

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

September 10, 1986

The North Dakota State Water Commission held a meeting on September 10, 1986, in the State Office Building, Bismarck, North Dakota. Governor-Chairman, George A. Sinner, called the meeting to order at 9:40 a.m., and requested State Engineer-Secretary, Vernon Fahy, to present the agenda.

MEMBERS PRESENT:

Governor George A. Sinner, Chairman
Kent Jones, Department of Agriculture, Bismarck
Richard Backes, Member from Glenburn
Joyce Byerly, Member from Watford City
Jacob Gust, Member from West Fargo
William Guy, Member from Bismarck
Ray Hutton, Member from Oslo, Minnesota
William Lardy, Member from Dickinson
Jerome Spaeth, Member from Bismarck
Vernon Fahy, State Engineer and Secretary, North Dakota
State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 30 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 JUNE 18, 1986 MEETING -
APPROVED

The minutes of the June 18, 1986 meeting were approved by the following motion:

It was moved by Commissioner Guy, seconded by Commissioner Lardy, and unanimously carried, that the minutes of June 18, 1986 be approved as circulated.

CONSIDERATION OF REQUEST FROM
STEELE COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING
IN STEELE COUNTY CRITICAL
AREA TREATMENT SITE 11B
(SWC Project No. 1308)

David Sprynczynatyk, Director of Engineering for the State Water Commission, presented a request from the Steele County Water Resource District for the Commission's consideration to cost share in the Critical Area Treatment

Site 11B. The project will be constructed as an RC&D project by the Soil Conservation Service and is located near the south branch of the Goose River, 14 miles east and 5 miles south of the city of Finley, ND. The purpose of the project is to correct erosion that occurs on the north side of a county road where a 20-foot gully has formed in the roadway ditch.

Mr. Sprynczynatyk stated that the total estimated cost of the project is \$46,391, and funding is expected to come from several entities: the Soil Conservation Service \$23,196; local landowners \$6,527; Steele County Commission \$5,000; Steele County Water Resource District \$3,000; and the Steele County Conservation District will provide manpower and supplies for miscellaneous tasks. The non-federal balance is \$23,196, with 40 percent being \$9,278.

Mr. Bennett Rindy, Chairman of the Steele County Water Resource Board, further explained the project and requested favorable consideration of their cost sharing request.

It was the recommendation of the State Engineer that the State Water Commission grant 40 percent of the non-federal costs not to exceed \$9,278 toward the Steele County project. Approval of the funds would be contingent upon the availability of funds and upon a final inspection of the project.

It was moved by Commissioner Guy and seconded by Commissioner Hutton that the State Water Commission grant approval of 40 percent of the non-federal costs, not to exceed \$9,278, for the Steele County Critical Area Treatment Site 11B. This motion shall be contingent upon the availability of funds and upon a final inspection of the project.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy and Spaeth, and Governor Sinner voted aye. There were no nay votes. The Chairman declared the motion passed.

CONSIDERATION OF REQUEST FROM
STEELE COUNTY WATER RESOURCE
DISTRICT FOR ADDITIONAL FUNDS
FOR BEAVER CREEK DAM
(SWC Project No. 1808)

On December 13, 1985, the State Water Commission approved \$447,500 for the Beaver Creek Dam project in Steele County. At the time the Commission considered the request for cost sharing, the estimated

project cost was \$975,000, with \$895,000 eligible for funding.

September 10, 1986

David Sprynczynatyk indicated since the time the Water Commission approved cost sharing for the project, final plans, specifications, and a hydraulic model have been developed, and two bid lettings have occurred. The dam permit No. 128-3875 and water use permit No. 3875 have also been approved. The estimated project cost has been revised and increased from \$975,000 to \$1,250,000. Of the \$1,250,000 total project cost, \$1,170,000 are eligible for funding.

Based on the revised engineer's estimate of the estimated total project cost, the Steele County Water Resource Board has submitted a request to the State Water Commission to consider additional funding for the project in the amount of \$137,500, which is 50 percent of the additional costs.

Secretary Fahy reviewed the original discussion on the project noting that the cost-benefit ratio was not very strong, although there was very strong local support for the project. There was also discussion that the City of Mayville should be contacted regarding the possibility of including a water supply component for that city in the project. Secretary Fahy commented that the City of Mayville officials had been contacted about such a proposal but they did not express an interest.

Secretary Fahy indicated that the Commission did approve \$447,500 at its December 13, 1985 meeting. To date, three partial payments totalling \$55,696 have been made to the Steele County Water Resource District for work performed, thus leaving an obligated balance of \$391,804. He said that if the Water Commission decides to approve the request for an additional \$137,500, which is 50 percent of the additional eligible items, the total state share would not exceed \$585,000.

Mr. Jeff Volk, Moore Engineering, explained the project and the necessity to revise the original estimate. He said that the other entities involved in the cost sharing for the project will likewise be requested to increase their contribution.

Mr. Gilman Strand, Traill County Water Resource Board, indicated both Traill and Grand Forks Counties are very supportive of the project because these counties will be benefitted the most. He urged the Commission to take favorable action on the request for additional funding.

Mr. Bennett Rindy, Chairman of the Steele County Water Resource Board, commented on the project and said that the City of Mayville was contacted relative to joining in the project for a water supply component but expressed no interest.

Bruce Laughlin, State Representative from District 23, said this project has received strong local support from the counties involved. The cooperation from the public and the input expressed indicates this project, and a series of smaller dams on the Goose River, is a new start on flood control. Representative Laughlin urged the Commission to act favorably on the request for additional state funding for this project.

September 10, 1986

Commissioner Hutton reiterated his support for this project, although he said he is very much aware that the benefit-cost ratio is a major concern in warranting cost sharing. He said one of the responsibilities of the Joint Board is to start flood control projects and said there is unanimous support from people up and down the valley for this type of flood control structure.

Secretary Fahy explained the motion approved by the Commission at its December 13, 1985 meeting states "not to exceed \$447,500", therefore, it is necessary that the request for additional funding of \$137,500 be considered by the Commission. The Commission then entered into a discussion of the Contract Fund, and Secretary Fahy indicated that at the present time he feels this request can be funded.

Commissioner Lardy inquired whether there is a contingency fund designated in the project costs to take care of change orders that might occur. Mr. Volk replied that in the estimated total project cost of \$1,250,000 there is a contingency fund of \$64,490.

Commissioner Guy inquired if there is a timetable involved in the Commission making a decision on this request for additional funding. He said that the Governor's budget for the next biennium will be reviewed around the first part of December and that the Commission would be in a better position at that time to relate this project to the amount of money that might be available from the Contract Fund for other project requests for funding in the next biennium.

Mr. Volk replied that the bids were opened for the project on August 13, 1986 and can be held for a period of 30 days, making the deadline for either rejection or acceptance of the bids September 13, 1986.

It was moved by Commissioner Lardy and seconded by Commissioner Gust that the State Water Commission approve additional funding in the amount of \$137,500, less the contingency fund of \$64,500, for a net contribution of \$73,000 above the amount that has already been approved for Beaver Creek Dam. The funds shall be distributed based on 50 percent of the eligible items, not to exceed \$520,500. This motion shall be contingent upon the availability of funds.

In discussion of the motion, Commissioner Guy indicated that because other projects may suffer from this expenditure he would like to defer action on this request until after the Governor's budget projections for state revenue for the next biennium from the Contract Fund have been reviewed and, therefore, he will vote against the motion.

Commissioner Backes said that he voted against the original expenditure motion because the project carries a poor benefit-cost ratio. He said he is not against the project but feels that the Commission should not be funding projects that don't have a

September 10, 1986

favorable benefit-cost ratio, and perhaps the Commission needs to review its policy in this regard. Commissioner Backes indicated this expenditure is a major portion of the Contract Fund and may not allow funding for other projects in the future and, therefore, he would again vote against this motion.

Commissioners Byerly, Gust, Hutton, Lardy, Spaeth, Jones, and Governor Sinner voted aye. Commissioners Backes and Guy voted nay. 7 ayes and 2 nays were recorded. The Chairman declared the motion passed.

CONSIDERATION OF REQUEST FROM TRAILL COUNTY WATER RESOURCE DISTRICT FOR COST SHARING IN CALEDONIA TOWNSHIP CRITICAL AREA TREATMENT PROJECT (SWC Project No. 1311)

David Sprynczynatyk presented a request from the Traill County Water Resource Board for the Commission's consideration to cost share in the proposed Caledonia Township Critical Area Treatment Project. The purpose of the project

is to stop erosion that has been increasing rapidly in the past few years and is now endangering a bridge abutment. The Board is of the opinion that the bridge must be protected and that potential erosion, pollution and sedimentation should be stopped. The site is located approximately two miles southwest of Caledonia, ND.

Mr. Sprynczynatyk indicated the project would be constructed as an RC&D project by the Soil Conservation Service with 65 percent federal funding. The engineer's estimate is \$16,430 plus land rights. The Soil Conservation Service will contribute \$10,680 of the project costs leaving the non-federal balance at \$5,750, with 40 percent of the non-federal costs being \$2,300.

Mr. Gilman Strand, Vice Chairman of the Traill County Water Resource Board, and Paul Wellman, Soil Conservation Service District Conservationist, commented on the project. Bids will be opened for the project in October, 1986.

It was the recommendation of the State Engineer that the Commission approve 40 percent of the non-federal costs not to exceed \$2,300 for the Traill County project, contingent upon the availability of funds and a final inspection of the project.

It was moved by Commissioner Hutton and seconded by Commissioner Byerly that the State Water Commission approve 40 percent of the non-federal costs, not to exceed \$2,300 for the Caledonia Township Critical Area Treatment project in Traill County. This motion shall be contingent upon the availability of funds and a final inspection of the project.

September 10, 1986

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy, Spaeth, Jones, and Governor Sinner vote aye. There were no nay votes. The Chairman declared the motion passed.

CONSIDERATION OF REQUEST FROM
DUNN COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING IN
DUNN COUNTY WATER WELL
REGISTRATION PROGRAM
(SWC Project No. 1521)

Milton Lindvig, Director of Hydrology for the State Water Commission, indicated that the Dunn County Water Resource District is conducting a water well registration program for all domestic and livestock wells in the county. This

project was prompted by the seismic programs in the area. The purpose of the project is to register all water wells and developed springs in the county to insure that an official record is on file in case damage from oil, coal and seismic activity occurs. The data collected from this program will be accessible by the public, and a copy of the well registration will be given to the landowner filed with the Dunn County Auditor. This information will be useable in work by the State Water Commission in assessing the availability and occurrence of ground water in that area for various purposes. Mr. Lindvig stated Dunn County is the first county in the state to initiate such a program. The total cost of the program is approximately \$75,000.

A request was presented for the Commission's consideration to cost share in the completion of the Dunn County water well registration program in the amount of \$6,040.

Mr. Clive Pelton, Chairman of the Dunn County Water Resource Board, indicated this program began early last spring and to date approximately 1000 wells have been tested. He reviewed the type of information that will be collected and recorded for each well and noted that the State Health Department laboratory will be making a chemical analyses of the water samples.

Commissioner Byerly commented that seismic activities in McKenzie County initiated a similar type of program but was tried on an individual basis. The program was not very successful as it did not receive the kind of cooperation required. Commissioner Byerly said she feels this is an excellent effort on the part of the Dunn County Water Resource District and certainly endorses their efforts.

It was the recommendation of the State Engineer that the State Water Commission approve \$6,040 for the completion of the water well registration program in Dunn County.

It was moved by Commissioner Byerly and seconded by Commissioner Lardy that the State Water Commission approve cost sharing not to exceed \$6,040 for the Dunn County water well registration program. This motion shall be contingent upon the availability of funds.

September 10, 1986

In discussion of the motion, Commissioner Spaeth requested, and agreed to by the Commission members, that since this is pilot project the Commission be provided a briefing when the project has been completed.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy, Spaeth, Jones, and Governor Sinner voted aye. There were no nay votes. The Chairman declared the motion passed.

APPEARANCE BY ANDY MORK
BOMM BOARD, FOR BRIEFING
ON MISSOURI RIVER BANK
STABILIZATION MATTERS
(SWC Project No. 576-1-P)

Mr. Andy Mork updated the Commission members on Missouri River bank stabilization matters. The Senate Public Works Committee will be conducting a series of field hearings in North Dakota in early, 1987

on the upper Missouri River problems. Mr. Mork said that hopefully legislation can be introduced in 1988. He feels the timetable is very slow but said it appears this is the best opportunity to address this problem and get something done. Obtaining legislation will be a difficult task and will take a lot of cooperation by everyone concerned. He said the major point to stress is this is not a normal water project but an unfinished part of the Pick-Sloan Project and should be a part of either the maintenance or construction budgets of Pick-Sloan.

Mr. Mork commended the State Water Commission for their cooperative efforts in adopting a resolution at its June 18, 1986,* meeting relating to the Missouri River bank stabilization problems. In conclusion, Mr. Mork requested the continued support of the Governor, State Water Commission, State Engineer and staff in this matter.

CONTINUED DISCUSSION OF CORPS
OF ENGINEERS PROPOSALS FOR
BALDHILL DAM MODIFICATIONS
(SWC Project No. 1344)

Secretary Fahy reviewed the background of the Sheyenne River Flood Control project which presently includes the raising of Baldhill Dam five feet. He commented that

he feels no project in the State of North Dakota has had more discussion nor received a more concerted position in opposition to the project than this particular component of the overall flood control project.

Secretary Fahy explained some of the items requiring discussion by the Commission. Authorization of a project is divided into two parts: 1) authorization of the project by Congress; and 2) appropriations for proceeding with construction for the project. To date, the Sheyenne River Flood Control project is in Congress in S.B. 1567, which includes a Baldhill Dam five-foot raise component and a dam structure on the Maple River. The bill has been passed by the Senate and House and is currently in Conference Committee for review.

Several years ago, the State Water Commission agreed to be the local project sponsor for the Sheyenne River Flood Control project. The question which has always surfaced on this matter is at what point in time should the State make its position known on

the segments of the project? Secretary Fahy stated that the Corps of Engineers has not required the State's position during the authorization stage but a State position will be essential before construction commitments can be made following the Congressional appropriation process. He said it is his understanding that when the project is authorized by Congress, the Corps of Engineers would then request appropriations beginning with the lower segments. Commission staff has been working with the local entities to develop the local cost sharing package and it is possible that a Joint Board will be created in order to reduce the number of specific entities that would be involved in the repayment.

Mr. Orville Tranby, Griggs County Commissioner, introduced a group of citizens interested in the Sheyenne River Flood Control project.

Representative Bruce Laughlin from District 23 indicated they are not opposed to flood control for the City of West Fargo, but reiterated the strong support in opposition for the raising of Baldhill Dam that has been expressed at numerous meetings, public hearings and through petitions.

Senator Dan Wogsland, District 23, said the people want manageable flood control and are considering alternatives to include small retention dams along the watershed to alleviate the problems. He also made reference to the strong opposition expressed by the local people relative to the raising of Baldhill Dam.

Commissioner Guy stated he requested this item be placed on the agenda because people in the affected area have expressed an interest as to why the Water Commission has not acted on the Baldhill Dam five-foot raise component since the public meeting in Valley City in May, 1986. He said he does not feel taking action on this particular segment of the project will jeopardize Congressional authorization and feels the Commission needs to take action on this matter at an early date.

Commissioner Lardy inquired as to impacts of the Baldhill Dam safety modifications in the event the Commission does not support the raising of the dam. Secretary Fahy replied that such action would have no impact on the dam safety modifications proposed by the Corps of Engineers because the Corps is developing the design memoranda and contracts for these safety modifications and will be proceeding with the modifications. The safety modifications for the dam include the installation of new gates. Secretary Fahy also stated that such action would not foreclose a five-foot raise at any time in the future if the people determined it to be necessary to help alleviate the problems.

Secretary Fahy indicated the officials from Valley City have expressed support for improving the safety measures of the dam and have given conditional support to the proposed raising of the flood pool at Baldhill Dam for additional flood control.

September 10, 1986

Governor Sinner indicated that his concern with the whole issue is in making any sort of definitive, final negation of the State's support for this project. The Commission, he said, should not at this point in time foreclose any opportunity to contain the waters that flow into that basin.

Commissioner Gust stated he, too, is agreeable with the Governor's statement. This project does have a positive benefit-cost ratio and for that reason we should not close the door to the Baldhill Dam component of the project. He said that now is not the time to eliminate an alternative as he feels all of the alternatives have not been considered. After considering all of the potential alternatives, the Commission should at that point make a decision on the best alternative.

Commissioner Lardy responded to the Governor's statement that he feels if there are not definitive statements made one way or another, there will be no further exploration of existing or potential alternatives. Commissioner Lardy also stated that other criteria besides a positive benefit-cost ratio is required. He said it is true that economic criteria is extremely important when considering a project but he feels the politics of the situation must also be considered. We must be concerned about the feelings of the people in the area because ultimately they are the "payers of the bill". Commissioner Lardy said if enough people disfavor a particular action, we may see an adverse reaction in other ways, too.

Secretary Fahy said there could be Congressional action on the authorization of the Sheyenne River Flood Control project by October, and if the project is authorized by Congress, it then would be an appropriate time for the State Water Commission to take a position in the commitment of funds for the Baldhill Dam component.

It was moved by Commissioner Guy and seconded by Commissioner Gust that the State Water Commission review the Sheyenne River Flood Control project at its next meeting, provided authorization has been passed by Congress.

In discussion of the motion, Senator Laughlin submitted a letter to the Commission members from Senator Burdick, dated April 6, 1986, indicating that the Sheyenne River Flood Control project was included in the Senate and House omnibus water bill, however, only the Senate version contains the reservoir structure on the Maple River and language referring to Baldhill Dam. Governor Sinner read the letter, a portion following:

"The State and Corps have agreed to separate the five foot raise of the Baldhill Dam component from the selected plan so the State can consider alternatives. Corps planning funds shall not be used on this component until the State sponsors that portion of the project."

September 10, 1986

Commissioners Gust, Guy, Spaeth, Jones, and Governor Sinner voted aye. Commissioners Backes, Byerly, Hutton and Lardy voted nay. Recorded vote was 5 ayes and 4 nays. The Chairman declared the motion passed.

CONSIDERATION OF AGREEMENT WITH
GARRISON DIVERSION CONSERVANCY
DISTRICT AND STATE WATER
COMMISSION RELATIVE TO
MANAGEMENT OF MR&I PROGRAM
CONTAINED IN GARRISON DIVERSION
PROJECT REFORMULATION ACT
(SWC Project No. 237-3)

Commission members were provided with an update of Garrison Diversion project activities by Emerson Murry, Manager of the GDCD. Mr. Murry discussed the negotiations with the Federal Government relative to the Municipal, Rural and Industrial Water Program authorized by Section 5 of Public Law

99-294, which is the Garrison Diversion Unit Reformulation Act of 1986; major aspects of the James River Study; cooperative efforts with NDSU relative to a biota study; and general information concerning the Conservancy District's ability to finance projects covered by the Reformulation Act.

Mr. Murry discussed an Agreement for the Joint Exercises of Governmental Powers between the North Dakota State Water Commission and the Board of Directors of the Garrison Diversion Conservancy District concerning the Municipal, Rural and Industrial Water Program Authorized by Public Law 99-294. The Agreement is attached hereto as APPENDIX "A".

Commissioner Spaeth noted in paragraph 7 of the Agreement, it states "the State Engineer shall establish guidelines for construction standards and the preparation of feasibility studies". He suggested the Commission be involved in the scope of the feasibility studies prior to a project's approval.

Secretary Fahy responded he would envision no problems with bringing the projects before the Commission for its consideration.

Commissioner Guy said that in his review of the Agreement he feels that the flow of authority is somewhat confusing. He said in his judgement he feels the State Water Commission could be diluting some its statutory authority by engaging with another governmental power in a joint exercise when the specific authority of each power is not indicated within the agreement. He suggested the State Water Commission enter into a contract for services with the Garrison Diversion Conservancy District, with the Conservancy District being the fiscal agent. He also indicated he would like a separation of governmental powers agreement prepared identifying each power's authorities.

Mr. Murry indicated there will be procedural agreements developed that will include the authorities of each governmental power. Governor Sinner requested the procedural agreement be developed for the Commission's review at its next meeting.

September 10, 1986

Secretary Fahy said the attached Agreement for the Joint Exercises of Governmental Powers between the State Water Commission and the Board of Directors of the Garrison Diversion Conservancy District concerning the MR&I Program was signed by Governor Sinner on July 18, 1986, and requested the Commission's consideration and approval of the Agreement.

It was moved by Commissioner Byerly and seconded by Commissioner Gust that the State Water Commission approve the Agreement for the Joint Exercises of Governmental Powers between the North Dakota State Water Commission and the Board of Directors of the Garrison Diversion Conservancy District concerning the Municipal, Rural and Industrial Water Program authorized by Public Law 99-294, and that all feasibility studies for water supply projects be reviewed by the State Water Commission prior to approval.

In discussion of the motion, Commissioner Guy indicated he is not in favor of this motion because the Garrison Diversion Program is a contract between the Federal Government and the State of North Dakota, and as a representative of the State he doesn't believe that the State Water Commission should dilute its authority by entering into a joint exercise agreement with the Conservancy District.

Commissioners Backes, Byerly, Gust, Hutton, Lardy, Spaeth, Jones, and Governor Sinner voted aye. Commissioner Guy voted nay. Recorded vote was 8 ayes and 1 nay. The Chairman declared the motion passed.

Mr. Dick Fenske reviewed with the Commission members the operating, maintenance and emergency; deficiency; and project development reserves statements for the Conservancy District. These statements reflected the balances of each of the reserve funds.

CONSIDERATION OF REQUEST TO
U.S. FISH AND WILDLIFE SERVICE
TO ABANDON PLAN TO LOWER DES
LACS LAKE NEAR KENMARE
(SWC Project No. 554)

Secretary Fahy discussed a proposal by the U.S. Fish and Wildlife Service to lower the level of Des Lacs Lake near Kenmare, ND. Representatives of the City of Kenmare met recently with the Governor and

State agencies to discuss the impacts of this proposal and have requested assistance in their efforts to resist this move by the U.S. Fish and Wildlife Service.

David Sprynczynatyk and Cary Backstrand further explained the project through the use of charts and pictures. Mr. Sprynczynatyk indicated Des Lacs Lake is a meandered, navigable lake and that State law requires the State Engineer to consider plans and receive permit application for work in such water bodies. However, in the early 1930's, a special act in Congress provided the Bureau of Sport Fisheries and Wildlife with the right to appropriate all

September 10, 1986

unappropriated waters of the State of North Dakota. That right was exercised on the Souris River and Des Lacs River, therefore, the U.S. Fish and Wildlife Service is the prime user of the Des Lacs River.

Commissioner Backes said the proposal involves lowering Des Lacs Lake to create a more marshy area that would provide better habitat for waterfowl. The residents of Kenmare have expressed strong concern in opposition to this proposal since the lake is the focal point for that community's recreational and tourism purposes. He said he hoped that the State Water Commission would take action in opposition to the U.S. Fish and Wildlife Service's proposal to artificially alter the water surface elevation of Des Lacs Lake near Kenmare.

It was moved by Commissioner Guy and seconded by Commissioner Byerly that the State Water Commission direct the State Engineer to decline all requests for permits for the Des Lacs Lake alteration from the U.S. Fish and Wildlife Service until complete environmental, social and economic impact statements have been received from the U.S. Fish and Wildlife Service, and the State Engineer has held public hearings on the proposal.

In discussion of the motion, Rosellen Sand, Director of Legal Services for the State Water Commission, suggested the appropriate approach in this matter would be for the State Engineer to exercise his authority and require filing of a permit application by the U.S. Fish and Wildlife Service including their plans to alter the water surface elevation of a navigable, meandered water body.

An amendment to the motion was offered by Commissioner Lardy and seconded by Commissioner Byerly that the State Water Commission direct the State Engineer to notify the Regional Director of the U.S. Fish and Wildlife Service that state law requires a permit application and plans be filed with the State Engineer for the proposed alteration of the water surface elevation of Des Lacs Lake.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy, Spaeth, Jones, and Governor Sinner voted aye on the amendment to the motion. There were no nay votes. The Chairman declared the amendment to the motion passed.

The motion, as amended, is as follows:

It was moved by Commissioner Guy * and seconded by Commissioner Byerly that the State Water Commission direct the State Engineer to notify the Regional Director of the U.S. Fish and Wildlife Service that state law requires a permit application and plans be filed with

the State Engineer for the proposed alteration of the water surface elevation of Des Lacs Lake.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy, Spaeth, Jones, and Governor Sinner voted aye. There were no nay votes. The Chairman declared the motion, as amended, passed.

BRIEFING ON GEOHYDROLOGIC
INVESTIGATION OF NEW ROCKFORD
AQUIFER AND CONSIDERATION OF
AGREEMENT WITH STATE HEALTH
DEPARTMENT AND ENVIRONMENTAL
PROTECTION AGENCY ON FUNDING
(SWC Project No. 1823)

Secretary Fahy stated that an opponent to the Garrison Diversion Project submitted a petition requesting the Environmental Protection Agency to declare the New Rockford aquifer to be a sole source aquifer in the vicinity of Fessenden.

A sole source aquifer, as defined by the Environmental Protection Agency, is an aquifer that provides 50 percent of the drinking water to a municipality or to the population of an area. In the review of the petition that was submitted, EPA determined that portion of the New Rockford aquifer did fit the criteria and, therefore, proceeded with hearing procedures and processing requirements.

The State Water Commission and the State Health Department objected to EPA's designation, and reasons for this objection were explained at the hearing. Secretary Fahy indicated that during the hearing process, the State Water Commission developed a comprehensive report on the New Rockford aquifer.

Milton Lindvig, Director of Hydrology for the State Water Commission, briefed the Commission members on the general characteristics of the New Rockford aquifer and explained that the Environmental Protection Agency has indicated its need for additional information to gain a better understanding of the nature of the geology and movement of ground water in the system in order to make their final decision. Mr. Lindvig indicated the State Water Commission has proposed to conduct an investigation to obtain the additional information required by EPA. The Environmental Protection Agency has chosen to proceed with the proposed investigation and has agreed to execute a cooperative agreement between the State Water Commission, the State Health Department and the Environmental Protection Agency for the geohydrologic investigation of the New Rockford aquifer in Wells County. The estimated total cost of the investigation is \$75,500, divided as follows: EPA will provide \$37,500 to the State Water Commission which will provide an additional \$12,500 for in-kind services and the State Health Department will provide \$25,500. Mr. Lindvig said the uniqueness of this project is that it identifies the need to combine the management of quantity and quality of water. Each of the agencies have common needs for information and with the capabilities of the State Water Commission in this area, we are able to effect logical arrangements with other agencies to satisfy some of their needs for information for water quality management.

It was moved by Commissioner Backes and seconded by Commissioner Gust that the State Water Commission approve a cooperative agreement

September 10, 1986

between the State Water Commission, State Health Department and the Environmental Protection Agency to conduct a geohydrologic investigation of the New Rockford aquifer in Wells County.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy and Spaeth voted aye. There were no nay votes. The Chairman declared the motion passed.

UPDATE ON RED RIVER DIKING
(SWC Project No. 1638)

Rosellen Sand, Director of Legal Services for the State Water Commission, stated that an order was

issued by the Federal District Court that all parties to the Agreement shall have their dikes in compliance with the stipulations set forth in the Order by October 31, 1986. As a result of the Order, approximately 40 orders have been issued to landowners in Walsh and Grand Forks Counties who have not yet complied with this ruling. Ms. Sand indicated 29 requests have been received from landowners requesting hearings. She stated some of the arguments expressed by the landowners at their hearings.

David Sprynczynatyk indicated two petitions have been filed during the dike hearings relating to the final agreement that is allowable for the level of the dikes in both North Dakota and Minnesota. One of the petitions contains approximately 120 signatures and requests the dikes be completely removed. Mr. Sprynczynatyk said this request would go beyond the Cooperative Agreement we have with Minnesota but obviously these petitioners are interested in bringing the dikes down as much as possible.

The other petition contains approximately 100 signatures from Minnesota residents and 70 North Dakota resident signatures. These petitioners are requesting that the allowable dike height be set two feet above the 1975 flood level and that the dike height be the same on both sides of the river. Mr. Sprynczynatyk said staff is reviewing the petitions and suggestions at this time.

Commissioner Hutton read a letter from concerned farmers in the Red River Valley area indicating their support of a proposal that the allowable height of the dikes be set at two feet above the 1975 flood level and that the dike height be the same on both sides of the river. The group expressed its concern that the proposal to leave the dikes on the Minnesota side one foot higher will leave North Dakota with no protection and "North Dakota will become a spillway for Minnesota". Concern was expressed relative to the tremendous land erosion that occurs following a flood which irreversibly reduces productivity.

Following a general discussion on the diking situation, Governor Sinner and Commissioner Jones left the meeting. Commissioner Guy assumed the chair.

UPDATE ON SASKATCHEWAN
NEGOTIATIONS

Secretary Fahy updated the Commission members on negotiations with the Canadian officials relative to

September 10, 1986

the proposed Rafferty and Alameda Dams in Saskatchewan. As a result of several meetings, it appears North Dakota and Canadian officials are near an agreement. Secretary Fahy indicated the proposal will provide 100-year flood control protection for North Dakota, but North Dakota will have to assume some of the liability for evaporation. Secretary Fahy said that North Dakota's negotiation process is more cumbersome than Canada's process because North Dakota has to coordinate negotiations with the City of Minot, the U.S. Fish and Wildlife Service and the Souris River Joint Board.

Commissioner Backes stated he has been attending the negotiating meetings and feels the proposal will work, noting that flood control is the only option for the City of Minot.

CONSIDERATION OF REQUEST
FROM SOURIS RIVER JOINT
BOARD FOR DISTRIBUTION OF
1985 LEGISLATIVE FUNDS FOR
SOURIS RIVER FLOOD CONTROL
(SWC Project No. 1408)

Secretary Fahy indicated the 1985 Legislature appropriated \$905,000 to provide financial assistance for the non-federal share of the Souris River Flood Control project.

A request has been received from the Souris River Joint Board to enter into an agreement with the State Water Commission for distribution of these funds as the expenses are incurred. The Joint Board has entered into a local cooperation agreement with the U.S. Army Corps of Engineers for the Velva portion of the Souris River Flood Control Project which costs exceed \$200,000.

Mr. Glenn Wunderlich, Chairman of the Souris River Joint Board, briefed the Commission members on the background of the project, and requested that legislative funds appropriated for this project be dispersed as the expenses are incurred.

It was moved by Commissioner Backes and seconded by Commissioner Byerly that the State Water Commission authorize the State Engineer to enter into an agreement with the Souris River Joint Board for the disbursement of funds as set forth in the line item for Souris River Flood Control.

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy and Spaeth voted aye. There were no nay votes. The Chairman declared the motion passed.

CONTINUED DISCUSSION OF
REQUESTS FOR APPROPRIATIONS
FOR 1987-1989 BIENNIUM

David Sprynczynatyk reviewed the procedure involving the Water Resource Districts and the projects they might undertake during the next biennium, as well as the Water Resource Boards' intentions to request state funding for these projects. Mr. Sprynczynatyk reported that responses from the Water Resource Boards indicated approximately \$60 million of projects could be built in the state in the next biennium. Of that amount, approximately \$20 million requested possible funding from the Resources Trust Fund. Staff reviewed about 100 project requests and as a

September 10, 1986

result recommended a \$3.6 million request for the Contract Fund for the next biennium. Mr. Sprynczynatyk indicated the budget submittal for the Contract Fund has been reduced to approximately \$2 million.

Mr. Sprynczynatyk stated because the Water Resource Boards requested funds from the Resources Trust Fund were well beyond the anticipated revenue for the next biennium, the Water Coalition volunteered to review the requests. Mr. Sprynczynatyk commented the Water Coalition was instrumental during the last legislative session in making presentations and lobbying for the need for water projects and in putting together the appropriations for the projects that are now underway.

Mr. Michael Dwyer, Executive Secretary for the North Dakota Water Users Association, discussed the background in the formation of the Water Coalition. This group has met to discuss water related needs, resources available to meet those needs, and have made recommendations to the State Water Commission for prioritization of such needs.

Secretary Fahy indicated staff is in the process of reviewing the recommendations from the Water Coalition and is developing a draft of the report for submittal to the Legislature requesting funds from the Resources Trust Fund. Secretary Fahy said the draft report will be available for the Commission's consideration at its next meeting.

CONSIDERATION OF RULES
GOVERNING SWC REVIEW OF
REQUESTS FOR MONEY FROM
RESOURCES TRUST FUND

Charles Carvell, Assistant Attorney General for the State Water Commission, reviewed the background which created the Resources Trust Fund. He said requests for

funding from this fund involves the State Water Commission in the initial review, study of the proposal and final report and recommendation. North Dakota Century Code requires the State Water Commission to adopt rules governing its analysis of a proposal.

Mr. Carvell presented and discussed draft rules to comply with the law on funding from the Resources Trust Fund. He indicated after the Commission's review and discussion of the proposed rules, staff will hold hearings to allow the public the opportunity to comment. Following the public hearings, the Commission will then have an opportunity to review and adopt the rules.

It was moved by Commissioner Gust and seconded by Commissioner Lardy that the State Water Commission approve the preliminary draft of the proposed rules governing the State Water Commission's review of requests for money from the Resources Trust Fund and direct staff to proceed with public hearings on the proposed rules. (See APPENDIX "B")

Commissioners Backes, Byerly, Gust, Guy, Hutton, Lardy and Spaeth voted aye. There were no nay votes. The Chairman declared the motion passed.

September 10, 1986

Commissioner Gust left the meeting.

UPDATE ON SOUTHWEST
PIPELINE PROJECT
(SWC Project No. 1736)

Mr. Dale Frink, Manager of the Southwest Pipeline Project, indicated the contractors are behind schedule due to wet weather conditions and that 30-day extensions have been granted to the contractors for completion of their work in 1987. Approximately, \$12 million has been committed for the project to date.

Mr. Frink discussed Garrison Diversion funding for municipal, rural and industrial projects and noted that approximately \$8 million of these funds could be allocated to the Southwest Pipeline Project for 1987. An agreement between the U.S. Bureau of Reclamation and the Garrison Diversion Conservancy District includes a statement, "The Southwest Pipeline Project is eligible for funds under this agreement with the Conservancy District acting as fiscal agent for the United States."

In discussing new construction for 1987, Mr. Frink indicated that approximately \$2 million of state funds remains uncommitted. This is less than required for the pipeline reach 2-1 between the Basin intake and the start of the present construction, therefore, federal funds will be needed if a significant amount of construction will occur in 1987. Mr. Frink stated that if the \$8 million of federal funds materializes, approximately \$10 million in total construction could occur in 1987, and would construct about 25 miles of pipeline.

Mr. Frink stated the pipeline segments to be constructed in 1987 should be bid, or at least advertised for bidding this fall in order to provide the contractors adequate time to investigate the route and do any necessary test drilling. The pipe and related items could then be manufactured in early 1987 and construction could begin in early spring. Mr. Frink said although we are considering advertising for bids in mid-October, 1986 and opening the bids in mid-December, 1986, the actual contracts would not be awarded until January, 1987. The status of federal funds would be known at that time.

Mr. Frink discussed the 1987-1989 budget request of \$2.3 million of state funds for this project, noting this is a major change from previous budgets as most of the dollars requested are federal funds. Mr. Frink commented that the present estimate for revenue to the Resources Trust Fund for the next biennium is only \$5-\$7 million and it would be difficult to obtain approval for a large request from the State's general fund in view of the State's fiscal condition. The State Water Commission has received over \$20 million of requests from the Resources Trust Fund for projects around the state and, therefore, the Southwest Pipeline Project must compete with these other projects for the \$5-\$7 million.

It was moved by Commissioner Lardy and seconded by Commissioner Hutton that the State Water Commission authorize the State Engineer to

September 10, 1986

proceed to advertise for bids for the next segment of the Southwest Pipeline Project to be constructed in 1987 consistent with the monies that are available for that project.

Commissioners Backes, Byerly, Guy, Hutton and Lardy voted aye. There were no nay votes. The Chairman declared the motion passed.


CONSIDERATION OF AGENCY'S
FINANCIAL STATEMENT

Mr. Matt Emerson, Director of Administration for the State Water Commission, presented and discussed the Projects Authorized Report and the Program Budget Expenditures Report through August 31, 1986. Mr. Emerson indicated the budget hearings for the agency and the Southwest Pipeline Project have been scheduled for October 16, 1986.

It was moved by Commissioner Hutton, seconded by Commissioner Backes, and unanimously carried, that the meeting adjourn at 4:30 p.m.


George A. Sinner
Governor-Chairman

ATTEST:


Vernon Fahy
State Engineer and Secretary

September 10, 1986

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE September 10, 1986 PLACE Bismarck, ND

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
STAN Zschomler	1500 Capitol Ave. ^{Bismarck}	Fish & Wildlife Ser
Paul Wellman	Hillsboro, N.D.	District Conservationist Soil Conservation Service
Gilman Strand	Portland, N.J.	Trail Co Wtr Bd
Bennett Rindy	Wood, S. N. D.	Steele Co. W.R.D.
Donald Elston	Hype, N. Dak.	Steele Co. W. R. D.
Bill Brudik	Moyville ND	" , AHy
Jeffrey Volk	West Fargo	" Engineer
Kermit Heland	Cooperstown N.D.	Assn. for preserve ^{Shayenne} Valley
Orville TRAVIS	COOPERSTOWN N.D.	GRIGG COUNTY CHAIRMAN
Milton Lundberg	Bism	SWC
Andy Monk	BOMMM Joint Board	Mandan ND
Dick Moum	Bismarck ND.	Morton Co W.R.D.
Fletcher H. Poling	Bismarck	Basin Electric Power Cooperative
Ed Wadler	Harwood ND	ND Rural Water Systems Assn
Dennis Nelson	Bismarck ND	State Water Commission

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
ETHEL M. SILK	PO. Box # 47 Ft. Yates, N.D.	STANDING ROCK SIOUX TRIBE
HOWARD SPAGE	14 th Floor State Capitol Building	Office of Intergovernmental Assistance OMB
Dan Woodland	RR 1 Box 136 Hamphd, N.D.	State Senator, District 23
Bruce Laughlin	Box 375 Freiley, N.D.	State Rep. Dist 23
DAVID SPRYN	STATE WATER COMMISSION	Bismarck
CARY BACKSTRAND	SWC	Bismarck
Rosellen Samf	SWC	Bismarck
Lemon Greenshields	Dodge, N.D.	Dunn County W.R.D.
Clive Pelton	Halliday, N.D.	Dunn County W.R.D.
Doug Elsen	Capitol	N.D. Parks + Rec
Ernest Ben Eys	P.O. Box 367 Fort Yates, W.D. 58538	Standing Rock Sioux Tribe
Russ Rudwick	Box 722 Hebron, N.D.	WDCD
John Wenzel	Vallonia, N.D.	Souris River Flood Control
Mike Orsher	Bismarck	Bismarck Tribune
Randy Brodbury		Forum

AGREEMENT FOR THE JOINT EXERCISES OF GOVERNMENTAL POWERS

Between the

NORTH DAKOTA STATE WATER COMMISSION

and the

BOARD OF DIRECTORS
GARRISON DIVERSION CONSERVANCY DISTRICTConcerning the
Municipal, Rural and Industrial Water Program
Authorized by Public Law 99-294

1. This agreement is between the North Dakota State Water Commission (Commission) and the Board of Directors (Board), Garrison Diversion Conservancy District, concerning the municipal, rural and industrial (MR&I) water program authorized by Section 5 of Public Law 99-294 (the Garrison Diversion Unit Reformulation Act of 1986).
2. This agreement is authorized by Chapter 54-40 and Sections 61-02-24.1 and 61-24-08 of the North Dakota Century Code.
3. The Commission has the authority, under Section 61-02-14 of the North Dakota Century Code, to supply water for MR&I purposes throughout the State of North Dakota. The Board has the authority, under Section 61-24-08 of the North Dakota Century Code, to supply water within the Garrison Diversion Conservancy District. The Commission and the Board also have the authority, under Sections 61-02-14 and 61-24-08, to cooperate or contract with the United States (or any agency of the United States) for the purpose of supplying MR&I water in North Dakota.
4. It is the intent of the parties to develop a process for the expeditious and efficient submission of proposals to the Secretary of the Interior for the funding of "municipal, rural, and industrial water systems to serve areas throughout the State of North Dakota" (§5, P.L.99-294). This agreement also provides a mechanism for using the resources of both the Commission and the Board to quickly and efficiently improve the supply of MR&I water throughout the State of North Dakota.
5. The Board shall execute a cooperative agreement with the Secretary of the Interior, pursuant to Section 5 of P.L. 99-294, for the State of North Dakota. The Board shall, among other things, be the fiscal agency for the State of North Dakota concerning money received from, and payments made to, the United States for the MR&I program authorized by Section 5 of P.L. 99-294.
6. The Commission and the Board shall jointly cause a "needs assessment" to be prepared for MR&I water systems in the State of North Dakota. The Commission and the Board will develop joint criteria for any consultants retained to conduct the "needs assessment" (if a consultant is retained). The Board shall request funds from the Secretary of the Interior for the "needs assessment" which will be cost shared by the Commission and the Board.

7. The Commission and the Board shall assist, to the extent funds are available to the Commission and the Board, the preparation of feasibility studies by entities seeking funding of MR&I systems. The State Engineer shall establish guidelines for construction standards and the preparation of feasibility studies. The Board shall request funds from the Secretary of the Interior for feasibility studies which will be cost shared by the Commission and the Board.

8. Proposed MR&I water projects must be consistent with statewide plans and programs of the Commission. Therefore, plans for proposed MR&I water projects must be submitted to the State Engineer for approval.

9. Entities seeking funding of MR&I water systems may apply for non-federal cost share funds from the Commission and the Board. Funding requests to the Board shall be submitted to the GCD Manager. Funding requests to the Commission shall be submitted to the Secretary of the Commission, and any requests for money from the Resources Trust Fund must comply with N.D.C.C. §57-51.1-07.1. For the purposes of this agreement, the term "project" in Section 57-51.1-07.1 is construed to include the MR&I program authorized in P.L. 99-294.

10. Proposed MR&I projects which are recommended by the Board and the Commission shall be submitted by the Board to the Secretary of the Interior for funding pursuant to Section 5 of P.L. 99-294. The sources of non-federal cost share funds must be identified when the projects are submitted for funding to the Secretary of the Interior.

11. To ensure a proper scheduling of funding requests to the Secretary of the Interior, the Board and the Commission shall jointly develop, and annually update, a five-year plan for future funding of MR&I water projects in North Dakota. The GCD Manager and the Secretary of the Commission shall jointly develop and submit a five-year budget plan and the updates for the benefit of the Commission and the Board.

12. Additional needs assessments and feasibility studies will not be prepared for the Southwest Pipeline Project. The parties have determined that expeditious completion of the SWPP is in the state, regional and national interest. Annual funding requests shall be submitted by the Commission, through the Board, to the Secretary of the Interior.

13. This agreement will terminate on June 30, 1991, unless modified or extended by the parties.

Date: *18 July 86*

NORTH DAKOTA STATE WATER COMMISSION

George A. Sinner

Governor George A. Sinner
Chairman

Date:

BOARD OF DIRECTORS, GARRISON
DIVERSION CONSERVANCY DISTRICT

Russell Dushinske

Russell Dushinske, Chairman

ARTICLE 89-07

FUNDING FROM THE RESOURCES TRUST FUND

Chapter

89-07-01 Rules Governing the State Water Commission's
Analysis of a Proposed Water Project or Study
Seeking Financial Assistance from the Resources
Trust Fund

CHAPTER 89-07-01

RULES GOVERNING THE STATE WATER COMMISSION'S ANALYSIS
OF A PROPOSED WATER PROJECT OR STUDY SEEKING
FINANCIAL ASSISTANCE FROM THE RESOURCES TRUST FUND.

Section

89-07-01-01 Definitions
89-07-01-02 Initial Review
89-07-01-03 Study of the Proposal

89-07-01-01. DEFINITIONS. The following definitions
apply to this Article:

1. Commission: North Dakota State Water Commission.
2. Resources Trust Fund: that fund established by
North Dakota Century Code section 57-51-07.1.
3. Proposal: an application submitted to the Commission
for financial assistance from the Resources Trust
Fund either for a water related study or a water
related project.
4. Applicant: party submitting a proposal.

General Authority: NDCC 61-02-14, 28-32-02
Law Implemented: NDCC 57-51.1-07.1

89-07-01-02. INITIAL REVIEW. The Commission will
make an initial review of a proposal to decide whether the
proposal is eligible for funding from the Resources Trust
Fund and to decide whether it merits a study.

1. Information Required for the Initial Review: An
applicant must submit the following information:

- a. Information explaining the need for the proposal, including its objectives and benefits.
 - b. Either the area in which the proposed water related project is to be physically located or, if the proposal concerns a water related study, the area in which the study is to be undertaken.
 - c. The area to be served by the proposal.
 - d. Maps, diagrams, and other illustrated documentation should be submitted if these will make the proposal more understandable.
 - e. The approximate cost of carrying out the proposal.
 - f. The amount of funding sought from the Resources Trust Fund and the amount the applicant intends to contribute to carrying out the proposal.
 - g. Efforts made, and the results, to secure funds from sources other than the Resources Trust Fund.
 - h. An explanation why assistance from the Resources Trust Fund is necessary.
 - i. An explanation how the proposal relates to the Commission's comprehensive state water plan.
 - j. An explanation how the project relates to the Master Plans of Water Resource Districts effected by the proposal, if such Districts have Master Plans.
 - k. A preliminary report on the engineering feasibility of the proposal if it is for a water related project.
 - l. A general discussion of any objections to the proposal made by any person.
 - m. Any other information the applicant believes pertinent or that the Commission may request.
2. Alternatives: The applicant must consider whether an alternative project or study can satisfy the objectives of the proposal. In its application to the Commission for review the applicant must set forth a general explanation of all alternatives considered.

3. Time: To ensure review of an application at a regularly scheduled meeting of the Commission, an applicant must submit the information required by these rules thirty days prior to such meeting.
4. The Commission's Decision upon Initial Review:
After initial review the Commission may decide:
 - a. The information provided is inadequate to review the proposal and may order the applicant to provide more information, or may obtain more information itself.
 - b. The proposal is not eligible for support from the Resources Trust Fund, and upon such a decision the Commission shall prepare a report setting forth its reasons.
 - c. A study of the proposal should be undertaken and may order the applicant to conduct the study or may conduct the study itself.

General Authority: NDCC 61-02-14, 28-32-02
Law Implemented: NDCC 57-51.1-07.1

89-07-01-02. STUDY OF THE PROPOSAL. A study of a proposal is to provide the Commission with the information necessary for it to make an informed decision whether to recommend that the Legislature support the proposal with money from the Resources Trust Fund.

1. Study Contents: A study of a proposal shall include all the following information:
 - a. All the information required by subsections 1(a), (f), (g), (h), (i), (j) of section 89-07-01-02 and subsection 2 of section 89-07-01-02. This information, however, must be updated and submitted in more detail and clarity. The reason for these latter requirements is that the study provides the basis of the Commission's final decision -- rather than its initial review -- and it must, therefore, be comprehensive.
 - b. If the proposal is for a water related project, an explicit explanation of the area where the project is to be physically located and the area and interests to be served by it.

- c. If the proposal is for a water related study, an explicit explanation of the area in which the study is to be conducted.
 - d. Compliance with subsections (b) and (c) requires submission of maps.
 - e. An itemization of the proposal's cost.
 - f. A complete examination of the engineering feasibility of the proposal if it is for a water related project.
 - g. A general statement of all objections to the proposal or to funding it from the Resources Trust Fund. The identity of persons and entities making the objections. This subsection only applies to written objections made to the applicant and to oral objections made at any meeting of the applicant.
 - h. Any other information the applicant believes pertinent or that the Commission may request.
2. Study Undertaken by the Commission: If the Commission decides to conduct the study of a proposal itself, it may require the applicant to assist in the study.
3. Time: To ensure that a study of a proposal is reviewed at a regularly scheduled meeting, an applicant -- if he has been ordered to carry out the study -- must submit the results of the study thirty days prior to such meeting.
4. The Commission's Decision upon the Study: After its consideration of a study of the proposal the Commission may decide:
- a. The information provided is inadequate to make a final decision on the proposal and may order the applicant to provide more information, or may obtain more information itself; a means by which the Commission may obtain more information is by exercising its discretion to hold a public hearing.
 - b. The proposal is not eligible for support from the Resources Trust Fund, and upon such a decision shall prepare a report setting forth its reasons.

- c. The proposal is eligible for support from the Resources Trust Fund and whether it merits such support, and upon such a decision shall prepare a report setting forth its reasons and recommendation to the Legislature.

General Authority: NDCC 61-02-14, 28-32-02
Law Implemented: NDCC 57-51.1-07.1