

MINUTES**North Dakota State Water Commission
Fargo, North Dakota****March 19, 1990**

The North Dakota State Water Commission held a meeting on March 19, 1990, at the Holiday Inn in Fargo, North Dakota. Chairman, Lieutenant Governor Lloyd Omdahl, called the meeting to order at 1:30 PM, and requested State Engineer and Chief Engineer-Secretary, David Sprynczynatyk, to call the call and present the agenda.

MEMBERS PRESENT:

Lieutenant Governor Lloyd Omdahl, Chairman
 Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
 Joyce Byerly, Member from Watford City
 Jacob Gust, Member from West Fargo
 Lorry Kramer, Member from Minot
 Daniel Narlock, Member from Oslo, MN
 Norman Rudel, Member from Fessenden
 Jerome Spaeth, Member from Bismarck
 David Sprynczynatyk, State Engineer and Chief Engineer-Secretary, North Dakota State Water Commission, Bismarck

MEMBER ABSENT:

William Lardy, Member from Dickinson

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 JANUARY 25, 1990 MEETING -
 APPROVED**

The minutes of the January 25, 1990 meeting were approved by the following motion:

It was moved by Commissioner Byerly, seconded by Commissioner Kramer, and unanimously carried, that the minutes of the January 25, 1990 meeting be approved as circulated.

**SOUTHWEST PIPELINE PROJECT -
PROJECT UPDATE
(SWC Project No. 1736)**

Secretary Sprynczynatyk stated the bids for the Richardton and Dodge pump stations were opened on February 15, 1990. The low bidders for each was a combination of mechanical, electrical and general. For the Dodge station, the combination of apparent low bids was \$1,457,400; the engineer's estimate was \$1,200,000. For the Richardton station, the combination of bids totalled \$1,944,500; the engineer's estimate was \$1,820,000. Secretary Sprynczynatyk explained these bids were higher than expected and the remainder of the planned construction could be affected if built according to bid.

An examination of the detailed breakdown from the apparent low bidders indicated the supplied items, such as pumps, piping, engines and generators were more expensive than expected, which is likely related to the national market as opposed to the local, less active market for construction. The plans and specifications were reviewed to determine what could be done to reduce the cost of these contracts. Several items could be deferred at this time. It was decided to reject all bids and begin to prepare for re-bidding immediately. The new bid opening is scheduled for April 11, 1990.

Work has continued on construction at the intake pumping station. The pumps are currently being installed and the erection of the steel raw-water reservoir at the water treatment plant site is near completion.

Pipeline segment 2-3C is being prepared for advertising and bids for this contract will be opened in mid-April.

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

Secretary Sprynczynatyk updated the Commission members relative to the lawsuit filed by the Canadian Wildlife Federation against the Rafferty Dam project in an attempt to stall the project and change the environmental requirements in Canada. The Court issued a court ruling that the Canadian Minister of Environment did not use proper procedures in reviewing the project and that the Minister must appoint a federal panel prior to January 30, 1990 to again review the project or the project would be stopped completely.

The federal panel has been selected to once again study the project and Secretary Sprynczynatyk indicated it is uncertain the length of time that will be required to complete the study.

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Construction on the Rafferty Dam has been delayed until the requirements are satisfied in Canada, but the Corps of Engineers is proceeding to develop those segments of the Souris River Flood Control Project in the United States even as the delay occurs in Canada.

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

Secretary Sprynczynatyk stated the Corps of Engineers has suspended the Devils Lake Flood Control Outlet Study and the final report is being prepared. The Corps of Engineers had previously presented its proposal for completing the Devils Lake Flood Control Outlet Study, which requested additional information relative to the project and required approximately \$200,000 to complete the feasibility study of which 50 percent of the feasibility study costs were to be the responsibility of a local project sponsor.

In reviewing the Corps proposal, the State Water Commission took action at its December 6, 1989 meeting that it could not be the local project sponsor for the study at this time because of the fiscal situation in North Dakota; efforts are being concentrated on the diversion of water into Devils Lake to maintain the water level; there is a need for flood control to Devils Lake and that Corps of Engineers should expeditiously complete the feasibility study without local cost share; and agreed to accept the suspension of the study until such time the fiscal situation in North Dakota improves and a local sponsor can be identified.

Secretary Sprynczynatyk said the important issue is the declining level of Devils Lake and briefed the Commission members on the courses of action that are currently being pursued with the Bureau of Reclamation and the Corps of Engineers in an effort to stabilize the level of Devils Lake and to provide for an inlet to divert water into the lake.

Secretary Sprynczynatyk informed the Commission members that the staff is in the process of developing a briefing paper outlining all of the scenarios that have been discussed for flood control and providing water to Devils Lake. State and federal agencies are providing information to this effort and it is anticipated a draft report will be available by April 15, 1990.

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

At the January 25, 1990 meeting, the Commission members were informed the Corps of Engineers had completed its' on-site study of 21 areas that Minnesota defendants of the Red River Dikes lawsuit had identified as questionable because of North Dakota's interpretation and judgement on the natural ground issue. Seventeen sites were found to be in compliance with the court order, two sites were above the natural ground level, and the Corps was uncertain on two sites because they could not get onto the land. Secretary Sprynczynatyk said he has discussed the natural ground issue with the Director of Minnesota's Department of Natural Resources and efforts are continuing to resolve the issue where the Corps of Engineers was unable to get onto the land of the two sites in question.

Secretary Sprynczynatyk said the States of North Dakota and Minnesota are continuing their efforts to look at alternatives to provide for increased flood control and to further analyze the Red River dikes from a hydraulic standpoint. This effort is being funded by the Corps of Engineers under Section 22, allowing the Corps to use its staff and resources for this type of study. The two states are contributing to the study in terms of engineering and funding for surveying to develop a hydraulic model of the area.

**RED RIVER DIKES -
FURTHER CONSIDERATION OF
REQUEST FOR PAYMENT OF
DAMAGE CLAIM BY VICTOR STOLTMAN
(SWC Project No. 1638)**

At the January 25, 1990 meeting the Commission members were briefed relative to a claim filed by a landowner requesting reimbursement of approximately \$1,300 for a fence he claimed was damaged during the dike removal process to conform with the federal court order. Secretary Sprynczynatyk stated staff was investigating the matter and that an on-site inspection would be made. He also stated that in the past the State Water Commission has given the State Engineer authority to act on requests up to \$10,000 and report back to the Commission.

The State Water Commission unanimously agreed that if the investigation and inspection indicate the Commission is responsible for fence damages, the State Engineer be authorized to make payment from carryover funds available from the last biennium and advise the Commission of his action at a future meeting.

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Secretary Sprynczynatyk informed the Commission members the damage claim has been settled with the landowner for approximately \$950, which was the cost of the fence materials that were damaged.

**RED RIVER DIKES -
APPEARANCE BY WALSH
COUNTY REPRESENTATIVES
(SWC Project No. 1638)**

Leonard Fagerholt, Walsh County Commissioner, made a presentation before the State Water Commission to discuss the history of the Red River dikes, the co-

operative efforts with the Minnesota Department of Natural Resources, to discuss local efforts to develop a permanent working solution to the flooding problems, and to request the State Water Commission to:

- 1) Assist the local people in obtaining federal funding for the Corps of Engineers and the locals use;
- 2) Match Minnesota's cost sharing funds to acquire the federal funding requested; and
- 3) Make changes needed to mold the Corps of Engineers and the Technical Committee agency personnel into a team with skills commensurate with the complexities of their local flood problems.

Mr. Fagerholt's statement is attached hereto as APPENDIX "A".

A. L. "Bud" Johnson, Alvarado, MN, presented a statement before the Commission members, which is attached hereto as APPENDIX "B".

Appearing before the State Water Commission was John Belcourt, Artic Engineers, Inc., Grand Forks. Objectives and goals outlined in Mr. Belcourt's presentation were:

- 1) A total commitment of all parties involved to take the necessary steps to make this project a total success.
- 2) An opportunity for the local people to become involved in the study and in any decisions that might be made.
- 3) Assurance from the State Water Commission that it will assist the locals and the Minnesota Department of Natural Resources in acquiring the additional federal funding needed to complete the project in a timely and respective manner.

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- 4) Changes in the Technical Committee format to make it a totally effective working group.
- 5) That the State Water Commission, the Minnesota Department of Natural Resources and the local organization become a more effective working group.
- 6) That the ultimate solution to the flooding problems as expressed by the local people is that the dikes be of equal heights on both sides of the river.

Secretary Sprynczynatyk discussed three issues which must be addressed when considering the local proposal: 1) all parties to the lawsuit, which still resides in Federal District Court, must agree to a reasonable level of protection for everyone; 2) the existing technical committee, which is in existence primarily to provide oversight to the development of a more sophisticated hydraulic model, can help to determine the appropriate elevation for the dikes based upon agreed to criteria; and, 3) once all parties agree, a federal project through the Corps of Engineers can be pursued.

Secretary Sprynczynatyk suggested an advocacy group consisting of the local water management and watershed districts be created. It could be a local water authority, created to be the legal entity to manage the water within its jurisdiction. He said if a local entity is formed to study, design and build a specific project, it would then be appropriate to seek a specific authorization through Congress for the Corps of Engineers to provide the technical assistance for the locals to implement a project. Secretary Sprynczynatyk indicated previous action was taken by the State Water Commission to support the concept of such a project. He stated the State Water Commission staff is willing to do what it can in this regard.

The 1989 Memorandum of Understanding was initiated between the states of North Dakota and Minnesota to strengthen the communications between the two states and at the local level, and to continue to study the hydraulics of the river and the dikes to determine options for increasing flood protection.

Maurice Bushaw, Grand Forks, discussed the current flooding problems in North Dakota and expressed concern of the Minnesota diking efforts.

Commissioner Narlock stated the flooding problems have been occurring since 1975. He said the six-county board that has been created represents both states and they are requesting assistance and guidance from the Minnesota

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Department of Natural Resources, the State Water Commission and the locals to pursue this project. He suggested the State Water Commission support the local efforts and assist in anyway possible.

Commissioner Spaeth commended the locals for the work they have done and said it is important that the State Water Commission support the study and provide its assistance.

It was moved by Commissioner Gust and seconded by Commissioner Vogel that the State Water Commission support the concept for additional studies and solutions that will improve the situation on the Red River in the area of question.

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

**GARRISON DIVERSION PROJECT -
PROJECT UPDATE
(SWC Project No. 237)**

The Commission members were previously informed that the President's budget will provide zero funds to the Garrison Diversion Project for FY 1991. Secretary Sprynczynatyk discussed the considerable effort that is being demonstrated by representatives of the State to restore funding in the 1991 budget for this project. He said in order for the project to move forward a minimum of \$45 million has been requested. The House and Senate public hearings are scheduled in Washington, DC on March 29, 1990, at which time testimony will be presented by the Governor, the State Engineer and representatives from the Garrison Diversion Conservancy District.

Secretary Sprynczynatyk discussed the Inspector General's audit report that was published in February, 1990. The report indicates the Bureau of Reclamation did not properly reconcile the reimbursable costs for the projects and the non-reimbursable costs are overstated by approximately \$198 million, which the Inspector General is recommending those costs be passed onto the users. Secretary Sprynczynatyk said concern exists with the report as it addressed

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only the irrigation features of the project and failed to recognize the other benefits of the projects, mainly wildlife benefits. The Bureau of Reclamation has agreed to review this matter, and representatives of the State will be discussing it further with representatives of the Bureau of Reclamation.

GARRISON DIVERSION PROJECT - Secretary Sprynczynatyk stated
RED RIVER VALLEY MUNICIPAL a draft report of the Red River
WATER SUPPLY STUDY UPDATE Valley Municipal Water Supply
(SWC Project No. 1731) Study was completed and circu-
 lated among the Water Commis-
 sion staff members and representatives of the Garrison Diversion
 Conservancy District for review. Most of the comments resulting
 from the review have been incorporated into the report.

The initial draft contained estimates of water demand for Fargo, West Fargo, Moorhead, Grand Forks and East Grand Forks, based on their average and peak month use rates. Secretary Sprynczynatyk stated it was suggested the report include water requirement figures for daily peak use, which would be more appropriate in determining the design capacity required for the Missouri River water release facility. The draft report is being revised to include the daily peak use.

Secretary Sprynczynatyk said the draft report will be completed soon and will be presented to the technical committee for review at its meeting in late March.

GARRISON DIVERSION PROJECT - The Commission members were
BIOTA TRANSFER STUDY previously informed the Biota
(SWC Project No. 1828) Transfer Study involves several
 studies currently underway.
 Secretary Sprynczynatyk said the studies will be completed, but because of the difficulties with the budget that the state is experiencing, there may not be any new studies started this year. The committee will be meeting in Fargo this week to determine the study's course of action.

GARRISON DIVERSION PROJECT - Jeffrey Mattern, MR&I Water
MR&I WATER SUPPLY PROGRAM UPDATE Supply Program Coordinator, re-
(SWC Project No. 237-3) ported the Program has approved
 funding for 38 projects, with 5
 completed at a cost of approximately \$4.7 million. Of those
 remaining projects, 24 are in the feasibility study phase and 9
 are in the design and construction phase.

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Mr. Mattern indicated the projects requiring additional funding to complete current construction are the Langdon Rural Water - Phase II, Part 2, the McLean-Sheridan Water Supply Project, and the Southwest Pipeline Project. The next projects on the priority list that would require funding for design and construction are North Valley Improvements and Ramsey County Rural Water. Mr. Mattern commented that the Creel Domestic Utilities Project has been renamed the Ramsey County Rural Water Project.

**GARRISON DIVERSION PROJECT -
CONSIDERATION OF REQUEST FROM
MCLEAN-SHERIDAN JOINT WATER
RESOURCE BOARD FOR MR&I PROGRAM
FUNDS FOR DENHOFF ALTERNATIVE
CONSTRUCTION PHASE
(SWC Project No. 1782)**

The McLean-Sheridan Joint Water Resource Board has indicated the community of Denhoff has encountered problems with its water supply and a scaled-back project is being proposed to provide a water supply at an approximate cost of \$145,000.

This project would provide water to the customers by gravity flow.

Jeffrey Mattern indicated the project would require federal MR&I funding of 75 percent, or \$108,750. The McLean-Sheridan Joint Water Resource Board has requested approval to transfer any remaining funds from the design phase, of approximately \$40,000, to construction of the Denhoff project. The Board indicated the current project may have contingency funds remaining, which in addition to the remaining design funds, may be sufficient to provide 75 percent funding for the Denhoff water supply line. If the project is constructed, Mr. Mattern said it would be part of the system and would not be a temporary fix integrated into the system.

It was the recommendation of the State Engineer that the McLean-Sheridan Joint Water Resource Board be granted approval to use 75 percent federal MR&I Water Supply Program funding, not to exceed \$108,750 (75 percent of \$145,000), from any remaining design funds and contingency funds to construct the Denhoff Water Supply Line. Approval would be contingent upon the availability of funds and approval by the Garrison Diversion Conservancy District.

**It was moved by Commissioner Vogel and
seconded by Commissioner Gust that the
State Water Commission approve 75 percent
federal MR&I Water Supply Program funding,
not to exceed \$108,750 (75 percent of \$145,000),
from any remaining design funds and contingency**

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funds to construct the Denhoff Water Supply Line. This motion is contingent upon the availability of funds, and approval by the Garrison Diversion Conservancy District.

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

**GARRISON DIVERSION PROJECT -
MISSOURI WEST WATER USERS
(SWC Project No. 237-27)**

Jeffrey Mattern indicated the Morton County Water Resource District has expressed concern relative to a severe water problem in the Crown Butte area. This area is scheduled to receive water from the Missouri West Water Supply Project, but at this time the federal MR&I Water Supply Program funds are insufficient to permit the construction of this phase of the project. The District has requested high-priority consideration by the State Water Commission for this project if federal funding becomes available.

**GARRISON DIVERSION PROJECT -
NORTHWEST AREA WATER
SUPPLY STUDY UPDATE
(SWC Project No. 237-4)**

Jeffrey Mattern reported on the Northwest Area Water Supply Advisory Committee meeting held February 22, 1990. The Committee elected Rich Schilf as its chairman to replace Richard Backes.

Mr. Mattern indicated the Committee was in strong support of developing a study to present to the North Dakota Congressional Delegation on the integration of the Northwest Area Water Supply, east water supply system, with the Fort Berthold Indian Reservation system. The final report is scheduled for completion in October, 1990. The Committee proposed to schedule informational meetings in New Town and Minot on the integrated study in July.

**GARRISON DIVERSION PROJECT -
APPOINTMENT OF COMMISSIONER
LORRY KRAMER TO SERVE ON
NORTHWEST AREA WATER SUPPLY
ADVISORY COMMITTEE
(SWC Project No. 237-4)**

Secretary Sprynczynatyk stated the State Water Commission has not had representation on the Northwest Area Water Supply Advisory Committee since Richard Backes became Highway Commissioner. It was the recommendation of the State Engineer that Commissioner Lorry Kramer be

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appointed to serve on the Advisory Committee to represent the State Water Commission.

Chairman Omdahl appointed Commissioner Lorry Kramer to serve on the Northwest Area Water Supply Advisory Committee to represent the State Water Commission.

Commissioner Kramer accepted the appointment to serve on the NAWS Advisory Committee to represent the State Water Commission.

**GARRISON DIVERSION PROJECT -
CONTINGENCY WATER PLAN FOR
ALTERNATE WATER SUPPLY
(SWC Project No. 237-3)**

Jeffrey Mattern indicated that on November 10, 1989, a letter was sent to all North Dakota communities with populations of over 500 inquiring whether they have a written contingency plan for an alternate water supply. The letter was sent to 108 communities and 22 communities have contacted the State Water Commission with various answers.

Mr. Mattern said seven of the communities responding have a written plan and ten have an unwritten plan. Nine communities were interested in receiving a matching grant to develop a written plan. Fifteen communities have made request applications to the Garrison Diversion Unit MR&I Water Supply Program for additional project development.

Secretary Sprynczynatyk stated a more complete report outlining the problems and what the communities could do is being prepared. The report will be presented to the Western Governors Association and the Western States Water Council, which will be considered in their study of drought management throughout the west.

**CONTINUED DISCUSSION OF
1989-1991 CONTRACT FUND
(SWC Project No. 1)**

Governor Sinner expressed concern that efforts must be made to protect money for critical services and hold, until the revenues improve, State Water Commission grants. Secretary Sprynczynatyk indicated that in his discussion with the Governor relative to disbursement of the Contract Fund during the current biennium, it was agreed several priorities for funding existed and that there would be a need to obligate and utilize a portion of the Contract Fund.

At the January 25, 1990 meeting the Commission members were informed that following the December 5, 1989 special election,

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Secretary Sprynczynatyk presented and discussed a proposal for allocating approximately 50 percent, \$2.3 million, of the Contract Fund appropriation, and holding the balance in reserve until the end of the biennium.

At the January 25, 1990 meeting, the State Water Commission approved Contract Funds in the amount of \$1,046,000 for the Southwest Pipeline Project, so that the projected date for the delivery of raw water to Dickinson in 1991 would not be jeopardized. It was the recommendation of the State Engineer, and concurred in by the State Water Commission, that action be deferred on the remainder of the proposal for 50 percent disbursement of the Contract Fund.

Secretary Sprynczynatyk stated since the January 25, 1990 meeting, he has met with Governor Sinner and the Office of Management and Budget office to discuss disbursement of 50 percent, \$2,307,900, of the Contract Fund appropriation. The release of 50 percent of the Contract Fund appropriation, \$2,307,900, has been approved, with the remaining 50 percent to be held in reserve until possibly later in the biennium.

It was the recommendation of the State Engineer that the State Water Commission approve the allocation of 50 percent of the 1989-1991 Contract Fund appropriation as follows:

Southwest Pipeline Project	\$1,046,000
Sheyenne River Flood Control Project	500,000
Biota Transfer Studies	51,900
Hydrologic Data Collection	430,000
MR&I Water Supply Program	130,000
General Projects (Traditional Contract Fund)	150,000
	<u>\$2,307,900</u>

It was moved by Commissioner Byerly and seconded by Commissioner Rudel that the allocation of 50 percent of the 1989-1991 Contract Fund appropriation be approved as recommended by the State Engineer.

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

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Secretary Sprynczynatyk stated the Commission had just approved the allocation of \$150,000 for the traditional Contract Fund. He expressed concern that the Commission must act cautiously when considering requests for funding from the Contract Fund to ensure sufficient funds will be available following the 1991 spring runoff season. Until the status of the Contract Fund can be determined, Secretary Sprynczynatyk stated he will recommend the requests for funding from the Contract Fund be deferred, unless otherwise recommended.

**CONSIDERATION OF REQUEST FROM
RICHLAND COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN WILD RICE SNAGGING AND
CLEARING PROJECT
(SWC Project No. 1842)**

snagging and clearing project, which is approximately 90 percent complete.

Cary Backstrand, Chief of the State Water Commission's Regulatory Section, presented a request from the Richland County Water Resource District to be considered for cost participation in the Wild Rice River

Mr. Backstrand stated in the fall of 1989, the State Water Commission entered an investigation agreement with the Richland County Water Resource District for the investigation of existing conditions on the Wild Rice River and for the development of cost estimates for a project. Approximately 85 river miles were inventoried and it was determined that approximately 48.5 river miles, from the border with Cass County to the south end of Section 26, Township 133 North, Range 48 West, could be completed this winter.

The cost of construction and engineering totals \$237,565. The current policy of the State Water Commission is to participate in 25 percent of eligible costs, being \$59,391. The State Water Commission supplied engineering costs for project construction to an amount of \$13,600, leaving \$45,791 as a potential Contract Fund allocation.

It was the recommendation of the State Engineer that the request for cost sharing in the Wild Rice snagging and clearing project in Richland County be deferred due to the present lack of funding.

**CONSIDERATION OF REQUEST FROM
RANSOM COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN SHEYENNE RIVER SNAGGING AND
CLEARING PROJECT
(SWC Project No. 1815)**

A request received from the Ransom County Water Resource District for cost participation in the Sheyenne River snagging and clearing project was considered by the State Water Commission. The project is approximately 85 percent complete.

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Cary Backstrand explained the project and stated various reaches of the Sheyenne River in Ransom County are in poor condition. Fallen trees, stumps and general debris reduce the ability of a channel to transport water and causes blockage of the channel by ice or drifts of packed snow which result in higher stages than normal.

The total cost for snagging and clearing five separate reaches of the Sheyenne River in Ransom County, approximately 5.0 river miles, is estimated to be \$11,500, with \$11,250 estimated to be eligible for cost participation. The current policy of the State Water Commission is to participate in 25 percent of eligible project costs.

It was the recommendation of the State Engineer that the request for cost participation in the Sheyenne River snagging and clearing project in Ransom County be deferred due to the present lack of funding.

**CONSIDERATION OF REQUEST FROM
CAVALIER COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN CONSTRUCTION OF LANGDON
TOWNSHIP DRAIN #1
(SWC Project No. 1844)**

route the flow on the Little Mulberry Creek channel back to channel.

The State Water Commission considered a request from the Cavalier County Water Resource District for cost participation in construction of the Langdon Township Drain #1. The primary purpose of this project is to South Pembina River from the Little South Pembina River

The proposed project was presented by Cary Backstrand who stated that in the late 1950's, runoff which normally flowed into the Little South Pembina River channel was diverted overland to Mulberry Creek by siltation of the original channel and by several dikes constructed along the Little South Pembina River. Mulberry Creek is unable to handle the additional flows from the approximately 12 square miles of drainage area and severe damage has occurred to road crossings after high runoff events. Low-lying lands along the channel also suffered flooding.

The project is located in Langdon Township, Cavalier County, and the project was constructed by the Board in the fall of 1989. Prior to construction, the Board acquired a drain permit from the State Engineer. The total cost for the Langdon Township Drain #1 is \$43,719. The current policy of the State Water Commission is to participate in 40 percent of the eligible project costs, which are \$28,070.

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It was the recommendation of the State Engineer that the request for cost participation in the Langdon Township Drain #1 in Cavalier County be deferred due to the present lack of funding.

**CONSIDERATION OF REQUEST FROM
CAVALIER COUNTY WATER RESOURCE
BOARD FOR COST PARTICIPATION
FOR CONSTRUCTION OF NORTH LOMA
TOWNSHIP DRAIN #1
(SWC Project No. 1840)**

and the Board plans to construct the project in the summer or fall of 1990.

On January 15, 1990, a request was received from the Cavalier County Water Resource District for cost participation in the North Loma Township Drain #1. The project is to reduce flood duration on agricultural land,

Cary Backstrand presented the project for the State Water Commission's consideration. The drain is located in North Loma, Nekoma, and Perry Townships in Cavalier County. The project received a drain permit from the State Engineer on September 29, 1989. The drain was designed for a ten-year event, which matches roadway culverts in the area. Wetlands along the course of the drain will be maintained as conditioned by the drainage permit. The Board will also perform work on the Howitz Waterfowl Production Area in cooperation with the US Fish and Wildlife Service.

The estimated project cost for North Loma Township Drain #1 is \$45,795. The current policy of the State Water Commission is to participate in 40 percent of the eligible project costs, which are estimated to be \$39,395.

It was the recommendation of the State Engineer that the request for cost participation for the construction of the North Loma Township Drain #1 in Cavalier County be deferred due to the present lack of funding.

**CONSIDERATION OF REQUEST FROM
CAVALIER COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN CONSTRUCTION OF BANNER
TOWNSHIP DRAIN #2
(SWC Project No. 1843)**

ation on agricultural land and the project was constructed in the fall of 1989.

On January 15, 1990, a request was received from the Cavalier County Water Resource District for cost participation in the construction of Banner Township Drain #2. The purpose of the project is to reduce flood duration

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The project received a drain permit from the State Engineer on January 17, 1989. Cary Backstrand indicated that Banner Township Drain #2 was originally planned as a larger project but was voted down by landowners who felt the cost was too high. Landowners repeticioned the Board for a scaled-down project and approved its establishment by a wide margin. The Board has reached an agreement with the US Fish and Wildlife Service on the project and features were installed to protect easement wetlands crossed by the drain.

The total project cost for Banner Township Drain #2 was \$15,925. The current policy of the State Water Commission is to participate in 40 percent of eligible project costs, which are \$9,564.

It was the recommendation of the State Engineer that the request for cost participation in the construction of the Banner Township Drain #2 in Cavalier County be deferred due to the present lack of funding.

**CONSIDERATION OF REQUEST FROM
RAMSEY COUNTY WATER RESOURCE
DISTRICT FOR COST PARTICIPATION
IN AN ENGINEERING STUDY FOR THE
GRAND HARBOR WATER MANAGEMENT
PROJECT**

(SWC Project No. 1804)

A request was received from the Ramsey County Water Resource District to cost participate in an engineering study for the Grand Harbor Water Management Project. The study has been estimated to cost approximately \$10,000.

Cary Backstrand indicated the purpose of the study is to develop an overall plan for the Grand Harbor Watershed Management Project. The project area is located in Ramsey County just west of Dry Lake. There is a long history of flooding problems within the watershed that result in damages to the roadway system and cropland. A number of attempts have been made in the past to alleviate the flooding problems. These attempts have results in some limited amount of success. A number of years ago a permit was requested to improve the existing drainage channel from this area, but because of the high construction costs, the landowners withdrew the application and filed a second application for a scaled-down project that required a pump at the downstream end. This application was approved and the project that resulted has provided some reduction in flood damages.

Mr. Backstrand said that some of the on-farm drains that were originally contemplated had not been developed due to the passage of the 1985 Farm Bill and, in particular, the Swampbuster provisions of that Act. The District has requested a commencement determination from ASCS and it

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appears unlikely that such a determination will be forthcoming. The District has been working with the US Fish and Wildlife Service, Ducks Unlimited, and others to develop a watershed management project based on the no-net loss concept. The Wetlands Trust has purchased land in the project area with the intent of restoring and creating wetlands as part of the overall Grand Harbor Watershed Management Project. Additional wetlands will be constructed and/or restored on private lands within the project area to fulfill the no-net loss of wetland acres requirement.

Because of the many interests involved in this project and the need for permits under state law, Mr. Backstrand said we have consistently advocated the development of the single plan for total project development. The District has retained American Engineering to develop such a plan, and because of the many interests involved, the project becomes extremely complex. Mr. Backstrand stated all of the groups involved in the development of this no-net loss project have been very cooperative and feel this project can clearly demonstrate that agricultural and environmental interests can and should work together in developing comprehensive water management projects that provide benefits to both.

It was the recommendation of the State Engineer that because of the uniqueness and the potential this project may have in demonstrating the workability of the no-net loss concept that the State Water Commission fund 50 percent of the engineering study, not to exceed \$5,000. Approval is contingent upon the availability of funds.

Ray Horne, landowner representative, elaborated on the project and urged the Commission's favorable consideration of funding. Mr. Horne's statement is attached hereto as APPENDIX "C".

Commissioner Byerly commended the locals for their efforts in communicating with all of the agencies involved in this project.

It was moved by Commissioner Rudel and seconded by Commissioner Narlock that the State Water Commission approve 50 percent cost participation, in an amount not to exceed \$5,000, for the engineering study of the Grand Harbor Watershed Management Project in Ramsey County.

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

**GARRISON DIVERSION PROJECT -
CONTINUED DISCUSSION RELATIVE
TO MR&I COST SHARING AND
ALTERNATE SOURCES OF FUNDING
(SWC Project No. 237)**

At the January 25, 1990 meeting Chairman Omdahl stated that it was obvious the federal MR&I Water Supply Program funds would not be sufficient to meet the requests for funding assistance from this program. He said it may be necessary to increase the local cost share and consider alternate sources of funding. The State Engineer and staff were directed to develop information and recommendations on MR&I Water Supply Program cost share funding options and alternate sources of funding for consideration at the Commission's next meeting. The State Engineer was also directed to discuss with the Garrison Diversion Conservancy District the proposal to change the federal-local cost sharing formula for MR&I Water Supply Program funds.

Linda Weispfenning, Environmental Scientist with the State Water Commission Planning Division, distributed copies of the briefing paper "Financing Options for Water Supply Projects". She discussed in detail the report and stated the report was prepared for the purpose of investigating options available to finance water supply projects in the State of North Dakota. This is a result of the demonstrated need for water supply projects as indicated by the interest in the water supply program of the Garrison Diversion Project.

Ms. Weispfenning stated because there will not be enough money available to fund all of the water supply projects, the briefing paper analyzes revenue sources that are currently available and funding options that will allow the money to be leveraged to assist the maximum number of people and to accomplish the most good.

The background of the Garrison Diversion Municipal, Rural and Industrial Water Supply Program (MR&I Program,) was explained. An estimated \$453 million is required to meet the current water supply needs in North Dakota. This includes \$136 million for the MR&I Water Supply Program (excluding 38 projects with no cost estimates), \$100 million to complete the entire Southwest Pipeline Project (includes the cost

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of rural water systems), and \$217 million for the full Northwest Area Water Supply Project. Ms. Weispfenning stated that approximately \$7.4 million is available for 1990 through traditional federal and state grant and loan programs to help fund these projects.

Ms. Weispfenning explained several options which could be available to fund the implementation of additional water supply projects. The options she discussed included: revolving loan program and low interest buy-down program (bonded); revolving loan program (non-bonded); water use fee; maximize taxing of Water Resource Districts; Water Resource District 4 mill increase; Property Tax increase; Oil Extraction Tax increase; Coal Severance Tax increase; and dedicated State sales tax.

All of the options discussed and identified offer the potential to increase the dollar amount of construction that can be done yearly for water supply projects; and, all of the options fall short of the total amount of funding required. Ms. Weispfenning summarized the report by indicating some of the options may be more readily acceptable than others by the political subdivision that are participating in the program, but no option presented is an easy answer to the problem of increasing the dollars available for water supply projects. The best that can be hoped for is to somehow leverage existing and potential dollars thereby maximizing what can be accomplished with extremely limited dollars. A financial scheme that is both equitable and reasonable to participants can be expected to gain the most support of those utilizing the program.

Gary Bauer, North Dakota Municipal Bond Bank, explained in detail the technical program offered by the Bond Bank, and discussed the possibility of utilizing future federal and state funds.

Secretary Sprynczynatyk commented that the report does not offer any recommendations, but he suggested if it is the State Water Commission's intent that this is the type of an effort it wishes to pursue in considering financing options, that a consultant be hired to do a detailed study of the options that might be the most acceptable and feasible from a financial standpoint. Secretary Sprynczynatyk reminded the Commission members that any changes in the cost sharing program for the Federal MR&I Program will need to be approved by the State Water Commission and the Garrison Diversion Conservancy District.

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It was the general consensus of the State Water Commission that the briefing report on the financing options for water supply projects be presented to the Garrison Diversion Conservancy District at its summer meeting. The Commission accepted the report and commended the staff for its work. No action was taken by the Commission at this meeting.

**CONSIDERATION OF AGENCY
FINANCIAL STATEMENT**

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures and the Programs/Projects Authorized, dated February 15, 1990. He explained the figures presented include the reduction of \$344,000, which is a result of the December 5, 1989 referral. Secretary Sprynczynatyk stated the agency is currently preparing a plan to reduce its travel by ten percent as requested by the Governor, which will have an effect on the State Water Commission. He suggested increasing the use of conference calls for State Water Commission meetings and meet less often in person, thereby reducing State Water Commission travel expenses.

Secretary Sprynczynatyk presented and discussed the Program Budget Expenditures and

**CONSIDERATION AND APPROVAL
OF RESOLUTION LIMITING
CORPS OF ENGINEERS SECTION
404 PERMITTING JURISDICTION
(SWC Resolution No. 90-3-438)**

Washington, DC, on March 13, 1990:

Commissioner Vogel informed the State Water Commission members that the National Association of State Departments of Agriculture adopted the following resolution at its meeting in

"Limiting Section 404 Permitting Jurisdiction

The US Army Corps of Engineers, USDA Soil Conservation Service, Environmental Protection Agency and the US Fish and Wildlife Service agreed in 1989 to use the same field methodology for delineating wetlands. In general, this is a positive step; the end result, however, has been for the Corps to claim wetlands permit jurisdiction over lands which no longer exhibit wetland characteristics, specifically hydrology and vegetation. This new authority places under the Corps 404 permitting jurisdiction, as of March, 1989, millions of acres of farmlands. This expanded jurisdiction requires landowners to go through an unwarranted permitting process. This places new economic risk factors into farming operations and devaluates land prices. The Corps' policy is not consistent with the USDA Conservation policy used in identifying wetlands in implementing the conservation provisions of the 1985 Farm Bill.

March 19, 1990

Resolved, that the National Association of State Departments of Agriculture, meeting in Washington, DC, on March 13, 1990, urges the Corps of Engineers, Soil Conservation Service, Environmental Protection Agency and US Fish and Wildlife Service to modify its interpretation of regulations so that lands cleared before December 23, 1985 will not come under the Corps' 404 permitting jurisdiction."

Commissioner Vogel requested the State Water Commission consider adopting a similar resolution, which would be forwarded to the US Army Corps of Engineers, US Soil Conservation Service, Environmental Protection Agency and the US Fish and Wildlife Service requesting modification of the interpretation of regulations so that lands used for agricultural purposes before December 23, 1985, will not come under the Corps' Section 404 permitting jurisdiction.

It was moved by Commissioner Vogel and seconded by Commissioner Gust that the State Water Commission adopt Resolution No. 90-3-438, Limiting Section 404 Permitting Jurisdiction. SEE APPENDIX "D".

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

It was moved by Commissioner Gust, seconded by Commissioner Narlock, and unanimously carried, that the State Water Commission meeting adjourn at 4:30 PM.



Lloyd B. Omdahl
Lieutenant Governor-Chairman



David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

SEAL

March 19, 1990

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting
 DATE March 19, 1990 PLACE Fargo, ND
 PROJECT NO. 10110101

Your Name	Your Address	Who do you Represent? (Or Occupation)
Robert Boshart	605 11 th S. Fargo	S/E Cass Res., GRAND HARBOR DRAIN.
Ray Horne	RR 5 DEVILS LAKE	Red River
Jim Johnson	ALVARADO, MN.	Red River
John Belmont	Grand Forks, N.D.	Red River Study Group
Maurice Bush	Grand Forks, ND	Water
Steve Dyke	100 Nth Bismarck Expressway	N.D. Game & Fish
Jeff Hendrickson	1500 Capitol Ave. Bismarck	US Fish & Wildl. Serv.
Dave Paulson	1200 MISSOURI AVE BISMARCK	ND Dept. of Health
Toney Ott	Denver, Colo	USEPA
Dennis Vanden	1200 MISS. AVE. BISMARCK	N.D. Dept of Health
GARY BAUER	418 EAST BROADWAY SUITE 246 BISMARCK, ND	ND MUNICIPAL BOND BANK
Ike Mittelstet	BOX 1458 BISMARCK, ND 58502	USDA-SCS
Inda Weijfering	Bismarck, ND	SWC
Fred Helberg	Harwood ND	S.E. Cass Water R.D.
Pandy Gjestvang	West Fargo	ND State Water Com.

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
RON FRENCH	GRAND FORKS	KBM ENGINEERING

Chairman Omdahl and members of the State Water Commission:

I am Leonard Fagerholt, a Walsh Co. Commissioner and now a member of the six county group.

Not quite a year ago, we had a disastrous flood in Walsh County along the Red River. When the Red River came to where the dikes were lowered, it immediately flowed over the land and over the roads creating a river four miles wide. It caused over \$100,000.00 damage to our county Rd. #2. Every drop of water that was stored on our land was somebody else's water as Walsh County did not have any runoff in the spring of 1989.

After the flood, the four townships Oak Park, Bigwood, Fork, and Eagle Point in Marshall Co., decided that they could not live with the agreement that was signed by the State Water Commission, the DNR, Middle River-Snake Watershed, Grand Forks Water Resource Board and the Walsh County Water Resource Board. They are very concerned about the future of Oslo. The people have a common church, a school, and a town and, if it is to survive, needs the trade area from both ND and Minn. The court order lowering the dikes is putting brothers against brothers, sisters against sisters and neighbors against neighbors. These four townships used their entire 1988 levy to hire an engineer to make one final concerted effort to develop a permanent working solution to their flood problems. With me here today is Winten Knudson, chairman of the four townships, Bud Johnson a farmer in Bigwood Township, whose land has never been flooded, and John Belcourt, the engineer that was hired by the four townships.

About 4 or 5 months ago, Walsh County joined the four townships in their effort. When the dikes were being torn down, I went to the Walsh County Commissioners, surmising that the dike issue was far from being solved. We levied a quarter of a mill that year and in 1989 we levied three-quarters of a mill. Walsh County has pledged \$25,000.00 toward this effort. The Minn. DNR has joined our side and have reimbursed the townships \$38,000.00.

At the present time, we have the Minn. DNR, Senators Burdick, Conrad and Durenberger and Roshkowitz, Congressman Dorgan and Stangeland and the ND State Agriculture Committee joining our efforts.

Last spring when the agriculture committee toured both the Minn. and ND sides of the Red River they couldn't believe what they saw. Contrary to a news release, released by an attorney from the State Water Commission, ring dikes are not the solution to problems along the Red River. There is no foundation to this statement.

I would like to quote from David Sprynczynatyk's letter of January 9, 1990 to Dennis Markuson (Walsh County's Highway Dept. Engineer) regarding hazard mitigation. I quote "Thus, although the hazard mitigation has merit, it may be a violation of the

corrective plan and federal district court rulings. At this time the county could not proceed with this plan until approval is obtained from all the parties to the co-operative agreement and the federal district court. This may be extremely difficult to accomplish, but necessary in view of all past actions." It doesn't make sense to spend over a hundred thousand dollars in a year on a small flood to repair damages and you can't spend one penny to prevent further damages.

Why are we here? The State Water Commission is requested to work with the Minnesota Department of Natural Resources to accomplish the following:

1. Assist local people in obtaining federal funding for Corps of Engineers and the local people use.
2. Match Minnesota cost sharing funds to acquire the federal funding requested.
3. Make changes needed to mold the Corps of Engineers and the Technical Committee agency personnel into a team with skills commensurate with the complexities of our local flood problems.
4. Direct the Corps of Engineers to provide our engineers with requested reports.

My final question is: Is the State Water Commission going to continue to fight us or are they going to join us in completing an agreement that is agreeable to all that live on both sides of the Red River?

Thank you.

APPENDIX "B"

March 19, 1990

No. Dakota Water Commission
At Fargo, No. Dak.

I believe that each of you represents portions of No. Dakota, where lack of water is more common than the surplus situation that results in Narlock's district when the Valley empties it's excess into this Inter-state Community.

Danny and I live across the Red River from each other, approximately the same distance from the main channel. At that point our similarities become differences, he is a politician, I am not; he is Polish while I am Swedish; one of us is handsome, the other is not. But perhaps the biggest difference is that his land and home is subject to flooding, while my land and home has to this time, been spared that burden.

Neither Danny nor I made the choice of where we live in this Valley, that choice was made by our families over a century ago and each now lives with the impact of what nature provided and altered by men, machines and political decisions.

That fact that I do not have flooding problems is unique, in any major event I am the last man on the shore of a huge expanse of water where travel by wheeled vehicle is no longer possible. The most severely impacted area along this entire river is Fork Township where the Snake river enters the Red. They have had 20 floods in the past 24 years and only 8 occupied farmsteads remain. Their continued existance is questioned at best, but we fully intend to try to bring some recognition to this un-noticed disaster that is really a harbinger of the events we will all face.

The danger of living within isolated rings, miles from shore, with no access for fire or emergency assistance, no mail, no bus, no church and with constant 24 hour vigil required in case of leakage or topping that can destroy stored crops and ruin real and personal property; this has been and is the lot in life that has become commonplace for Danny's neighbors as well as mine.

Because I was spared the impact of flooding, I was not involved with the dike issue nor any of the resulting events. However, by September of '86, it became apparent that the events that engulfed my neighbors, could also include me if indeed those events were based on procedure permitted in the role of Government in the lives of the governed citizen.

Commission -2-

Those questions came to mind because for the past 25 years, my activities have been involved with land use, planning and zoning under the guidelines that permit acceptable and proper development under the conditions that exist in this Valley. The rules and procedure are clearly defined and to my understanding, equally available for all.

By May of '87 our efforts had expanded to include professional Engineering and Hydrology in addition to data provided and uncovered from many sources. The obvious conclusion was that incomplete and faulty data had been used in prior conclusions, and that the rights and responsibilities of local citizens and government had also been ignored.

We had hope that this obvious and proven deficiency would be recognized by all parties and that meaningful corrections could begin. However, that did not happen until December of '88 when the proper DNR people met with us at my home. The result of that meeting was the recognition of the role each of us is responsible for. We also reached an agreement for cost-share funding between our local Governmental units and the State, the proceeds to be used by us to participate in a proposed and dedicated re-evaluation process. At about this same time, we also welcomed Walsh County of No. Dakota as a member of our group effort, dedicated to truth and honor for all.

The progress of that effort to date, is being reported to you by our Engineer, John Belcourt.

The basic understanding that we have with our State and our DNR as your counter-part, is simply this, that we all fully recognize that the HEC-2 modeling done was not adequate, that the impact of structures was not properly factored and that the entire process was altered by considerations other than technical. Also that our local concerns are recognized and that we will be a full participant in a process we and they can accept as the best that can be provided.

From that basis of a totally correct hydrologic evaluation, that each of us accepts, we have then agreed to an honest discussion where each of us will attempt to maximize our positions. We to maximize protection for all, provide adequate access for all and clarify land use so that our Community can survive. They to keep our intent and purpose from creating negative impact.

Commission -3-


We have also agreed that this will be an honest, honorable discussion, or as Joe Gibson of the DNR says, "fight", based on factors and data we all recognize as true, each of us represented by professionals of the highest possible caliber. The results will have to be recognized by all as the best possible resolution for all concerned.

Our meeting today, the 19th., is to request that you join our DNR in this agreement with them, to assist us and our Congressional delegations to assist in obtaining the required funding that has now run beyond local government to manage. I have been asked by Joe Gibson of the DNR to forward this message to you. You are also to call him at 612-296-2773 for confirmation of this request or other data that you need to clarify.

In summary, this greivous situation that impacts us so negatively, is neither hypothetical or remote, it is our lives, our lands, our Community and our future that is at risk and are the stakes in this game that we have had to play. The present situation is intolerable, all our resources and professional help that we have available will be used to make the necessary corrections with honor and equity for all our residents.

If there is a difference of opinion on these issues as they are developed, let them be based on the basic truth that can and must be developed. We respect that right for others, we expect it for ourselves.

Sincerely Yours,


A. L. Bud Johnson

Box 41

Alvarado, Mn. 56710

Phone 218-965-4617

**GRAND HARBOR WATERSHED MANAGEMENT PROJECT
INVESTIGATION COST PARTICIPATION REQUEST
NORTH DAKOTA STATE WATER COMMISSION
MARCH 19, 1990**

The Grand Harbor Project is located just west of Dry Lake in Ramsey County. It began in 1974 with channel improvements to a coulee in the southern portion of the watershed. Since then it has developed into a comprehensive watershed management project. Approvals through the Ramsey County Water Resource District have been obtained and the assessment district established. The project has been bonded and some construction completed.

Originally the Grand Harbor project was not intended to be a "no-net loss project". It was approved prior to the state's new drainage regulations and is not required to meet these new guidelines. Because of the changes in environmental concerns and local efforts by the US Fish and Wildlife Service the landowners have agreed to pursue a cooperative "no-net-loss" initiative for completion of the project.

Our request for cost participation before the State Water Commission is for financial assistance with this initiative. We need to conduct an investigation to review the "no-net-loss" alternatives to further project development. This investigation will result in a working plan for development of agriculture and wildlife habitat within the watershed. The intent of the plan would be to maintain a balance between agricultural and wildlife interests using the "no-net-loss" of wetlands concept. Since this was not part of the original project costs will increase. To cover these costs the landowners agreed that funding should be requested through the State Water Commission.

The Grand Harbor Watershed Management Project involves input from many agencies both public and private including the following:

Ramsey County Water Resource District (Project Sponsor)
Grand Harbor Landowners
US Fish and Wildlife Service (Extension Programs)
ND Wetlands Trust (Kenner Marsh Tract - Ownership)
Ducks Unlimited (Kenner Marsh Development)
SCS-ASCS (Swampbuster and Minimal Effects)
ND State Game and Fish Department

This project is in the forefront of cooperative efforts between agriculture and wildlife. With completion of the investigation we will have a basis on which to further these efforts. To do this we need financial assistance and request you vote in favor of providing funding for this effort.

Ray Horne
Landowner Representative



North Dakota State Water Commission

900 EAST BOULEVARD • BISMARCK, ND 58505-0187 • (701)224-2750 • FAX (701)224-3696

RESOLUTION NO. 90-3-438

LIMITING SECTION 404 PERMITTING JURISDICTION

WHEREAS, the United States Army Corps of Engineers, the USDA Soil Conservation Service, the Environmental Protection Agency and the United States Fish and Wildlife Service agreed in 1989 to use the same field methodology for delineating wetlands; and

WHEREAS, in general, this is a positive step; the end result, however, has been for the United States Corps of Engineers to claim wetlands permit jurisdiction over lands which no longer exhibit wetland characteristics, specifically hydrology and vegetation; and

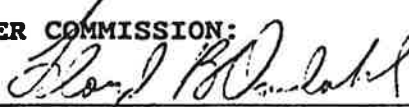
WHEREAS, this new authority places under the Corps of Engineers Section 404 permitting jurisdiction, as of March, 1989, millions of acres of farmland; and

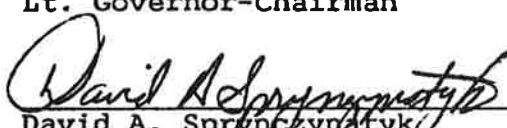
WHEREAS, this expanded jurisdiction requires landowners to go through an unwarranted permitting process, and places new economic risk factors into farming operations and devaluates the land prices; and

WHEREAS, the Corps of Engineers' policy is not consistent with the USDA Soil Conservation policy used in identifying wetlands in implementing the conservation provisions of the 1985 Farm Bill.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission at its meeting held in Fargo, North Dakota, on this 19th day of March, 1990, urges the Corps of Engineers, the Soil Conservation Service, the Environmental Protection Agency and the U.S. Fish and Wildlife Service to modify their interpretation of regulations so that lands used for agricultural purposes before December 23, 1985, will not come under the Corps' Section 404 permitting jurisdiction.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:


 Lloyd B. Omdahl
 Lt. Governor-Chairman


 David A. Sprynczynatyk
 State Engineer and
 Chief Engineer-Secretary

SEAL

GOVERNOR GEORGE A. SINNER
 CHAIRMAN

DAVID A. SPRYNCZYNYATYK, P.E.
 SECRETARY & STATE ENGINEER

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT

State Water Commission

DATE

May 7, 1990

PLACE

Bismarck, ND

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
<u>Phyllis Mansing</u>		<u>Associated Press</u>
<u>FAT STEVENS</u>	<u>Bismarck</u>	<u>SE</u>
<u>Tim Fay</u>	<u>Bismarck</u>	<u>SWC</u>
<u>Dale FRINK</u>		
<u>DAVE Spry</u>		
<u>Jeff Mattem</u>		
<u>LT. Gov. Omdahl</u>		
<u>Jerome Spaeth</u>		
<u>Tim Roby</u>	<u>Bismarck</u>	<u>FARGO FORUM</u>