake bed.

STATUS REPORT RELATIVE
TO LEGISLATIVE COMMITTEES
ADDRESSING THE NEED FOR
FUNDING WATER PROJECT
DEVELOPMENT IN NORTH DAKOTA

Secretary Fahy reported that members of his staff have been meeting with the Legislative Water Committee for some time addressing the need for funding of water projects in North Dakota. An Advisory Committee has been appointed to work with the Legislative Water Committee to assist and provide input to the Committee in their decision-making process.

Joe Cichy presented a progress report of the study and indicated that the Advisory Committee has met five times and next month will present their positions and resolutions to the Legislative Water Committee. The positions that will be presented are: 1) that the State Water Commission be the primary agency responsible for water development in the State; 2) that the Resources Trust Fund be a dedicated fund for water development and that it be administered by the State Water Commission through legislative mandate or through criteria established by the State Water Commission pursuant to legislative authority; and 3) that the Bank of North Dakota assist the State Water Commission in developing financing for the water projects.


Mr. Cichy said the following sources for funding of water projects will be presented to the Committee: 1) to increase the percentage of the oil extraction tax that goes into the Resources Trust Fund from 10 to 15 percent; 2) the possibility of transferring coal impact funds into the Resources Trust Fund for water development; 3) request that the State Water Commission establish a system of fees to recover administration costs; 4) money to be appropriated from the Contract Fund as is now presently done; and 5) the \$11.7 million that was used from the Resources Trust Fund this biennium for the Grafton State School be returned to the Fund for water development.

The Commission heard complimentary remarks from Mr. Jim Marsden, North Dakota Farm Bureau, relative to the positive actions taken by the Commission; complimenting efforts of the engineers; and for valuable contributions made by Commissioner Jacobson as a member of the North Dakota Farm Bureau's Natural Resources Committee.

It was moved by Commissioner Hutton, seconded by Commissioner Larson, and unanimously carried, that the meeting adjourn at 3:00 p.m.

ATTEST:


Vernon Fahy
State Engineer and Secretary


Allen I. Olson
Governor-Chairman

February 21, 1984

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission

DATE January 31, 1984 PLACE Bismarck, N. Dak.

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Cary Backstrand	Bismarck	SWC
Dave Sprynzynatyk	"	"
Bruce F McCollom	"	BN/BEC
Bob Dorothy	"	SWC
Kevin Whalen	Bis	Tribune
DAVE THOMPSON	Dis	KEND-FM
KEN KARLS	BISMARCK	THE NOXOTA COMPANY
Robert Thompson	Page	RRJWRB
Stephen & Scott Thompson	Page	SELF
Mary Thompson	Page	"
Samuel Warner	Mapleton	M.A.R.B.
Joseph Harbeck	Page	M.R.R.B.
Lawrence Klein	Bismarck	Dwyer & Klein
Marshall Moore	Fry	moore Eng Inc
Oran R. Bentley	West Fargo	RRARB, RRJWRB, Maple RRWB

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Cliff Brendel	Kramer, N.D.	Bottineau Co. W.M.B.
Herbert Halber	Taylor, N.D.	West River Joint Board
Benny Stone	Barney, N.D.	Richland Co. W.R.B.
Paul Schmitt	Bismarck, N.D.	Northern Pipe Products Fargo
Joel P. Melarvie	Bismarck	Great Plains Gasification Associates
Claudia Wallin	Bismarck	Great Plains
Julian A. Strand	Portland	Trail Co. Water Res. Bd.
Raymond Kralig	Blanchard, ND	" "
David J. Hatter	Hatton, N.D.	Trail Co. W.R.B. Ch.
Murray L. Saguen	Bismarck, ND	ATTORNEY
Jack J. Berg	Bismarck, ND	State Water Commission
Thomas Rudel	Fessenden, ND	Well Co. Water Res. Bd.
Bob Hank	Devil Lake	Ramsay W.R.B.
Lawrence Woodbury	Fargo, ND	Houston Eng. Inc.
Jim Marsden	Bismarck	N.D. FARM BUREAU

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Allyn SAPP	1500 Capitol Ave	FWS
Charles E. Mumm	Bismarck	SCS
Ed Merson	Enderlin	WA Mayor
Nancy Jalen	Enderlin	City Council

ND WRDs Assn
February 21, 1984

PROPOSAL: To allow private engineering consulting services to be an eligible item for cost-sharing from the State Water Commission Contract Fund.

TO: NDSWC
STATE ENGINEER, VERN FAHY

FROM: NORTH DAKOTA WATER RESOURCE DISTRICTS ASSN

I. Introduction

The following proposal represents the position of the ND Water Resource Districts Assn. The proposal was considered by the water resource districts in North Dakota at their annual meeting in Dickinson on December 5, 1983, and was unanimously approved for presentation to the NDSWC.

II. Proposal

A. General Statement. It is proposed that the State Water Commission cost-sharing policy be changed so that private engineering consulting services on water-related projects would be an eligible item for cost-sharing from the State Water Commission Contract Fund, at the same percentage rate that is presently used for the particular type of project.

B. General Considerations.

1. State Water Commission Engineering Services. The State Water Commission currently provides engineering services to local water resource districts and other political subdivisions. This proposal does not intend or suggest that the staff of the State Water Commission be reduced, or that the State Water Commission should cease to be involved in design and construction activities. Rather, it is the position of the Water Resource Districts Assn that the State Water Commission should continue to provide engineering services to local entities, using the same approach it now uses, or any other approach deemed appropriate by the State Water Commission and the State Engineer. This proposal simply suggests that cost-sharing for private consulting engineers be an option for local water resource districts. Even if this policy is changed, the SWC may or may not approve future requests for engineering cost-sharing.

2. Money. The ND Water Resource Districts Assn is committed to aggressively working towards the commitment of increased state dollars for water development and water management projects. It is recognized that without increased dollars in the contract fund for water development and water management projects, this proposal could result in less projects funded through the SWC Contract Fund. However, we intend to very vigorously support additional revenues for the SWC Contract Fund, and, as a result, increased water development and water management projects in North Dakota.

III. Specific Details

- A. Types of Engineering Services. Engineering services are often divided into (1) general investigations, (2) preliminary engineering and feasibility studies, and (3) final design, construction engineering and construction inspection. It is proposed that all of these types of engineering services be considered eligible for cost-sharing from the State Water Commission Contract Fund.
- B. Criteria and Selection of Engineering Consultants. If private engineering consulting services were eligible for cost-sharing from the State Water Commission Contract Fund, the State Engineer may desire to play a role in the local entity's process for selection of a private engineer, and may also want to establish design criteria to be used by private engineers for engineering services which will be cost-shared by the State Water Commission. It is totally acceptable that the State Engineer and the State Water Commission develop uniform design criteria and participate in the selection process for private engineers in the manner they deem most appropriate.

- IV. Implementation. It is proposed that the State Water Commission change its cost-sharing policy as soon as possible. Even though the Water Resources Interim Committee is studying the issue of water project financing, this proposal should not be contingent upon the legislative study.

V. Additional Reasons Supporting Proposal

- A. Precedent. On several occasions recently, the State Water Commission has agreed to cost-share for private engineering consulting services, notwithstanding its existing policy. The Golden Valley irrigation study, the McLean County water supply study, the funds appropriated pursuant to HB 1466 (1981) in the Red River Valley, etc. The Southwest Pipeline Project has also been designed by private consultants. The policy whereby private engineering services are not an eligible item is slowly being changed, and in our opinion should be changed as a matter of policy.
- B. Liability. The local sponsor is normally required to assume all liability from a project, and this practice should continue. Construction inspection and annual safety inspections can continue to be a responsibility of the State Water Commission. Increased liability problems will not result from this proposal, and, in fact, private engineers are subject to the same professional standards as well as liability in the event of a problem.
- C. State Water Commission Workload. Due to its workload, the State Water Commission staff cannot provide engineering services to all the projects and studies being considered at the present time. Private engineering consulting services should be an eligible item in order to promote water development and water management in a timely manner. The State Water Commission will continue to have as much work as it can handle.
- D. State Water Plan. The State Water Commission requires that projects and studies be included in the State Water Plan to be eligible for cost-sharing. This policy will eliminate unnecessary studies.

VI. Conclusion. Hopefully, the SWC will favorably consider this request for a change in its cost-sharing policy.