

MINUTES**North Dakota State Water Commission
Bismarck, North Dakota****August 24, 1989**

The North Dakota State Water Commission held a meeting on August 24, 1989, in the Project Room at the Heritage Center, Bismarck, North Dakota. Chairman, Lt. Governor Lloyd Omdahl, called the meeting to order at 9:00 a.m., and requested State Engineer and Secretary, David A. Sprynczynatyk, to call the roll and present the agenda.

MEMBERS PRESENT:

Lt. Governor Lloyd Omdahl, Chairman
 Jacob Gust, Member from West Fargo
 Lorry Kramer, Member from Minot
 William Lardy, Member from Dickinson
 Daniel Narlock, Member from Oslo, MN
 Norman Rudel, Member from Fessenden
 Jerome Spaeth, Member from Bismarck
 David A. Sprynczynatyk, State Engineer and Chief Engineer-Secretary, North Dakota State Water Commission, Bismarck

MEMBERS ABSENT:

Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
 Joyce Byerly, Member from Watford City

OTHERS PRESENT:

State Water Commission Staff Members
 Approximately 20 people 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 JULY 7, 1989 MEETING -
 APPROVED**

The minutes of the July 7, 1989 meeting were approved by the following motion:

It was moved by Commissioner Lardy, seconded by Commissioner Rudel, and unanimously carried, that the minutes of the July 7, 1989 meeting be approved as circulated.

**STATE WATER COMMISSION
DIRECTOR OF ENGINEERING,
DALE FRINK, EFFECTIVE
AUGUST 23, 1989**

Secretary Sprynczynatyk announced Dale Frink was named Director of Engineering for the State Water Commission, effective August 23, 1989. This

position was vacated when David Sprynczynatyk was appointed State Engineer and Chief Engineer-Secretary to the State Water Commission on July 7, 1989.

**SOUTHWEST PIPELINE PROJECT -
PROJECT UPDATE REGARDING
JOHNSON CONSTRUCTION COMPANY
AND BARNARD CONSTRUCTION COMPANY
(SWC Project No. 1736)**

Dale Frink, Project Manager for the Southwest Pipeline Project, stated most of the problems relating to Johnson Construction Company on project contracts 2-3A and 2-3B have been resolved.

One unresolved issue is an agreement for Johnson Construction to pay Stark County \$32,000 for damages on contract 2-3A. This debt is outstanding and Mr. Frink indicated the matter is being reviewed by the attorneys.

The new contractor for contract 2-3B, Barnard Construction Company, began laying pipe on August 8, 1989, and they hope to complete contract 2-3B by October. Barnard Construction is also the contractor for the seven-mile raw water pipeline, but Mr. Frink said it is unlikely this contract will be completed this year.

**SOUTHWEST PIPELINE PROJECT -
CONSTRUCTION FUNDING FOR 1990
(SWC Project No. 1736)**

Mr. Frink stated new construction for 1990 is still unknown. The Bureau of Reclamation has requested year-end funds for

the MR&I Program, but Mr. Frink said it is unlikely that a large amount will be received. An additional \$7 million is needed to provide water to Dickinson.

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

Secretary Sprynczynatyk stated that on June 27, 1989, Environment Canada held a public meeting in Minot for the purpose of

receiving comments on the initial evaluation of the Rafferty-Alameda Dam Project. Because of a lawsuit filed by the Canadian Wildlife Federation, the Saskatchewan Court ruled that before the project could proceed the requirements of the federal environmental laws in Canada must be satisfied. Secretary Sprynczynatyk indicated it is hoped that the Canadian Minister of Environment will make his decision in September on the license for the project so that construction can proceed.

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**DEVILS LAKE FLOOD CONTROL -
PROJECT UPDATE
(SWC Project No. 1712)**

concept of bringing water to Devils Lake, which is currently the most critical problem, was also discussed.

At the July 7, 1989 Commission meeting, an update was made on the Corps of Engineers Devils Lake Flood Control Study. The

Secretary Sprynczynatyk said since that meeting, representatives of the State Water Commission, State Health Department, State Game and Fish Department, Garrison Diversion Conservancy District and area residents have met to discuss courses of action. It has been agreed that the existing Devils Lake Management Committee, chaired by Francis Schwindt of the State Health Department, would take the lead in studying the technical aspects of management of the lake. The Committee includes representatives of all federal, state and local government entities that might have an interest in Devils Lake as well as private groups from the area. The State Water Commission is providing engineering support to this Committee, which will hold its next meeting on September 15 in Devils Lake.

**DEVILS LAKE FLOOD CONTROL -
COMMISSIONER GUST APPOINTED
TO DEVILS LAKE OUTLET COMMITTEE
(SWC Project No. 1712)**

action recommended by the Commission at its July 7, 1989 meeting. Although the Outlet Committee is not scheduled to meet in the near future, Secretary Sprynczynatyk said the Committee will likely meet once the Management Committee develops its concept for an inlet as well as the outlet.

Secretary Sprynczynatyk stated Commissioner Gust has been appointed by Governor Sinner as a member of the Devils Lake Outlet Committee, which was an

**DEVILS LAKE FLOOD CONTROL -
SWC SUPPORT FOR CORPS TO
COMPLETE CURRENT FLOOD
CONTROL STUDY AND A NEW
STUDY OF THE MANAGEMENT OF
DEVILS LAKE
(SWC Project No. 1712)**

essity to proceed on an inlet study. Senator Burdick said that under the Garrison Reformulation Act, the Bureau must wait until the Corps of Engineers has completed its outlet study before it can study an inlet plan. Such a plan would have to compete for scarce Garrison funds, which may be difficult since the Conservancy District and Bureau believe it is still somewhat premature to dedicate funds to the inlet study.

Secretary Sprynczynatyk briefed the Commission members on a letter received from Senator Quentin Burdick to Governor Sinner expressing the need to further address the water management issue relating to the Devils Lake Basin, and the nec-

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In Senator Burdick's letter, he said one option may be to have the Corps of Engineers do at least a reconnaissance study, which in its first phase would be 100 percent federally funded. The next phase, or feasibility phase, would require a cost share from a local sponsor, if the decision were made to proceed with the project as a Corps project.

In discussion of the option suggested by Senator Burdick, it was the consensus of the State Water Commission that the Commission go on record requesting that the Corps of Engineers complete the flood control study as quickly as possible; that Senator Burdick seek a directive to the Corps of Engineers for the authority to conduct a reconnaissance level study of the management of Devils Lake addressing water quality, water quantity, recreation, and flood control; and, that the study be completed within twelve months.

It was moved by Commissioner Gust and seconded by Commissioner Spaeth that the State Water Commission go on record:

- 1) requesting that the Corps of Engineers complete the flood control study as quickly as possible;
- 2) requesting that Senator Burdick seek a directive to the Corps of Engineers for the authority to conduct a study for the purposes of providing plans for the development, utilization, and conservation of water and related land resources in the Devils Lake Basin; and
- 3) that the initial study be a reconnaissance level study, completed within twelve months, addressing water management, stabilized lake levels, water supply, water quality, recreation, water pollution abatement, and enhancement and conservation of fish and wildlife.

Commissioners Gust, Kramer, Lardy, Narlock, Rudel, Spaeth, and Chairman Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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**RED RIVER DIKES -
PROJECT UPDATE
(SWC Project No. 1638)**

At the July 7, 1989 Commission meeting, Rosellen Sand, Assistant Attorney General for the State Water Commission, briefed the members on the Red River Dikes status conference held before Judge Benson in Fargo on June 19, 1989, and commented on issues raised by Minnesota at the status conference. Since that meeting, Judge Benson has resolved the issues relating to how the 20 percent would be calculated and whether or not the Ebertowski's could have two driveways. The natural ground issue is the only issue that remains to be resolved.

**RED RIVER DIKES -
CONSIDERATION OF COSTS
FOR MODIFICATION OF
WOSICK DIKE
(SWC Project No. 1638)**

The recent court decision concerning the Red River dikes requires lowering the Wosick dike in Section 36, Walshville Township to the finding five elevation. The dike is located immediately across the river from the Oslo Flood Control Dikes. The length of dike in this section needed to protect the Wosick farm site and an erosion area exceeds the 20 percent allowed under the corrective plan.

Rosellen Sand stated the dikes are to be brought into compliance by October 1, 1989. The members of the Technical Committee have reviewed the area and agreed to an exemption which will provide protection to the Wosick farm and an additional 400-foot stretch of dike where erosion has been a severe problem in the past. Staff have met with the Wosick's to explain the recent court decision that requires the lowering of their dike and the exemption which has been agreed to by the members of the Technical Committee to provide protection to their farm site and the erosion area. The Wosick's were provided copies of the State Engineer's Order to lower the dike in this area and an agreement that would allow the State Water Commission to pay for the cost of lowering the dike not to exceed \$6,500. Ms. Sand explained this was done since the Wosick's were not involved in the earlier modification actions, nor was an agreement ever presented to them.

Ms. Sand stated the Wosick's have proven to be very helpful and have orally agreed that if the Commission will pay for the costs of modification, they will allow the work to be done within the time-frame allowed by the Court.

It was the State Engineer's recommendation the State Water Commission set aside \$6,500 to pay the expense necessary to modify the Wosick dike. This would be

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contingent upon the availability of funds and the signing of the agreement by the Wosick's.

It was moved by Commissioner Narlock and seconded by Commissioner Kramer that the State Water Commission set aside \$6,500 to pay the expense necessary to bring the Wosick dike into compliance with the Corrective Plan. This motion is contingent upon the availability of funds and the signing of the agreement by the Wosick's.

Commissioners Gust, Kramer, Lardy, Narlock, Rudel, Spaeth, and Chairman Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

**MINI WATER EDUCATION FOR
TEACHERS PROGRAM (WET)
WORKSHOP
(SWC Project No. 1757)**

In 1985, the State Water Commission developed and sponsored the Water Education for Teachers (WET) Program. The Commission has worked closely with the North Dakota Water Users Association to carry out the goals and objectives of the Program. WET Program Coordinator, Dennis Nelson, explained the Program is an interdisciplinary, supplementary water education program for North Dakota educators. The program resources are for learners of all ages, although primary emphasis is given to providing teaching aids for kindergarten through grade 12 teachers. The goal of the WET Program is to facilitate and promote the awareness, appreciation, and knowledge of North Dakota's water resources through the development and dissemination of classroom-ready teaching aids. The State Water Commission and other supporters of the WET Program believe educating the state's youth on North Dakota water resources and water management concerns is an important component of the state's overall water management program.

Mr. Nelson said educators can arrange to receive most of the WET resources by contacting the State Water Commission and by attending WET workshops. So far, the State Water Commission has reached over 2,000 teachers by conducting 38 workshops. Contact time with the teachers range from 2-hour in-service seminars, to 10-hour and 15-hour WET workshops, to 4-day workshops. Teachers that attend the workshops receive graduate level credit from North Dakota State University and the University of North Dakota. The State Water Commission has provided assistance, guidance and ideas to many

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local, state and national groups that are interested in developing similar water education projects like the WET Program. Almost every state in the country has contacted the State Water Commission on its WET Program.

The State Water Commission members participated in a mini Water Education for Teachers (WET) Program workshop conducted by Dennis Nelson, with the assistance of Ann Hauer and Bev Sandness, teachers in the Bismarck schools and volunteer leaders in the WET Program; and, Steve Pusc and Brenda Bosworth, staff members of the State Water Commission. Ted Uppgren, State Game and Fish Department, discussed the importance of combining the Game and Fish Department's Project WILD (Wildlife in Learning Design) and WILD/Aquatic Programs with the State Water Commission's WET Program at workshops. The State Water Commission and the Game and Fish Department have been very pleased with this joint arrangement.

**CONSIDERATION OF REQUEST
FROM DAKOTA GASIFICATION
COMPANY TO RESCIND CONDITION
NO. 6 ON WATER PERMIT NO. 1901A
(SWC Water Permit No. 1901A)**

At its meeting on February 19-20, 1974, the State Water Commission approved a water permit application by the Michigan-Wisconsin Pipeline Company to divert up to 17,000 acre-feet of water annually from Lake Sakakawea. The water would be used by the plant converting lignite to synthetic natural gas. Eighteen (18) conditions were attached to water permit No. 1901A when it was issued. On March 6, 1989, the water permit was assigned to Dakota Gasification Company, the current owner of the plant.

Dakota Gasification Company has requested that Condition No. 6 of water permit No. 1901A be rescinded. The condition states, as follows:

"The Company shall make available, subject to approval of the Federal Power Commission or any other appropriate federal agency, if such approval is necessary, to North Dakota distributors or users, such gas and by-products as may be requested for use entirely within the State of North Dakota. Such gas shall supplement, but not replace, gas supplies normally available to users or distributors in this state. In its compliance with this condition, the price for the gas and by-products reserved for use within this state, shall be at a wholesale-well head or bus bar rate and not based on a so-called postage stamp rate."

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Mark Foss, representing Dakota Gasification Company, presented the reasons and an explanation for the request to rescind Condition No. 6. Mr. Foss stated the language in Condition No. 6 was negotiated between the State Water Commission and Michigan-Wisconsin Pipeline Company in 1973. Since that time the outlook in terms of energy availability, especially with respect to natural gas, has changed dramatically. The final contractual and regulatory arrangements for the financing of the Great Plains facility as well as the sales arrangements for the synthetic natural gas the facility produces were not known at that time. Mr. Foss said based on these changed circumstances, Dakota Gasification Company feels a rescission of this Condition No. 6 is appropriate.

Mr. Foss expressed the Company's concerns as to the potential for this particular condition to contradict or be in conflict with a long-term contract entered into by Dakota Gasification Company to sell a by-product to an out-of-state user followed by the subsequent entry into this state of a company doing business within the state having a use for such by-product. Mr. Foss said it would appear in interpreting Condition No. 6 that unless Dakota Gasification Company provided this "newcomer" sufficient quantities of the by-product in question so as to provide all of the "newcomer's" needs, Dakota Gasification Company would be in violation of this condition and there would be a possibility that water permit No. 1901A could be revoked.

Secretary Sprynczynatyk stated because water permit No. 1901A was approved by the State Water Commission, under its authority to approve water permit applications of greater than 5,000 acre-feet, it is appropriate that the State Water Commission act on this request. It was the recommendation of the State Engineer that Condition No. 6 of water permit No. 1901A be rescinded, based on the reasons and explanation for the request provided by Dakota Gasification Company.

**It was moved by Commissioner Spaeth
and seconded by Commissioner Rudel that
Condition No. 6, as stated above,
stipulated on water permit No. 1901A
be rescinded.**

In discussion of the motion, Commissioner Lardy expressed the need to further study and review this request to determine the concerns that were involved for initially placing this condition on the water permit in 1974. He said it would be wrong for this Commission to rescind this condition without further consideration and discussion.

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Commission Lardy said "while conditions have changed for Dakota Gasification Company in the last 15 years, they haven't necessarily changed that much for the State of North Dakota. We are trying to encourage industrial development and diversification in North Dakota's economy, and if we rescind this condition we may be encouraging others from outside the state to use North Dakota's resources when that same development might take place within the state."

The following substitute motion was offered:

Commissioner Lardy moved a substitute motion to defer action on the motion to rescind Condition No. 6 stipulated on water permit No. 1901A until the State Engineer conducts a public hearing on request. The substitute motion received a second from Commissioner Narlock.

Commissioner Gust, Lardy and Narlock voted aye. Commissioners Kramer, Rudel, Spaeth, and Chairman Omdahl voted nay. Recorded vote was 3 ayes; 4 nays. The Chairman declared the substitute motion failed.

The following substitute motion was offered:

Commissioner Lardy moved a substitute motion to defer action on the motion to rescind Condition No. 6 stipulated on water permit No. 1901A until the next meeting of the State Water Commission. The substitute motion received a second from Commissioner Gust.

Commissioners Gust, Kramer, Lardy, Narlock, and Chairman Omdahl voted aye. Commissioners Rudel and Spaeth voted nay. Recorded vote was 5 ayes; 2 nays. The Chairman declared the substitute motion carried.

GARRISON DIVERSION PROJECT - Secretary Sprynczynatyk stated
MR&I WATER SUPPLY PROGRAM UPDATE that on September 13, 1989, a
(SWC Project No. 237) meeting will be held in Pierre,
SD, with staff from the South
Dakota Department of Natural Resources, representatives from the

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Garrison Diversion Conservancy District and the State Water Commission to discuss the Garrison Diversion Project and the James River.

Randall Binegar, MR&I Water Supply Program Coordinator, reported 106 applications have been received for MR&I Program funds, with recent applications being received from the cities of Gackle and Milnor. Of the 106 total applications, 70 have completed the preliminary engineering reports on their projects and 32 projects have received funding through the MR&I Program. Twelve projects are currently under construction, or will begin construction in the near future. This represents approximately \$18 million of construction ongoing within the state using MR&I Program funding.

Mr. Binegar discussed the uncertainty of federal MR&I Program funding in the future. He also made reference to a memorandum which has been sent to the 106 applicants requesting MR&I funding urging them of the need to develop alternatives to meet their water supply needs in the future; provided an explanation of the policy change relative to the percentage of funding for feasibility studies; and, provided information on the requirements that the preliminary engineering report and the feasibility study must contain relative to the potential effects the project may have on economic development in the area. Mr. Binegar stated this information is to be submitted by September 30, 1989, and will be used for prioritizing MR&I projects.

**GARRISON DIVERSION PROJECT -
CONSIDERATION OF REQUEST FOR
FUNDS FOR PHASE II OF LANGDON
RURAL WATER SUPPLY PROJECT
(SWC Project No. 237-34)**

Randall Binegar stated recently the City of Edmore experienced an emergency situation when the reservoir which feeds the city's water supply wells went dry in February, 1989. The city was forced to truck water in through assistance from the Corps of Engineers. The reservoir level is currently low and the community may need to haul water again this winter.

The "Feasibility Report for Phase II, Langdon Rural Water System", completed in March, 1989, considered the expansion of the Langdon Rural Water System to serve the cities of Edmore, Nekoma, Hampden, Fairdale and approximately 110 rural customers in the surrounding areas. The existing water supplies within the project area are of generally poor quality and in limited supply. A regional water supply system through Phase II of the Langdon Rural Water Supply Project provides the best solution to the water supply needs of the area.

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Mr. Binegar explained the Langdon Rural Water Supply Project - Phase II has been divided into two separate projects - Part I and Part II. Part I of the project includes increasing the capacity of the transmission line between the Mt. Carmel Reservoir and Langdon; construction of a main transmission line south from Langdon serving the communities of Nekoma, Edmore and Hampden; smaller branch lines serving approximately 20 rural users; and a 40,000-gallon reservoir and pumping station. Part II includes all of the remaining rural system which serves approximately 90 customers. The Garrison Diversion Conservancy District and the State Water Commission earlier approved \$184,500 for the design of the Langdon Rural Water Supply - Phase II Project.

The city of Langdon is currently in the process of assigning a portion of its water right from the Mt. Carmel Reservoir to the Langdon Rural Water Users, Inc. The assignment will provide the rural water system with the water right to a sufficient quantity to meet the entire system's needs.

The construction cost estimate associated with Part I of the Langdon Rural Water Supply - Phase II Project is estimated at \$1,535,712. Seventy-five (75) percent of this has been requested for the construction phase of Part I.

It was the recommendation of the State Engineer that the State Water Commission approve funds in the amount of \$1,151,784 in the form of an MR&I Program grant toward Part I costs of the construction phase, contingent upon the availability of funds and the approval of the water right permit assignment to the Langdon Rural Water Users.

Howard Roder, President of the Langdon Rural Water Users, Inc., was present to discuss the project and request for MR&I funding. Mr. Roder said Phase I of the project is nearly completed and operational and the results are very satisfactory. He said it is very important that the cities of Nekoma, Edmore and Hampden be assisted with their emergency water supply problems and urged favorable consideration of the request for construction funding of Part I of Phase II of the Langdon Rural Water Supply project.

It was moved by Commissioner Narlock and seconded by Commissioner Lardy that the State Water Commission approve funds in the amount of \$1,151,784 in the form of a MR&I Program grant toward Part I costs of the construction phase of the Langdon Rural Water Supply - Phase II Project. This motion

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is contingent upon the approval of the water right assignment to the Langdon Rural Water Users and the availability of funds.

Commissioners Gust, Kramer, Lardy, Narlock, Rudel, Spaeth, and Chairman Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

**CONSIDERATION OF REQUEST
FOR PARTICIPATION IN WATER
AND WILDLIFE DEVELOPMENT
COOPERATIVE EFFORT
(SWC Project No. 1841)**

Secretary Sprynczynatyk presented a request from the Garrison Diversion Conservancy District for the State Water Commission's consideration to participate with the District

and the North Dakota Game and Fish Department in a water and wildlife development cooperative effort, utilizing the North Dakota Water Users Association to provide coordination services on water and wetland resource issues.

The goals and objectives of the cooperative effort are to work toward establishing wetlands as an economic base in North Dakota; modifying the Garrison Diversion Unit to include the Mid-Dakota Reservoir; implementing no-net loss of wetland acres; continuing the Governor's Wetlands Management Committee; resolving specific water and wetland related issues and projects; and, developing a favorable attitude in North Dakota towards water and wetland cooperative efforts.

Secretary Sprynczynatyk stated the intent is for each of the three agencies to contribute \$10,000 through June 30, 1990 to provide for the expenses and services of the North Dakota Water Users Association to carry out these goals, which would be done through a four-party Memorandum of Understanding with the Conservancy District as the lead agency.

The State Engineer recommended the State Water Commission contribute \$10,000 toward this effort from its Contract Fund, contingent upon the availability of funds.

Michael Dwyer, Executive Vice President of the North Dakota Water Users Association, provided background information for the request and made reference to various actions previously taken, which include agreements on small county drainage projects between water and wildlife interests; execution of agreements between the Governor and the U.S. Fish and Wildlife Service; approval of "no-net loss of

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wetlands" legislation by the North Dakota Legislature; efforts to adjust Swampbuster through no-net loss of wetlands policies to provide flexibility for farmers within the perimeters of the Swampbuster law in North Dakota; and, development and working for support of the Mid-Dakota Reservoir plan as a substitute for the Sykeston Canal.

Mr. Dwyer stated there is mutual agreement among the parties involved in this proposal that considerable progress and achievements have been accomplished under the cooperative approach relating to wetland and water resource issues, but the parties also agree that the goals and objectives which are yet to be accomplished will require extensive effort, support and continued cooperation by water and wildlife organizations and agencies.

It was the general consensus of the Commission members to support the effort and requested the Memorandum of Understanding include a provision for the Executive Vice President of the North Dakota Water Users Association to provide a quarterly report to the State Water Commission on the progress of the effort.

It was moved by Commissioner Gust and seconded by Commission Rudel that the State Water Commission approve funds from the Contract Fund in the amount of \$10,000 for the Water and Wildlife Development Cooperative Effort. This motion is contingent upon the availability of funds.

Commissioners Gust, Kramer, Lardy, Narlock, Rudel, Spaeth, and Chairman Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

**CONSIDERATION OF GRANT FOR
WETLANDS AND WATER
MANAGEMENT PROPOSAL
(SWC Project No. 1757)**

In 1985, Governor Sinner initiated a cooperative approach to resolving wetland issues between water and conservation groups in North Dakota. Secretary Sprynczynatyk said the effort has achieved considerable success and is now at a crucial stage in its development because it is critical that the people at the grassroots level, especially farmers and political subdivisions, understand how this process works and how it can provide direct benefits for their concerns. The water, agriculture and conservation groups can mutually accommodate their objectives by working together.

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Secretary Sprynczynatyk indicated the State Water Commission has been invited to participate, as a principal investigator, in a "grass roots" wetland and water management proposal being sponsored by the North Dakota Water Users Association and the North Dakota Water Resources Research Institute. The goal of this project is to promote the cooperative approach to resolving wetland issues between water and conservation groups in North Dakota. Secretary Sprynczynatyk commented that most, if not all, of North Dakota's public and private organizations involved in wetlands and water management support this project.

Secretary Sprynczynatyk said this invitation to play a major role in the project's development, coordination, and implementation represents an excellent opportunity for the State Water Commission to become more involved in these critical water management issues. The State Water Commission's involvement would be to provide a staff person to the principal investigator position and provide support staff as needed throughout the duration of the project, which would include editing, writing and graphic artist assistance. A limited amount of printing could also be contributed.

Governor Sinner has indicated his support for this effort which sets the stage for greater involvement by the State Water Commission and its staff.

Michael Dwyer briefed the Commission members on the pre-proposal that he, Dennis Nelson, and Dr. Jay Leitch developed and sent to the Northwest Area Foundation, the North Dakota Wetlands Trust, and to the U.S. Environmental Protection Agency - Office of Wetlands Protection. Other public and private funding sources will be contacted within the next month to determine interest. Mr. Dwyer indicated that the initial contacts have generated positive feedback. The Water Users Association will need approximately \$75,000 to \$100,000 to begin the three-year project.

It was the State Engineer's recommendation the State Water Commission approve this proposal, accept the invitation to participate in the project, and designate a staff person to serve as a principal investigator.

It was moved by Commission Lardy and seconded by Commissioner Rudel that the State Water Commission approve the project and accept the invitation to participate in the project, and to designate a staff person to serve as a principal investigator in a

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"grass roots" wetland and water management proposal being sponsored by the North Dakota Water Users Association and the North Dakota Water Resources Research Institute.

In discussion of the motion, Commissioner Lardy supported the project, but he expressed concern that acceptance of the invitation to participate and to designate a staff person to serve as a principal investigator may be placing an over-burden on State Commission staff that will be required to perform the duties of this project.

Secretary Sprynczynatyk said this is a valid concern expressed by Commissioner Lardy and he likewise shares in this concern. If the Commission approves this project and accepts the invitation to become a principal investigator, Secretary Sprynczynatyk said it will be necessary to re-prioritize projects in which the staff is involved so that the employees will not become over-burdened when carrying out the duties of this high priority project.

Commissioners Gust, Kramer, Lardy, Narlock, Rudel, Spaeth, and Chairman Omdahl voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

**CONSIDERATION OF AGENCY
FINANCIAL STATEMENT**

the Program Budget Expenditures and the Programs/Projects Authorized, dated June 30, 1989. Mr. Emerson noted this is the final report for the 1987-1989 biennium and that approximately \$150,000 of unexpended funds were returned to the General Fund.

Matt Emerson, Assistant Secretary for the State Water Commission, presented and discussed

**PRESENTATIONS BY STATE ENGINEER
AND STATE WATER COMMISSION
DIVISION DIRECTORS**

The State Water Commission members were briefed on the duties and responsibilities of the State Engineer and the State Water Commission. The following State Water Commission division directors and the Director of the Atmospheric Resources agency provided information relative to the duties and activities of their respective division: Director of Administration - Matt Emerson; Director of Planning - Gene Krenz and staff; Director of Hydrology - Milton Lindvig; Director of Engineering - Dale Frink; and Director of the Atmospheric Resources agency - Bruce Boe.

The State Water Commission mem-

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**CONTINUED DISCUSSION RELATIVE
TO CONCEPT OF COMMUNITY
CONTINGENCY WATER SUPPLY PLANS
(SWC Project 237-3)**

At the request of Governor Sinner, the Commission members at their July 7, 1989 meeting, discussed the concept to require communities with a population of more than 500 to consider a contingency plan for an alternative water supply for their community in the event of a disaster. It was the consensus of the Commission members that this is very important and some type of contingency plan be considered by the State Water Commission, State Health Department and the Disaster Emergency Services.

Secretary Sprynczynatyk indicated a meeting was held on August 17 with representatives of the State Water Commission, State Health Department, Disaster Emergency Services and others having an interest in this matter. The purpose of the meeting was to discuss the Governor's concerns regarding the alternative water supplies for communities in the event of a disaster. A letter has been drafted that will be mailed in September to those communities with populations greater than 500. Secretary Sprynczynatyk said efforts will be made to work with the League of Cities and the county disaster coordinators to get the information to the cities.

**STATE WATER COMMISSION
MEETING TO BE HELD IN
WEST FARGO**

The State Water Commission accepted the invitation of Commissioner Gust to schedule its next meeting in West Fargo. The date and place was left to the discretion of the Chairman, the State Engineer and Commissioner Gust.

**BALDHILL DAM SAFETY
MODIFICATIONS
(SWC Project No. 1344)**

The Baldhill Dam was designed and constructed by the Corps of Engineers in the late 1940's. Secretary Sprynczynatyk said over the years the Corps' design criteria for the spillway has changed and is inadequate to meet the current design standards. The work on re-evaluating the spillway and making a proposal has been ongoing for approximately six years and the Corps is now at the point where they are considering funding in their 1991 budget for final design work and construction of the project.

The proposed modifications that are being proposed for the Baldhill Dam for safety reasons will be described in detail in a Supplement to the General Design Memorandum due out for public and agency review in September, 1989. Secretary Sprynczynatyk indicated that prior to distribution of the supplement, the Corps of Engineers has

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requested our views on the priority which should be placed on the implementation of the project and an update of our views concerning the interest and/or capability of the State Water Commission or other entities to be the non-federal sponsor for the proposed modification.

Secretary Sprynczynatyk stated he responded to the Corps of Engineers request in a letter dated August 17, 1989, in which he expressed the State Engineer's continued support of the proposed modifications to the Baldhill Dam, and that in order to insure the safety of the residents downstream of the dam the modifications should be made as soon as possible. The situation that exists warrants a high priority for implementation of this project and further risks should not be taken.

In regard to the non-federal sponsorship of the project, Secretary Sprynczynatyk said it is his belief that the Federal Government is fully responsible for the project since it initially designed the project and subsequently changed the design criteria. In reviewing the Water Resources Development Act of 1986, Secretary Sprynczynatyk said it is his interpretation that the intent is to apply any requirement for cost sharing today to each purpose in accord with the cost sharing in effect at the time of initial project construction. In the case of Baldhill Dam, at the time of initial construction, the non-federal sponsor was not required to cost share in construction costs, only in costs of land, right-of-way, easements and relocation. Current law only requires cost on this project for these items - lands, easements, right-of-way and relocation.

Secretary Sprynczynatyk stated any significant cost sharing by a non-federal sponsor would be difficult for the State Water Commission because of its biennial budget cycle, which extends through June, 1991, and only limited funds are available for projects such as this until the next biennium. Legislation could also not be given until 1991.

In response to the State Engineer's comments in his August 17, 1989 letter, the Corps of Engineers indicated this project cannot be considered for funding in the 1991 budget if there are uncertainties as to the non-federal sponsorship.

In discussion, it was the general consensus of the Commission members to go on record in support of the proposed modifications to the Baldhill Dam for safety purposes and that the Corps of Engineers give a high priority for implementation of this dam safety project in its

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1991 budget because of the risk the current situation poses to downstream areas. The Commission also agreed to do whatever necessary to seek a non-federal sponsor for the project if satisfactory resolution of the final details of cost sharing is accomplished.

It was moved by Commissioner Gust, seconded by Commissioner Rudel, and unanimously carried, that the State Water Commission go on record in support of the proposed modifications to the Baldhill Dam for safety purposes and that the Corps of Engineers give a high priority for implementation of this dam safety project in its 1991 budget because of the risk the current situation poses to downstream area; and, that the Commission agrees to do whatever necessary to seek a non-federal sponsor for the project if satisfactory resolution of the final details of cost sharing is accomplished.

**DISCUSSION RELATIVE TO
POLICY FOR REIMBURSEMENT
OF EXPENSES FOR STATE
WATER COMMISSION MEMBERS**

The policy for reimbursement of expenses for State Water Commission members and the budget allowance for reimbursement was discussed.


It was moved by Commissioner Spaeth, seconded by Commissioner Lardy, and unanimously carried, that the State Water Commission meeting adjourn at 5:10 p.m.



Lloyd Omdahl
Lt. Governor-Chairman

SEAL

ATTEST:


David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

August 24, 1989