

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

June 17, 1987

The North Dakota State Water Commission held a meeting on June 17, 1987, in the lower level conference room of the Old State Office Building, Bismarck, North Dakota. Governor-Chairman, George A. Sinner, called the meeting to order at 10:30 a.m. and requested State Engineer, Vernon Fahy, to call the roll and present the agenda. Lt. Governor, Lloyd Omdahl, was introduced.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Richard Backes, Member from Glenburn

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 25 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 APRIL 8, 1987 MEETING -
APPROVED

The minutes of the April 8, 1987
meeting were approved by the following motion:

It was moved by Commissioner Guy, seconded by Commissioner Jones, and unanimously carried, that the minutes of April 8, 1987 be approved as circulated.

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

David Sprynczynatyk, Director of Engineering for the State Water Commission, indicated construction in 1987 on the project is continuing

with the two 1986 contracts nearing completion and the three new contracts just getting started. Of the two contracts awarded in 1986, Contract 2-2A is approximately 91 percent complete and Contract 2-2B is approximately 94 percent complete. These contracts total 19.4 miles with completion scheduled for about July 1, 1987.

Of the new contracts, Johnson Construction of Fargo began laying pipe on Contract 2-2C on May 19th with one crew and intend to start a second crew on June 4. Johnson Construction anticipates a construction start on Contract 2-2D sometime in July. WESTCON, Inc. of Pleasant Grove, Utah, anticipated a June 8 construction start on Contract 2-2E. The three new contracts total 22.4 miles with the majority of the work completed in 1987.

Mr. Sprynczynatyk indicated the State received \$5.3 million of federal funds for the project to date, of which the majority of the money was spent on the \$4.2 million payment to Basin Electric for the intake structure and the remainder was spent on the pipeline contracts. Mr. Sprynczynatyk said it is anticipated an additional \$1 million of federal money will be received in 1987.

Funding for the Southwest Pipeline Project for 1988 was discussed. The North Dakota State Legislature appropriated \$1.86 million from the Land and Minerals Trust Fund and \$680,000 from the Resources Trust Fund for the 1987-1989 biennium for this project. These funds will be combined with any federal funds received. Mr. Sprynczynatyk indicated the amount of federal money available to the project depends on the amount of MR&I Garrison money received and the amount of funds given to other projects in the State. The current estimate is that there will be about \$12.8 million allocated to the MR&I program in 1988 and that the Southwest Pipeline Project will get about \$10 million of this amount. This is based on the report language from the U.S. House of Representatives appropriation.

Mr. Sprynczynatyk discussed 1988 construction and said it is likely that pipeline Contract 2-1 will be advertised for construction this fall. This seven-mile segment has been delayed due to archeological concerns and a change to the Basin intake. There is a chance that pipeline Contract 2-2F (11 miles) will also be advertised, however, Mr. Sprynczynatyk said about \$5 million of 1988 or 1989 MR&I money will be required to complete both contracts.

Secretary Fahy stated \$1,905,000 was appropriated to the Contract Fund from the Resources Trust Fund for the current biennium, and it now appears that not all of these funds will be expended or obligated by June 30, 1987. When the revenues to the Resources Trust Fund declined in 1986 due to a drop in oil prices, all of the cuts were taken from the Southwest Pipeline Project. The pipeline's \$18 million appropriation was cut to \$12.9 million while the \$1,905,000 appropriation to the Contract Fund was not reduced. Secretary Fahy indicated he and staff members have discussed with the Office of Management and Budget the

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possibility of committing the unobligated moneys in the Contract Fund at the end of the biennium to the Southwest Pipeline Project rather than turning the unobligated Contract Fund money back to the Resources Trust Fund.

It was the recommendation of the State Engineer that the State Water Commission authorize commitment of all unobligated funds in the Contract Fund at the end of the 1985-1987 biennium to the Southwest Pipeline Project.

It was moved by Commissioner Jones and seconded by Commissioner Lardy that the State Water Commission authorize commitment of all unobligated funds in the Contract Fund at the end of the 1985-1987 biennium to the Southwest Pipeline Project.

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

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

At the Commission's April 8, 1987 meeting, a motion was passed to assume the construction costs of the dike modifications necessary to implement the corrective plan to the extent funds were available and provided the landowners entered into an agreement.

Rosellen Sand, Assistant Attorney General for the State Water Commission, indicated 32 agreements were mailed, of which 9 have been executed and returned. The appropriate compensations have been provided to these landowners that returned the agreements. Ms. Sand said a reminder letter will be mailed to those landowners who have not returned their agreement notifying them June 30, 1987 is the last day of the biennium and that all unobligated funds will revert back to the General Fund after that date.

Ms. Sand presented a request for the Commission's consideration from Harry Czapiewski, Oslo, MN. Mr. Czapiewski has some dike modification work remaining but has requested he be allowed to wait until after the cropping season to complete the work. Mr. Czapiewski has also requested compensation at this time of 90 percent of his dike modification expenses, in an amount not to exceed \$3,888, and the remaining 10 percent be paid when the work has been completed. Ms. Sand recommended that based on Mr. Czapiewski's good faith and past working relationships that the State Water Commission honor his request.

It was moved by Commissioner Lardy and seconded by Commissioner Gust that the State Water Commission authorize the State Engineer to reimburse Harry Czapiewski 90 percent of the construction costs for dike modification, in an amount not to exceed \$3,888, and that the remaining 10 percent of the construction costs

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for dike modification be paid when the work has been completed.

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

At the Commission's April 8, 1987 meeting, the staff was directed to investigate various claims which have been received for personal damages and survey costs and provide a recommendation for the Commission's consideration.

Ms. Sand indicated a request has been received from Robert Walski for damages of \$4,209.28 to a fence and \$1,080 for road repairs, for a total damage claim of \$5,289.28. From previous knowledge of the situation, Ms. Sand said the staff recommendation is that the State Water Commission reimburse Mr. Walski for \$1,000 for repairs to the fence and road.

Commissioner Hutton stated the fence and road cannot be repaired for \$1,000, and questioned the reimbursement procedure used by the staff.

It was moved by Commissioner Hutton and seconded by Commissioner Byerly that the State Water Commission reimburse Robert Walski for fence and road repairs in an amount not to exceed \$5,289.28.

In discussion of the motion, Commission members felt an onsite staff inspection is necessary to develop an appraisal of the exact damages that occurred and that staff recommend an estimate based on actual costs to bring the fence and road back to near its original condition.

Commissioners Jones, Byerly and Hutton voted aye. Commissioners Gust, Guy, Lardy, Spaeth and Governor Sinner voted nay. Recorded vote was 3 ayes; 5 nays. The Chairman declared the motion failed.

It was moved by Commissioner Gust and seconded by Commissioner Guy that the State Water Commission authorize the staff to conduct an onsite investigation of the fence and road damages filed by Robert Walski to appraise the exact damages and to recommend an estimate based on actual costs to bring the fence and road back to near its original condition.

In discussion of the motion, Commission members felt that in view of the time for staff to conduct the investigation and develop a recommendation for reimbursement prior to the

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end of the biennium, the State Engineer be directed to review the recommendation and be authorized to make payment of the damage claim prior to the end of the biennium.

The following amendment to the motion was offered:

It was moved by Commissioner Guy and seconded by Commissioner Lardy that the State Water Commission authorize the State Engineer to make the final determination on the recommendation provided by staff and authorize payment of the estimate prior to the end of the biennium for the fence and road damage claims filed by Robert Walski.

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

The motion, as amended, is as follows:

It was moved by Commissioner Gust and seconded by Commissioner Guy that the State Water Commission authorize the staff to conduct an onsite investigation of the fence and road damage claims filed by Robert Walski to appraise the exact damages and recommend an estimate based on actual costs to bring the fence and road back to near its original condition; and, that the State Engineer be authorized to make the final determination on the recommendation provided by staff for the damage claims and authorize payment of the estimate prior to the end of the biennium.

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

Rosellen Sand discussed claims that have been received for survey costs and damages to land during the diking modification process, and based on staff review Ms. Sand recommended these claims be denied.

It was moved by Commissioner Jones and seconded by Commissioner Byerly that the State Water Commission accept the staff recommendation that the claims which have been filed for survey costs and damages to land occurring during the

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Red River diking modification process be denied.

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

Ms. Sand commented on a meeting held with the Minnesota Department of Natural Resources representatives to negotiate a system for coordination of proposals for development of a comprehensive plan for flood relief in both North Dakota and Minnesota, and to discuss the water resource management problems and needs of the Red River Basin.

Ms. Sand stated a meeting has been scheduled for June 19, 1987 with the Attorney General to discuss the matter of providing a summary of the Federal Court order to landowners who were issued an Order by the State Engineer to implement the Corrective Plan.

Maurice Bushaw commented in general on the diking matter, making reference to his personal diking problems, and requested the State Water Commission modify the dikes to equal heights on both sides of the river.

CONTINUED DISCUSSION OF
LOWER RED RIVER STUDY
(SWC Project No. 1701)

At the Commission's April 8, 1987 meeting, it was agreed to proceed with a study of the lower Red River segment from Grand Forks to the border, and to waive the normal investigation fee for the study. This study was initially requested by Grand Forks, Pembina and Walsh Counties. Mr. Sprynczynatyk indicated that the Minnesota Department of Natural Resources has been approached, and has responded favorably relative to conducting this study as a joint effort between the two states.

MCLEAN-SHERIDAN
WATER SUPPLY PROJECT
(SWC Project No. 1782)

Ivon Boe, Chairman of the McLean County Water Resource Board, updated the Commission members on the progress of the McLean-Sheridan Water Supply Project. Mr. Boe stated McLean and Sheridan Counties have organized a joint board and their major effort at this time is completing the requirements of the Garrison MR&I program to qualify this study for federal funding. The Board is also working with the FHA for financial assistance. Mr. Boe said the feasibility study is anticipated to be completed in 1987 and construction is scheduled to begin in 1988. Mr. Boe commented he feels the interest for this project continues to remain very high in the area.

CONSIDERATION OF REQUEST
FROM RAMSEY COUNTY WATER
RESOURCE DISTRICT FOR
COST SHARING FOR CONSTRUCTION
OF MORRISON LAKE OUTLET PROJECT
(SWC Project No. 1746)

A request was received from the Ramsey County Water Resource District and presented to the Commission for its consideration of cost participation in the continued construction of the Morrison Lake Outlet

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project. The project's purpose is to reduce agricultural flooding. The project is located south of Webster, ND, in Sections 4 and 9, Township 155 North, Range 64 West, Ramsey County, ND. The estimated cost is \$82,755, which includes \$50,211 for channel construction in Section 4; \$27,861 for channel construction in Section 9; and \$4,683 for engineering. Mr. Sprynczynatyk indicated all of these costs are eligible under the present State Water Commission guidelines for 40 percent cost sharing which would amount to \$33,102. Due to heavy spring runoff, the work is not anticipated to be completed until September, 1987. The plans and specifications have been reviewed and comply with standard engineering practices and there is an approved drain permit for the project.

Mr. Sprynczynatyk explained the District originally requested funding on the Morrison Lake Outlet project involving three phases with a total cost of \$319,283. Phase I was a ditch diversion and road relocation in Section 6, Township 155 North, Range 64 West, and channel reconstruction in Section 32, Township 156 North, Range 64 West. Phase II was a channel reconstruction in Sections 4 and 6, Township 155 North, Range 64 West. Phase III was the construction of a new outlet channel and control structure in Sections 10 and 11, Township 155 North, Range 64 West. Due to weather and funding the Water Resource District has broken the project up into five parts. Since total funding was not available at the time of the original request, the State Water Commission approved \$72,800 for Phase I and II on June 6, 1985.

The District has completed Phase I and the portion of Phase II in Section 6, Township 155 North, Range 64 West. The District has received \$52,905 from the Contract Fund, leaving a balance of \$19,895. Mr. Sprynczynatyk indicated this balance may be used to fund Phase II provided the work can be done this biennium (July 1, 1987). Due to this year's wet spring, Mr. Sprynczynatyk said very little, if any, construction will be done before July 1, 1987.

Mr. Sprynczynatyk stated the request before the Commission for their consideration is for funds to complete Phase II in Section 4, Township 155 North, Range 64 West and channel improvement in Section 9, Township 155 North, Range 64 West. Mr. Sprynczynatyk stated the \$19,895 balance may be used to fund any work completed by July 1, 1987. The District will request funds for the lake channel structure and outlet channel at a later date.

Richard Regan, Chairman of the Devils Lake Joint Water Management Board, further commented on the project which, he said will alleviate flooding throughout the area. The phases which have been completed are helping the situation considerably. This project is strictly a flood control project and there is no additional drainage. Mr. Regan indicated Ramsey County and the State have taken on the burden of trying to alleviate these problems and the Board feels that Cavalier and Walsh Counties likewise have a responsibility and are working with these counties for participation.

It was the recommendation of the State Engineer that the State Water Commission cost participate in the construction of the Morrison Lake Outlet project at 40 percent of the eligible costs, not to exceed \$13,207, and that costs incurred for

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improvements in Section 4, Township 155 North, Range 64 West, after July 1, 1987, be considered by the Commission at a later date.

It was moved by Commissioner Jones and seconded by Commissioner Lardy that the State Water Commission approve cost participation of 40 percent of the eligible items for the completion of Phase II in Section 4, Township 155 North, Range 64 West, and channel improvement in Section 9, Township 155 North, Range 64 West, of the Morrison Lake Outlet project in Ramsey County, not to exceed \$13,207. This motion shall be contingent upon the availability of funds.

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

CONSIDERATION OF REQUEST FROM
BURLEIGH COUNTY WATER RESOURCE
DISTRICT FOR ADDITIONAL COST
SHARING ON SUNDOWN ACRES BANK
STABILIZATION PROJECT
(SWC Project No. 576-27)

A request was received from the Burleigh County Water Resource District and presented to the Commission for its consideration of additional cost sharing on the Sundown Acres Bank Stabilization project along the Missouri River, 10 miles

north of Bismarck, ND. The project was constructed by the Corps of Engineers in 1974 and has been eroding, resulting in bank erosion. The State Water Commission approved funding for the project on June 18, 1986 for 50 percent of the eligible costs, not to exceed \$37,500, and an agreement was signed. This was based on a preliminary estimate of \$75,000 to extend an existing jetty.

Mr. Sprynczynatyk stated since that time a preliminary engineering report has been completed. The report recommended rock riprap along 1900 feet of bank and the cost to do the project is now estimated at \$106,100. The Corps of Engineers permit has been approved, the State Land Department has granted a permit, and Holen Construction has been awarded the contract and is scheduled to begin construction in June. Mr. Sprynczynatyk said the project consists of mobilization, rock riprap, field excavation and seeding of the disturbed bank. The total estimated cost is eligible for State Water Commission participation. Fifty percent would be \$53,050 and the additional funding required would be \$15,550. Mr. Sprynczynatyk also stated the State Water Commission will have an engineer on-site during construction.

Alfred Thompson, Chairman of the Burleigh County Water Resource Board, discussed the project and indicated the erosion is threatening six residences. On behalf of the Board, he urged the Commission to favorably consider the additional funding of \$15,550.

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There was concern expressed by Commission members relative to the Commission's justification of allocating large amounts of money to benefit and protect a few people.

Secretary Fahy explained when the Corps of Engineers installed bank stabilization protection works on this particular stretch of the river, the State Water Commission and local units of government accepted a considerable responsibility in signing an agreement for the maintenance and operation of these works. The Federal Government's protection work has not provided the erosion protection it was originally installed for, and therefore, the Sundown Acres area is now experiencing severe bank erosion. According to the agreement the State signed with the Corps of Engineers, Secretary Fahy indicated the State is responsible for the operation and maintenance of the works.

Mr. Thompson commented "this is the story of bank erosion all over the United States and the world. Everyone makes some wrong decisions in their lifetime and these people being threatened with bank erosion bought land in an area which there was a jetty that was suppose to protect them. It has not protected them and this is the Federal Government's fault. The Burleigh County Water Resource District has worked very hard to try and convince the Federal Government it is their mistake and they should correct it. We can't simply sit by and watch these people lose their homes and their lots because of the Federal Government."

Governor Sinner commented that this problem goes well beyond these few landowners and this problem must be dealt with.

Commissioner Guy questioned if the State Water Commission has in the past contributed financial assistance for the protection of residents on a stream. He said "there are many residents along this river and I wonder if we would be starting down a road that is pretty long?" Commissioner Guy stated because of the agreement, which was signed with the Corps of Engineers, he feels the State is committed to maintain the Corps works even though the failure appears to be the Corps and because of this agreement the State is somewhat more obligated in this particular stretch of the river than we would be on just any river erosion that might occur.

It was the recommendation of the State Engineer that the State Water Commission approve 50 percent of the additional eligible costs, not to exceed \$15,550, toward the construction of the Sundown Acres Bank Stabilization project, contingent upon the availability of funds. The total State Water Commission contribution would then be \$53,050.

It was moved by Commissioner Jones and seconded by Commissioner Spaeth that the State Water Commission grant 50 percent of the additional eligible costs, not to exceed \$15,550, toward the construction of the Sundown Acres Bank Stabilization project, contingent upon the availability of funds.

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In discussion of the motion, Commissioner Guy stated the agreement the State signed was that the facilities installed by the Corps of Engineers would be maintained. This did not mean that simply because the Corps put in bank stabilization that the State would take over the responsibility of other bank stabilization. Commissioner Guy said "it sounds like the original jetty that was installed, which the State now has an obligation to maintain, is no longer a factor and now we are being asked to take on bank stabilization which was the Corps obligation in the beginning and has nothing to do with operation and maintenance."

Commissioners Jones, Byerly, Gust, Spaeth and Governor Sinner voted aye. Commissioners Guy, Hutton and Lardy voted nay. Recorded vote was 5 ayes; 3 nays. The Chairman declared the motion passed.

Governor Sinner appointed Commissioner Guy and Commissioner Byerly to become a permanent committee to review and provide recommendations, with the consultations of the State Water Commission staff, on the overall issue of bank stabilization on the Missouri River.

CONSIDERATION OF REQUEST FROM
EATON FLOOD IRRIGATION DISTRICT
FOR COST SHARING IN REHABILITATION
OF EATON IRRIGATION DAM
(SWC Project No. 227)

A request was received from the Eaton Flood Irrigation District and presented to the Commission for its consideration of cost sharing in the proposed rebuilding of Eaton Irrigation Dam which is located approximately six miles southwest of Towner, ND.

Mr. Sprynczynatyk stated the dam was constructed in 1936 as part of an irrigation project with its purpose to provide 10,000 acre-feet of water for 8,000 acres of land under the control of the Eaton Irrigation District. The State Water Commission has participated financially on several occasions with the most recent in 1986 involving funding of \$19,809 for the repair of 7,200 feet of dike.

Staff members have completed an inspection of the dam and prepared an estimate of \$336,000. This information was sent to the Eaton District for their review and they returned their engineer's estimate of \$350,000. Mr. Sprynczynatyk said all costs are eligible for cost sharing with 40 percent of the \$350,000 estimate being \$140,000. Mr. Sprynczynatyk indicated that in the past complaints have been received regarding the operation of the project and rebuilding the dam will help to allow proper operation of the project. Rebuilding the dam will also allow better management of water during low flow years, which will be particularly important after construction of the Rafferty and Alameda Dams in Saskatchewan since low flow years will be more frequent.

Glenn Thompson, member of the Eaton Irrigation Board, elaborated on the rebuilding dam project and said many

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ranchers rely on this project for their hay crops. The dam has been operating for many years and he urged the State Water Commission to act favorably on their cost sharing request.

It was the recommendation of the State Engineer that the State Water Commission grant 40 percent of the eligible costs, not to exceed \$140,000, towards the Eaton Dam repair project, contingent upon the availability of funds. The State Engineer said because of commitments for other projects he is recommending the District retain its own consultant to do the engineering for the project. The State Water Commission would monitor the construction and those costs should be considered in determining the Commission's commitment toward the project. Once the project is complete, the District will be asked to submit an operating plan annually to the State Engineers office to ensure proper operation in compliance with permits issued.

It was moved by Commissioner Hutton and seconded by Commissioner Jones that the State Water Commission grant 40 percent of the eligible costs, not to exceed \$140,000, towards the Eaton Dam repair project, contingent upon the availability of funds. The motion shall also be contingent upon the recommendations of the State Engineer indicated in the above paragraph.

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

CONTINUED CONSIDERATION OF
REQUEST FROM RANSOM COUNTY
WATER RESOURCE DISTRICT FOR
COST PARTICIPATION IN LISBON
FLOODWAY STRUCTURE RELOCATION
PROJECT
(SWC Project No. 1751)

located in the City of Lisbon's regulatory floodway. The floodway includes those areas most frequently flooded within the city's identified 100-year floodplain.

At the April 8, 1987 meeting, the Commission addressed a request from the Ransom County Water Resource Board and the City of Lisbon for cost participation in a Floodway Structure Relocation Project involving the relocation of three houses and the demolition of seven houses

Mr. Sprynczynatyk stated funding was to come from a combination of sources, including a Community Development Block Grant in the amount of \$178,454. The Commission defeated a motion for cost sharing in 50 percent of the eligible project costs, not to exceed \$61,454, for this project which was contingent upon the availability of funds and approval of the Community Development Block Grant application. Mr. Sprynczynatyk stated on May 20, 1987, the Community Development Block Grant Policy Advisory Committee did not rank the Lisbon project high enough to receive any funding from this source.

Mr. Sprynczynatyk stated as a result of these two actions, the City of Lisbon is trying to finalize the

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scope of the project and will likely request a cost share from the State Water Commission at a later date when specific cost estimates are available. Mr. Sprynczynatyk indicated the staff of the State Water Commission will continue to work with the city on this project.

CONTINUED DISCUSSION OF
DEVILS LAKE OUTLET PROJECT
(SWC Project Nos. 1616 & 1712)

At the Commission's April 8, 1987, meeting, a motion was passed that the State Water Commission urge the Devils Lake Joint Board to assume

the local sponsorship for the Devils Lake Outlet project and that the State Water Commission would provide cooperation and assistance to the Board in the development of the project.

Secretary Fahy indicated that as a result of this action taken by the State Water Commission at its last meeting, the Devils Lake Joint Board has requested the State Water Commission to consider co-sponsoring the Devils Lake Outlet project, as proposed by the U.S. Army Corps of Engineers.

William Spychalla and Duane Knott, St. Paul Corps of Engineers, were present to discuss the history of the Devils Lake Basin and alternatives that are being considered for the Devils Lake Outlet project. Mr. Spychalla stated the plan considered most feasible for the project consists of an outlet from the West Bay of Devils Lake to the Sheyenne River and a connecting channel from East Devils Lake to Stump Lakes. The estimated construction cost of this project would be approximately \$20 million of which 25 percent would be the responsibility of the non-federal sponsor. In addition to sharing the construction costs of the project, Mr. Spychalla said the non-federal sponsor would also be required to operate and maintain the project, regulate future development around the lakeshore of Devils Lake, and regulate future drainage in the upstream watershed.

In discussion of the request from the Devils Lake Joint Board that the State Water Commission co-sponsor the project, Secretary Fahy indicated the State Water Commission could contribute up to 50 percent of eligible construction costs if funds were appropriated to it by the Legislature. However, the Commission has a policy of not participating in costs of lands and rights-of-way nor in operation and maintenance costs. This policy has resulted in a greater portion of state funds being available for sharing in construction costs.

Secretary Fahy stated a similar sponsorship situation exists for the Souris River project. In this case the State Water Commission, although not a sponsor, has agreed to provide eligible construction costs, technical assistance during design and construction and ongoing technical assistance following project completion.

Secretary Fahy stated that if the local entities feel there is a benefit to be gained by having the State Water Commission as a co-sponsor even though it does not assume a portion of land, rights-of-way, and operation and maintenance costs, it would be his recommendation that the State Water Commission agree to such an arrangement.

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Richard Regan, Chairman of the Devils Lake Basin Joint Water Management Board, invited the Governor and State Water Commission members to attend a meeting in Devils Lake to discuss this project and joint sponsorship.

The Commission members expressed concern that at this time they did not feel they had sufficient information to support a final plan for this project.

Mr. Sprynczynatyk responded to the Commission's concern that the Corps of Engineers request at this time is not to support a final plan for the project, but to provide the Corps of Engineers with a declaration of intent for non-federal sponsorship in order to proceed with the project.

It was moved by Commissioner Spaeth and seconded by Commissioner Gust that the State Water Commission direct the State Engineer to draft a letter to the U.S. Army Corps of Engineers indicating the State Water Commission will join with the Devils Lake Basin Joint Water Management Board in filing a declaration of intent which indicates the State's interest in developing an outlet project for Devils Lake.

In discussion of the motion, Commissioners Gust and Hutton expressed concern that certain aspects of this project will affect the eastern portion of the state and indicated the State Water Commission should be involved in this project to give the rest of the state a better opportunity for input into the solution of the problems.

The Commission members emphasized very strongly they do not wish at this time to make a commitment supporting an alternative for the final plan but feel the project needs to be advanced to the next stage as indicated by the declaration of intent.

Commissioners Jones, Byerly, Gust, Guy, Spaeth and Governor Sinner voted aye. Commissioners Hutton and Lardy voted nay. Recorded vote was 6 ayes; 2 nays. The Chairman declared the motion passed.

Governor Sinner left the meeting and Commissioner Jones assumed the chair.

UPDATE ON GARRISON
DIVERSION PROJECT
(SWC Project No. 237)

C. Emerson Murry, Manager of the Garrison Diversion Conservancy District, briefed the Commission members on Fiscal Year 1988 funding for the Garrison Diversion project and commented on recent report language recommended by the House Congressional Committee which would increase federal funding for 1988 from \$2.5 million to \$35 million.

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GARRISON DIVERSION PROJECT -
 CONSIDERATION OF MR&I
 GARRISON PROGRAM FUNDING
 FOR LANGDON RURAL
 WATER SYSTEM
 (SWC Project No. 237-3)

A request was received from the Cavalier County Board of Commissioners and presented to the Commission for its consideration for development of the Langdon Rural Water System in Cavalier County under the Garrison MR&I program.

Secretary Fahy indicated the project would serve eastern Cavalier County. In that area 162 rural water users have been identified, plus two military installations. The source of water for the project would be the city of Langdon which would sell water to the system. The city has sufficient water for the system with its source of supply being an impoundment within the city and the Mt. Carmel Reservoir located approximately 12 miles north of Langdon. The project would require approximately 160 miles of pipeline and is estimated to cost up to \$1,800,000 depending on the total scope of the project. Other areas to the west of Langdon may also some day be served by the project.

Secretary Fahy stated a feasibility report accompanied the project sponsor's request and the report meets the requirements of a feasibility report as outlined in the February 1987 needs assessment report developed by the State Water Commission and the Garrison Diversion Conservancy District. Since this project actually began before the Garrison MR&I program was in place the sponsor decided to go beyond the first step which was to prepare a preliminary report. The policy of the Water Commission and the Conservancy District calls for a project application to be submitted for approval and then it is the project sponsor's responsibility to prepare the preliminary report at its own expense. At that point the preliminary report could be submitted for approval and funds could be made available under the MR&I program to do the feasibility report. The non-federal costs for preparing the feasibility report could be funds loaned from the state if the project sponsor requested them.

The Board has made application to the Farmers Home Administration for federal assistance on this project. In discussions with the representatives of the FHA, the Board has learned that it is unlikely that any grant funds can be made available for the project. The Board also learned that it may receive loan money for the project. Secretary Fahy stated at this time it is unclear how FHA money can fit into the development of this project as an MR&I project, but he said it would seem that FHA loan funds could be considered part of the non-federal cost share for the MR&I program.

The cost of the work that has been done to date totals \$16,500. Of this, the project sponsor has determined that the cost of preparing the preliminary information was \$2,000. The Board is now asking that the project and the feasibility report be approved and that it be reimbursed for 75 percent of the costs for preparing the information required in the feasibility report. The Board's estimate is that \$14,500 of the engineering costs incurred to date can be attributed to the feasibility report. The Board has also agreed that it will cover 25 percent of the costs to prepare the feasibility report. Thus, the Board is requesting consideration of \$10,875 for the work done to date.

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Secretary Fahy indicated the project request had been submitted to and approved by the Garrison Diversion Conservancy District. Upon approval by the State Water Commission and the Bureau of Reclamation of the feasibility report the local sponsor will be ready to direct its engineer to begin the design process which will involve the preparation of project plans and specifications. Costs for this phase are estimated to be approximately \$115,000 of which 75 percent, or \$86,250, is eligible from the MR&I and/or FHA funds.

It was the recommendation of the State Engineer that the State Water Commission approve the project and feasibility report and 75 percent of the report's costs not to exceed \$10,875; forward the report to the Bureau of Reclamation and advise the sponsor to pursue project financing with the Farmers Home Administration; and, to approve initiation of the design process and allocate \$86,250 in MR&I funds, or so much of that amount as may be necessary to supplement FHA funds available for payment of the design costs.

Secretary Fahy commented since this is one of the first projects to participate in the Garrison MR&I program, it is a sort of "breaking in" process for all parties involved and it is intended the State Water Commission, the Garrison Diversion Conservancy District and the Bureau of Reclamation will work closely together and in accordance with our agreement as this project is put together.

It was moved by Commissioner Guy and seconded by Commissioner Gust that the State Water Commission approve the Langdon Rural Water District project, the feasibility report and 75 percent of the feasibility report costs not to exceed \$10,875; forward the report to the Bureau of Reclamation and advise the sponsor to pursue project financing with the Farmers Home Administration; and, approve initiation of the design process and allocate \$86,250 in MR&I funds, or so much of that amount as may be necessary to supplement FHA funds available for payment of the design costs. The approval of the initiation of the design process and the allocation of \$86,250 for the project are contingent upon approval by the Garrison Diversion Conservancy District.

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

GARRISON DIVERSION PROJECT -
CONSIDERATION OF RELEASE
OF EASEMENT NEAR LOCATION
OF PROPOSED JAMES RIVER
FEEDER CANAL PROJECT
(SWC Project No. 237)

Rosellen Sand discussed a request from the U.S. Bureau of Reclamation for a release of two easements near the location of the proposed James River Feeder Canal project. Ms. Sand explained the state statute allows such a release upon three

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conditions: 1) the state must receive good and valuable consideration; 2) the easements must not have been exercised for ten years; and 3) the State Water Commission must find the release to be in the best interests of the state.

Ms. Sand discussed a proposed draft release, which she explained, if approved by the Commission, would release the state's easements only upon completion of the James River Feeder Canal project to the Bureau of Reclamation for \$1.00 and other good and valuable consideration. Ms. Sand indicated the request does meet the conditions she outlined and the release has been agreed to by the Bureau of Reclamation. Ms. Sand recommended that the State Water Commission approve the release of the easements. Draft easement is attached hereto as APPENDIX "A".

It was moved by Commissioner Lardy and seconded by Commissioner Hutton that the State Water Commission authorize the Governor to execute the release of two easements, per the legal description stated in the attached draft easement, upon completion of the James River Feeder Canal project.

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

UPDATE ON SOURIS RIVER
FLOOD CONTROL PROJECT
(SWC Project No. 1408)

Secretary Fahy briefed the Commission on the status of the Souris River Flood Control project, commenting that the proposed project is moving forward, the Local Cost Sharing Agreement has been forwarded to the Corps of Engineers for signature, and agreement has been reached in principle with Canada on the hydrology and operating procedures of the dam.

CONSIDERATION OF AGENCY
FINANCIAL STATEMENT

The Commission members were provided with copies of the Projects Authorized Report and the Biennium Expenditures Report, dated June 3, 1987. Secretary Fahy suggested discussion be deferred at this time in the interest of time.

It was moved by Commissioner Lardy, seconded by Commissioner Hutton, and unanimously carried, that the State Water Commission meeting adjourn at 4:00 p.m.

ATTEST:


Vernon Fahy
State Engineer and Secretary


George A. Spiner
Governor-Chairman

June 17, 1987

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE June 17, 1987 PLACE Bismarck, ND

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
David Sprynczynski	Bismarck	SWC
Bruce F McCollom	"	BW/BEC Engineering
FAY J WAXLER	R.R. Box 211 Harwood, ND	N.D. Rural Water Systems
RAY MOUNT	R.R. 1 Box 249 Bismarck N.D.	Rural Water Systems
Frank Johnson	N.D.S. W.C.	
Hetcher Poling	Bismarck	Basin Electric Power Cooperative
Richard Ragan	Devils Lake	W.G.B. Ransom County Water Mgmt
John Olson	Devils Lake	Olson-Kaufman Inc
IVON BOE	TURTLE LAKE	MCLEAN-SHELDON WATER
Audrey Bae Olsen	Box 34 Fortuna ND 58744	Finance specialist Midwest Assistance Program Inc
KENNETH LOVELAND	P.O. Box 2075 JUN 9 STONEY, N.D. 58401	Interstate Eng. Firms MCLEAN-SHELDON WATER
Alfred A. Thompson	Bismarck H.C. # 92/297 58501	Burlington Co W.R.D. City Co Bldg. Bismarck.
Richard Galligan	Mandan	" " "
John B. Bae	Langdon N.D.	Cassidy County Rural Water Users
Howard Roder	Orsbrook N.D.	Crocker County Rural water users

APPENDIX "A"

RELEASE OF EASEMENT

The State of North Dakota acting by and through the Governor and Secretary of State, and upon the approval of the State Water Commission of the State of North Dakota (Grantor) for and in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration paid by the United States Bureau of Reclamation, acting through B.E. Martin, Regional Director (Grantee), the receipt of which is hereby acknowledged, and upon the completion of construction of the James River Feeder Canal as a component of the Reauthorized Garrison Diversion Project, hereby grants, releases and surrenders unto Grantee all right and interest granted to the State of North Dakota under the two "Easement and Dedications" described below:

1. An Easement and Dedication covering the NW1/4NW1/4 of Section 35, Township 149 North, Range 66 West of the Fifth Principal Meridian in the County of Eddy, State of North Dakota, as executed by the First National Bank and Trust Company of Minneapolis on May 18, 1935, and recorded in Miscellaneous Book 10 on page 473 in the office of the Eddy County Register of Deeds.
2. An Easement and Dedication covering the NE1/4 of Section 34, Township 149 North, Range 66 West of the Fifth Principal Meridian in the County of Eddy, State of North Dakota, as executed by John Hancock Mutual Life Insurance Company on June 18, 1935, and recorded in Miscellaneous Book 10, on page 474 in the office of the Eddy County Register of Deeds.

Which easements and dedications have not been exercised by Grantor for a period exceeding ten (10) years and the release of which the State Water Commission has determined to be in the best interest of North Dakota.

IN WITNESS WHEREOF, the State of North Dakota has caused the release to be executed in its name by the Governor and attested by the Secretary of State, and the seal of the State affixed this day of , 1987.

STATE OF NORTH DAKOTA

By George A. Sinner
 GEORGE A. SINNER
 Governor of North Dakota

ATTEST:

Ben Meier
BEN MEIER
Secretary of State

(SEAL)

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

On this 25th day of June, 1987, before me, a Notary Public of Burleigh County, North Dakota personally approved the Honorable George H. Sinner known to me to be the Governor of North Dakota, and the Honorable Ben Meier, known to me to be the Secretary of the State, and acknowledged to me that the State of North Dakota executed the within and foregoing Release of Easement.

Robert R. Schable
Notary Public
My Commission expires:
ROBERT R. SCHABLE
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires NOV. 7, 1990

(SEAL)