

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

December 21, 1998

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on December 21, 1998. Governor-Chairman, Edward T. Schafer, called the meeting to order at 1:30 PM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Mike Ames, Member from Williston
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

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

CONSIDERATION OF AGENDA
for

There being no additional items

the agenda, the Chairman
declared the agenda approved, and requested Secretary Sprynczynatyk to
present the agenda.

CONSIDERATION OF MINUTES The minutes of the October 19,
1998 OF OCTOBER 19, 1998 STATE WATER State Water
Commission meeting COMMISSION MEETING - were
approved by the following
APPROVED motion:

It was moved by Commissioner DeWitz,
seconded by Commissioner Thompson, and
unanimously carried, that the minutes of the
October 19, 1998 State Water Commission
meeting be approved as prepared.

CONSIDERATION OF MINUTES The minutes of the November 25,
1998
OF NOVEMBER 25, 1998 STATE State Water Commission
teleconfer- ence call meeting were approved
WATER COMMISSION TELE- by
CONFERENCE CALL MEETING - the following motion:
APPROVED

It was moved by Commissioner DeWitz,
seconded by Commissioner Thompson, and
unanimously carried, that the minutes of the
November 25, 1998 State Water Commission
teleconference call meeting be approved as
prepared.

CONSIDERATION OF MINUTES The minutes of the December 10,
1998
OF DECEMBER 10, 1998 STATE State Water Commission
teleconfer- ence call meeting were approved
WATER COMMISSION TELE- by
CONFERENCE CALL MEETING - the following motion:
APPROVED

It was moved by Commissioner DeWitz, seconded by Commissioner Thompson, and unanimously carried, that the minutes of the December 10, 1998 State Water Commission teleconference call meeting be approved as prepared.

FINANCIAL STATEMENT -
Engineer,
AGENCY PROGRAM BUDGET
Program
EXPENDITURES
period
reflecting 67 percent of the 1997-1999 biennial

Dale Frink, Assistant State
presented and discussed the
Budget Expenditures for the
ending October 31, 1998,
SEE APPENDIX "A"

1998

FINANCIAL STATEMENT -
RESOURCES TRUST FUND

Dale Frink reported that on November 30, 1998, the Office of Management and Budget updated its revenue projections for the oil extraction taxes. The revenues for the biennium were decreased to \$5,233,278, but the interest income was increased to \$171,358. The latest estimate includes total revenues for the Resources Trust Fund of \$9,336,909, which is a net decline of \$46,953 that was reported at the October 19, 1998 State Water Commission meeting, and an overall decrease of \$2.4 million since the start of the biennium.

Mr. Frink stated the unobligated balance in the Contract Fund is \$954,113. It is estimated that of the \$13,473,548 legislative appropriation for the Resources Trust Fund, approximately \$4.3 million will be obligated, but not spent, on June 30, 1999. This includes \$1.5 million for the Nesson Valley irrigation, \$2 million for the Maple River dam, and \$800,000 in miscellaneous general projects. Approximately \$614,000 in cost share requests will be presented for the Commission's consideration at this meeting. The State Water Commission typically does not obligate \$250,000 until after the spring snowmelt period for emergencies. Mr. Frink stated that if the Commission acts favorably on the cost share requests presented at this meeting, approximately \$340,000 would be available in the Contract Fund to allocate to priority projects over the next six months of the biennium. SEE APPENDIX "B"

APPROVAL OF RESOURCES

Sprynczynatyk stated that the Resources Trust Fund Request (TRF) is in violation of Section 57-51.1-07.1(2) of the North Dakota Century Code (N.D.C.C.) (ACT/RES)

Secretary

Section 57-

Dakota Century Code requires that "every legislative bill appropriating moneys from the Resources Trust Fund, pursuant to subsection one, must be accompanied by a State Water Commission report."

Todd Sando, Director of the State Water Commission's Water Development Division, presented for the Commission's consideration the State Engineer's request for funding from the Resources Trust Fund for the 1999-2001 biennium. He explained that revenues into the Resources Trust Fund for the base budget request assumes that 20 percent of the oil extraction tax are deposited into the Resources Trust Fund along with other authorized revenues.

The base budget revenues include \$5,296,218 from the oil extraction tax revenue; \$1,100,000 from the Municipal, Rural and Industrial Water Supply program loan repayments; \$700,000 from the Southwest Pipeline Project repayments; \$5,000 in oil royalties; and \$145,886 of interest income. In addition, approximately \$4,300,000 of obligated funds for construction contracts will not be expended during the current biennium and will be carried into the 1999-2001 biennium. The base budget assumes total revenues

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into the Resources Trust Fund of approximately \$11,547,104. The following table shows three scenarios - the 20 percent base budget request, the 1999 State Water Management Plan identified needs, and the immediate water needs as estimated by the North Dakota Water Coalition:

**WATER FUNDING NEEDS
(1999-2001 Biennium)**

<u>North Dakota Plan</u>	<u>Base Budget Request 20% RTF Project/Program Water Coalition</u>	<u>1999 State Water Management Oil Extraction Tax</u>
Obligated Carryover	\$ 4,300,000	
Contract Funds:		
General Projects	1,887,104	\$
9,200,000	\$ 3,000,000	
Devils Lake	1,500,000	19,000,000
2,600,000		
Maple River Dam	1,500,000	8,000,000
6,000,000		
Irrigation: (Nesson Valley, Elk Charbonneau, or Horse Head Flats)	800,000	5,600,000
3,000,000		
USGS Hydrologic Studies	630,000	630,000
Northwest Area		
Water Supply Project	100,000	100,000
Southwest Pipeline Project		
6,000,000	705,000	6,000,000
Cloud Modification Project		
	125,000	280,000
Grand Forks Flood Control		
25,000,000		25,000,000
MR&I Planning	_____	_____600,000_____
<u>600,000</u>		

TOTAL	\$11,547,104	\$74,410,000
\$46,200,000		

It was the recommendation of the State Engineer that the State Water Commission approve the 20 percent base budget allocations request from the Resources Trust Fund for submittal to the Legislature.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve the recommendation of the State Engineer to request the Legislature to appropriate the 20 percent base budget of \$11,547,104 from the Resources Trust Fund for the 1999-2001 biennium for projects and programs as shown in the table above. SEE APPENDIX "C"

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion carried.

FINANCIAL STATEMENT -
1999-
1999-2001 BIENNIUM BUDGET
five

as required from all state agencies. The State Water Commission submitted optional adjustments to the budget to address items that were affected by the five percent reduction. A budget hearing was held on September 10, 1998 with the Office of Management and Budget.

The State Water Commission's

2001 biennium budget reflects a
percent reduction in general funds

On December 10, 1998, Governor Schafer released his executive budget recommendations during the 1999-2001 biennium. Secretary Sprynczynatyk stated the executive budget is very favorable for the State Water Commission and, if approved by the Legislature, it will allow enhancement of the agency's operations in some areas.

Secretary Sprynczynatyk informed the Commission members that Senate Bill No. 2023, the State Water Commission's appropriation, will be heard before the Senate Appropriations Committee on January 20, 1999.

APPROVAL OF REQUEST FROM
Water

NORTH CASS WATER RESOURCE
DISTRICT FOR COST SHARE IN
consideration for
the reconstruction of
County Drain No. 13.
1063)

A request from the North Cass

Resource District was presented
the Commission's
cost share in
Cass

RECONSTRUCTION PROJECT
(S.W.C. Project No.

District had attempted to establish an assessment district to reconstruct the entire drain at one time, but it was voted down. The District now intends to reconstruct the upper portion of the drain as funds become available.

The total estimated project cost is \$1,250,000, of which \$1,084,623 is eligible for cost share, to reconstruct the lower five miles of the project. Under the State Water Commission's policy and guidelines for cost share, 35 percent of the eligible costs qualify for cost share, or \$379,618. The cost share guidelines also limits the amount of cost share per biennium of any one project to 5 percent of new funding available to the State Water Commission for general projects. The request before the State Water Commission is to cost share in the amount of \$150,000.

At its August 13, 1998 meeting, the Commission passed a motion to approve the following changes to the cost share policy for drainage projects:

- 1) Include county and township road crossing work as eligible costs
- 2) Cost share at 35 percent of eligible costs
- 3) Limit the cost share per biennium of any project to 5 percent of new funding available to the State Water Commission for general projects; the 5 percent may be exceeded at the Commission's discretion if funds remain near the end of the biennium. In the event there is a significant reduction in revenue realized in the biennium, the cost share limit percentage may have to be reassessed.
- 4) Include appropriate costs for engineering work as eligible costs, which excludes any land rights work.

The Commission members discussed the cost share change relating to the limitation per biennium of any project to 5 percent of new funding available to the State Water Commission. Because the intent of the cost share limitation on phased projects is unclear as approved on August 13, 1998, the Commission directed the State Engineer to prepare written guidelines to clarify the 5 percent limitation issue relating to the state and the local sponsor. The Commission requested that the guidelines be made available at its January 27, 1999 meeting.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$150,000 in the current biennium from the Contract Fund, for the reconstruction of the lower 5 miles of Cass County Drain No. 13, contingent upon the availability of funds.

Morris Melander, Chairman of the North Cass Water Resource District, and Jeffrey Volk, Moore Engineering, provided project information, and requested the Commission's favorable consideration of the cost share request.

It was moved by Commissioner Swenson and seconded by Commissioner Bjornson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$150,000 in the current biennium from the Contract Fund, for the reconstruction of the lower five miles of Cass County Drain No. 13. This motion is contingent upon the availability of funds.

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Commissioners Ames, Bjornson, Dewitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

APPROVAL OF REQUEST FROM County RICHLAND COUNTY WATER present- RESOURCE DISTRICT FOR considera- ADDITIONAL COST SHARE IN on RICHLAND COUNTY DRAIN NO. 95 95 (SWC Project No. 1900)	A request from the Richland Water Resource District was ed for the Commission's tion for an additional cost share the Richland County Drain No. project.
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Cary Backstrand, Chief of the State Water Commission's Regulatory Section, Water Development Division, presented the project. The state and federal permits have been received, and construction on the project is near completion. The engineer's cost estimate for the project was \$1,220,110, of which \$925,435 was considered eligible for 40 percent cost share, in the amount of \$370,200.

On July 22, 1997, the State Water Commission passed a motion approving cost share in the amount of \$100,000 from the Contract Fund, and deferred action on the remainder of the cost share request. Since the Commission's action on July 22, 1997, the cost share policy and guidelines have been revised by the Commission. Mr. Backstrand stated since the project was approved under the 40 percent guidelines, it would be appropriate to use the 40 percent guidelines for the additional cost share request, although the funds should be limited to \$150,000 for the current biennium. The request before the State Water Commission is to cost share in an additional \$50,000.

Gordon Johnson, Chairman, Richland County Water Resource District, discussed the completed project and requested the Commission's favorable consideration of the additional cost share request.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 40 percent of the eligible items, not to exceed an additional \$50,000 in the current biennium from the Contract Fund, for Richland County Drain No. 95, contingent upon the availability of funds.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve cost share of 40 percent of the eligible items, not to exceed an additional \$50,000 in the current biennium from the Contract Fund, for Richland County Drain No. 95. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

APPROVAL OF REQUEST FROM
County STEELE COUNTY WATER
present-
RESOURCE DISTRICT FOR COST
considera-
SHARE IN STEELE COUNTY
the Steele
DRAIN NO. 13
The (SWC Project No. 1901)
mile assess-

A request from the Steele
Water Resource District was
ed for the Commission's
tion for cost share in

County Drain No. 13 project.
project involves a 2.5-
ment drain which

discharges into an unnamed tributary of the Goose River, and is located approximately three miles southwest of Hatton, ND. The project consists of cleaning and improving the sectionline road ditches, salvaging existing and installing new culverts, and the installation of three pipe drop structures with a rock riprap plunge pool at the end of the discharge pipe. A drain permit was approved by the State Engineer for the project.

The engineer's cost estimate is \$92,524, of which \$77,178 is eligible for cost share. Under the State Water Commission's policy and guidelines for cost share, 35 percent of the eligible costs qualify for cost share. The request before the State Water Commission is to cost share in the amount of \$27,000.

It was the recommendation of the State Engineer that the State Water Commission approve cost share of 35 percent of the eligible costs, not to exceed \$27,000 from the Contract Fund for Steele County Drain No. 13, contingent upon the availability of funds.

Donald Elston, Chairman of the Steele County Water Resource Board, noted the project is complete except for the grass seeding. On behalf of the board, he requested the Commission's favorable consideration of the cost share request.

It was moved by Commissioner Hillesland and seconded by Commissioner Swenson that the State Water Commission approve cost share of 35 percent of the eligible items, not to exceed \$27,000 from the Contract Fund, for the Steele County Drain No. 13 project. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

APPROVAL OF REQUEST FROM
Water
NORTH CASS WATER RESOURCE
for DISTRICT FOR COST SHARE IN
consideration for
RURAL RING DIKES PROJECT
dikes(SWC Project No. 1271)

A request from the North Cass
Resource District was presented
the Commission's
cost share in the rural ring
project.

Cary Backstrand presented the project that involves the construction of or raising of farmstead ring dikes in Wiser and Noble Townships, which are the northern most townships along the Red River in Cass County. Thirty-two (32) farmsteads have been identified as needing additional flood protection.

Mr. Backstrand explained that ring dikes are the most acceptable and efficient way to protect farmsteads during a flood event, with the intent being to protect farmsteads, grain bins, and other developed areas. He noted it is not intended to provide protection to cropland.

The preliminary cost estimate for the project is \$650,000, and the board requested a 50 percent cost share. On August 13, 1998, the State Water Commission considered and approved a 25 percent cost share for a similar rural ring dikes project in Walsh County.

Secretary Sprynczynatyk indicated the water resource districts were notified that the state is willing to consider providing cost share for the construction of ring dikes. At the time the Walsh County request was considered, it was the only county to express an interest in developing a ring dikes project. In discussion of the Walsh County ring dikes project request at its meeting on August 13, 1998, the Commission members expressed concerns relative to the future funding from the Contract Fund since the water resource districts' response was uncertain at that time. The Commission members stressed the importance that the program needed to be addressed in the State Water Management Plan process that will be used in the identification of potential projects and water resource management needs and presented to the Legislature. Therefore, the Commission passed a motion to approve a 25 percent cost share for the Walsh County project.

The State of Minnesota is providing cost share assistance of 50 percent through Minnesota's watershed districts for construction of ring dikes in the Red River area. Manitoba has also been involved in projects to ring dike farmsteads or construct pads above known flood levels for farmstead development. The Natural Resources Conservation Service constructed several ring dikes using RC&D funds in Grand Forks County in the early 1980s. Numerous ring dikes have been constructed by private landowners, many of which have been overtopped or weakened during the large flood events experienced the last few years.

It was the recommendation of the State Engineer that the State Water Commission cost share in 25 percent of the eligible costs, not to exceed \$162,500 in the North Cass Water Resource District's farmstead ring dikes project in Wiser and Noble Townships, contingent upon the availability of funds.

Jeff Volk, Moore Engineering, provided information relative to the studies that have been done in the area. At the recommended 25 percent cost share level, he expressed uncertainty on behalf of the landowners that the level of funding being recommended would not be adequate for the landowners to pursue the program.

In discussion of the impacts of flooding in the Red River Valley, Secretary Sprynczynatyk suggested the possibility of pursuing a partnership of funding that could involve the Red River Joint Water Resource Board, the local water resource district, the landowner, and the state in rural ring dikes projects. He noted this option has been discussed with the local water resource boards.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission:

- 1) approve cost share of 25 percent of the eligible costs, not to exceed \$162,500 from the Contract Fund, in the North Cass Water Resource District's farmstead ring dikes project in Wiser and Noble Townships; and
- 2) direct the State Engineer to pursue options for a partnership of funding for the program, to be presented for the Commission's

consideration at its
January 27, 1999
meeting.

This motion is contingent upon the availability
of funds.

Commissioners Ames, Bjornson, DeWitz,
Hillesland, Johnson, Olin, Swenson, Thompson,
and Chairman Schafer voted aye. There were
no nay votes. The Chairman declared the
motion unanimously carried.

APPROVAL OF REQUEST FROM Joint TRI-COUNTY JOINT WATER (Ransom, RESOURCE DISTRICT FOR COST WaterSHARE IN TRI-COUNTY FLOOD presented for CONTROL PROJECT, PHASE II (SWC Project No. 1894) County Flood II.

A request from the Tri-County Water Resource District (Richland and Maple River Resource Districts) was presented for the Commission's consideration for cost share in the Tri-County Flood Control project, Phase II.

On December 1, 1997, the State Water Commission approved 40 percent cost share of the Phase I eligible costs, not to exceed \$20,000 from the Contract Fund. Phase I of the project consisted of channel alignments, earthwork, drainage and flood control structure requirements, and right-of-way requirements. This portion of the project was completed in July, 1998.

The Phase II segment will consist of refinements to the Phase I study and will address issues such as outlet capacity, outlet control structure requirements, and wetland impacts. The total estimated cost of Phase II is \$118,500. Under the previous State Water Commission's policy and guidelines for cost share, 40 percent of the eligible items qualify for cost share. The request before the State Water Commission is to cost share in the amount of \$47,400.

It was the recommendation of the State Engineer that the State Water Commission approve a 40 percent cost share of the eligible costs, not to exceed \$47,400 from the Contract Fund, for the Tri-County Flood Control project, Phase II study, contingent upon the availability of funds.

James Lyons, Chairman of the Tri-County Joint Water Resource Board, expressed appreciation for the Commission's support in Phase I, and requested favorable consideration of the Phase II cost share request.

It was moved by Commissioner Johnson and

seconded by Commissioner Ames that the State Water Commission approve cost share in 40 percent of the eligible costs, not to exceed \$47,400 from the Contract Fund, for Phase II of the Tri-County Flood Control project. This motion is contingent upon the availability of funds.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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APPROVAL OF NORTH DAKOTA
Diversion
WETLANDS TRUST ALLOCATION
reformulated by
FOR FISCAL YEAR 1998
the (SWC Project No. 1826)
Municipal, Rural,
Water Supply program and the Wetlands Trust. Both features are
widespread programs benefitting much of the state.

In 1986, the Garrison
Project was
Congress. Two new features of
project were the
and Industrial (MR&I)

The Wetlands Trust is a program that provides for the preservation, enhancement, restoration, and management of wetlands and associated wildlife habitat in the state. The Wetlands Trust operates off of the interest from a trust fund that will eventually reach \$13.2 million. Of the \$13.2 million, \$12 million is to come from the federal government and \$1.2 million from the state.

In 1993, the Garrison Diversion Conservancy District, the State Water Commission, and the North Dakota Game and Fish Department entered into a memorandum of agreement in which the three entities agreed to share equally the state's commitment, in accordance with terms set out in a February 14, 1991 agreement between the State of North Dakota, the Bureau of Reclamation, and the North Dakota Wetlands Trust. That agreement provides that the state's share shall be based on 0.15 percent of the federal Garrison Diversion Unit (GDU) appropriation. The Fiscal Year 1998 GDU appropriation is \$25.9 million; therefore, the state's commitment is \$38,850. The State Water Commission's share is \$12,950.

It was the recommendation of the State Engineer that the State Water Commission approve the obligation of \$12,950 for one-third of the state's Fiscal Year 1998 Wetlands Trust contribution, contingent upon an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

It was moved by Commissioner Olin and seconded by Commissioner DeWitz that the State Water Commission approve the obligation of \$12,950 for one-third of the state's Fiscal Year 1998 North Dakota

Wetlands Trust contribution. This motion is contingent upon the availability of funds, and an equal contribution by the Garrison Diversion Conservancy District and the North Dakota Game and Fish Department.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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GARRISON DIVERSION PROJECT -
the North Dakota
delegation in-
(SWC Project No. 237)
United
of Repre-

On November 10, 1997,
Dakota congressional
roduced legislation in the
States Senate and House

sentatives (S 1515 and HR 3012) that will re-focus and complete the
Garrison Diversion Project. The bills were introduced as amendments to
the Garrison

Diversion Reformulation Act of 1986, which is an amendment to the 1965
Act. The "Dakota Water Resources Act of 1997" is the final product of
years of negotiations and represents broad, bipartisan consensus on the
future of the project.

Field hearings on the Dakota Water
Resources Act were held February 19, 1998 in Fargo, ND, and on August 11,
1998 in Minot, ND. The hearings were convened to receive testimony from
interested parties in North Dakota and the region on the legislation to
complete the Garrison Diversion Project.

The Dakota Water Resources Act
was heard before the Subcommittee on Water and Power of the U.S. Senate
Committee on Energy and Natural Resources on July 14, 1998 in Washington,
DC. The Act was heard before the Subcommittee on Water and Power of the
U.S. House of Representatives Committee on Resources on September 29,
1998.

The Garrison Diversion
Conservancy staff and others continue to address the comments and
remarks from the Administration during the hearings and prepare the
necessary steps for the next Congress and early passage of the bill.

GARRISON DIVERSION PROJECT -
for the MR&I WATER SUPPLY PROGRAM
program, pro-
(SWC Project No. 237-03)
program report:

Jeffrey Mattern, Coordinator
MR&I Water Supply
vided the following

All Seasons Rural Water: The project will provide water to 24

rural residents and the city of Bisbee, and will involve a reservoir/pump station, pipelines, and in-line booster stations. The environmental assessment process resulted in a Finding of No Significant Impact. The estimated project cost is \$2,127,300, with 65 percent being \$1,382,745. The funding approved includes a MR&I grant of \$1 million, a Rural Development loan of \$777,000, and the remaining \$350,300 being proposed from temporary funding. The original request submitted was for an MR&I grant of \$1.38 million, but full funding was not available. The additional \$350,000 is now available from the Dickey rural water project excess funds.

Burleigh Water Users, Phase 2: The project has been completed.

Dickey Rural Water: The project has been completed.

Grand Forks Water Treatment: The project has been completed.

Missouri West Rural Water, Phase 2: Northern Improvement Company is testing the water distribution system south of Mandan. Maquire Iron has completed the airport water storage tank. Engineering America, Inc. has completed the Flasher water storage tank. The construction contract is scheduled to be completed in 1999.

North Valley Water Association/Walhalla-Neche Branch: Peterson Construction completed the installation of a pipeline to Walhalla in Phase 1. Phase 2 will add rural users and the city of Neche to the North Valley water system, and was completed this fall.

Ramsey County Rural Water: The preliminary engineering report has been completed on the proposed expansion into Eddy and Foster counties. The estimated project cost is \$3.3 million. MR&I funding assistance has been requested towards the feasibility study of \$25,000. The 65 MR&I grant would be \$16,250 and would come from the current administration funds.

Ransom-Sargent Rural Water: The project involves a \$2.3 million expansion in the Barnes Rural Water area and Southeast Rural Water area. The environmental assessment process resulted in a Finding of No Significant Impact, and the process is anticipated for completion in March, 1999. It is intended that the project will be bid this winter. The other major phase of the project involves the core system which includes a new well field and transmission pipeline. This area potentially impacts 94 acres of prairie orchid habitat and 24 acres of wetland habitat. The Bureau of Reclamation and the U.S. Fish and Wildlife Service are working on the mitigation measures.

NAWS, Phase I (NAWS Rugby Component): Construction is scheduled to be completed in August, 1999.

NAWS, Phase 2 (NAWS Minot Component): The project is being reviewed for compliance with the National Environmental Protection Act.

GARRISON DIVERSION PROJECT-
MR&I COMMITTEE UPDATE
Supply(SWC Project No. 237-03)
committees of the State
Commission and the Garrison

The Garrison Municipal, Rural and
Industrial (MR&I) Water
program
Water

Conservancy District met on
December 4, 1998.

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The committee discussed the Northwest Area Water Supply project and agreed to continue the development of the potential interim funding agreement with the city of Minot.

An option report for providing water to central and southern Benson County, Cando, Munich, and Rock Lake was reviewed by the committee. The southern Benson County service area is considering using the Minnewaukan water treatment plant for serving the rural users. The central Benson County service area is located in Benson and Towner counties. The two main water supply options are Mount Carmel Dam, using the city of Langdon's water treatment plant, and the Spiritwood aquifer using the city of Cando's water treatment plant.

The committees were provided an update on the Grand Forks flood control project. Estimated costs for the city's major infrastructure capital investments include: water supply, \$151 million; flood control, \$129 million; solid waste, \$20 million; and wastewater, \$34 million. The total needs are \$334 million for the non-federal costs.

Dave Koland, Director, North Dakota Rural Water Systems Association, appeared before the State Water Commission to explain and express support for the Promised Payment Plan (PPP). Under the PPP, a four-year construction schedule and MR&I budget would be developed based on the \$53 million federal MR&I commitment. If, in any one year of the proposed budget, the federal payment fell short of the budgeted amount, the state would promise to cover the shortage until the federal dollars were received. The project sponsors would then be able to plan their projects to take full advantage of North Dakota's short construction season.

GARRISON DIVERSION PROJECT -
State Water Commission APPROVAL OF REVISION OF
a motion approving
FISCAL YEAR 1998 MR&I WATER
\$13,030 million
SUPPLY PROGRAM BUDGET
Supply
(SWC Project No. 237-03)

On August 13, 1998, the
Commission passed
approving the proposed
Fiscal Year 1998 MR&I Water
program budget,

contingent upon the

availability of federal funds and
subject to future revisions.

Jeffrey Mattern stated that All Seasons Rural Water is extending its project to provide water to 24 rural users and the city of Bisbee. The project will involve a reservoir/pump station, pipelines, and in-line booster stations. The estimated cost is \$2,127,300, with a 65 percent being \$1,382,745. The approved funding includes a MR&I grant of \$1 million, a Rural Development loan of \$777,000, and the remaining \$350,300 as temporary funding. The original request submitted by All Seasons Rural Water was for a

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MR&I grant of \$1.38 million, but full funding was not available. The additional funding, not to exceed \$350,000, would be funded from excess funding. The request was approved by the MR&I committees on December 4, 1998.

The Ramsey County Rural Water preliminary engineering report has been completed on the proposed expansion into Eddy and Foster counties. The estimated project cost is \$3.3 million. A request has been submitted for MR&I funding assistance towards the feasibility study cost of \$25,000. The 65 percent grant would be \$16,250 and would be provided from the funds allocated for administration. The MR&I committee approved the request on December 4, 1998, and recommended the project sponsor review potential water service options for serving some of the area water users with water from the city of Carrington.

Secretary Sprynczynatyk presented the following breakdown for the revised proposed funding budget for the Fiscal Year 1998 MR&I Water Supply program for the Commission's consideration:

<u>Project</u> <u>Proposed</u>	<u>Activity</u>	<u>Current</u>	
Southwest Pipeline 3,710,000	D&C	\$ 3,710,000	\$
North Valley/Walhalla 1,920,000	D&C	1,920,000	
Ransom-Sargent 1,523,725	F,D&C	1,523,725	
Missouri West 1,700,000	D&C	1,700,000	
NAWS (Minot component) 2,805,000	D&C	2,805,000	
NAWS (Rugby component) 195,000	D&C	195,000	
All Seasons (Benson/Interior) 1,350,000	D&C	1,000,000	
Ramsey County Rural Water 16,250	F	-	
Administration	F	<u>176,275</u>	<u> </u>

160,025

Total Available in Fiscal Year

1998	\$13,030,000	\$13,380,000
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It was the recommendation of the State Engineer that the State Water Commission approve the revised proposed \$13.380 million Fiscal Year 1998 MR&I Water Supply program budget, contingent upon the availability of federal funds and subject to future revisions. The revised proposed budget includes the requests from All Seasons Rural Water and Ramsey County Rural Water as previously explained.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve the recommendation of the State Engineer of the revised proposed \$13.380 million Fiscal Year 1998 MR&I Water Supply program budget as presented, contingent upon the availability of federal funds and subject to future revisions.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

GARRISON DIVERSION PROJECT -	A request was presented for
the State APPROVAL OF FUNDING FROM	Water Commission's
consideration MR&I INTEREST ACCOUNT FOR	for additional
funding from the	
NORTHWEST AREA WATER SUPPLY MR&I interest account for the	
North-	
PROJECT PRE-FINAL DESIGN;	west Area Water Supply project
pre-	
AND INTER-BASIN TRANSFER STUDY final design, and for the Inter-	
Basin	
(SWC Project No. 237-03)	Transfer study.

Jeffrey Mattern explained that an internal audit of the MR&I interest account showed additional funding approval was required on the two projects. The MR&I committees approved funding on December 4, 1998 of \$13,451.63 for the Northwest Area Water Supply project pre-final design, and of \$13,439.06 for the Inter-Basin Transfer study.

Secretary Sprynczynatyk stated as is the current practice, the State Water Commission and the Garrison Conservancy District must approve expenditures from the MR&I interest account, and recommended the State Water Commission's favorable consideration of the requests as presented.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve funding for the Northwest Area Water Supply project prefinal design, in an amount not to exceed \$13,451.63; and for the Inter-Basin Transfer study, in an amount not to exceed \$13,439.06, from the Garrison Diversion MR&I

interest account.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

SAFE DRINKING WATER ACT - meeting, the DRINKING WATER STATE passed a REVOLVING LOAN FUND project priority (SWC File No. AS/HEA) listed in North Dakota Drinking Water State Revolving Loan Fund, dated September 29, 1998; and to authorize the North Dakota Department of Health to administer and disburse	At its October 19, 1998 State Water Commission motion to approve the list for Fiscal Year 1999 as the Intended Use Plan for the
--	---

1998

Fiscal Years 1997, 1998 and 1999 Drinking Water State Revolving Loan Fund program funds pursuant to the Fiscal Year 1999 Intended Use Plan.

Jeffrey Mattern explained the Fiscal Year 1999 Intended Use Plan for the North Dakota Drinking Water Revolving Loan Fund, and provided a status report of the loan approvals. The comprehensive project priority list includes 63 projects, with a cumulative total project cost of \$191.9 million. Total Fiscal Years 1997, 1998 and 1999 program funding available for loans is \$29,859,166. The Environmental Protection Agency has approved the federal Fiscal Years 1997 and 1998 program capitalization grants. The process of prioritizing will be completed on an annual basis.

SOUTHWEST PIPELINE PROJECT -
Manage CONTRACT AND CONSTRUCTION
Pipeline Project,
STATUS; AND PROJECT UPDATE
contract,
(SWC Project No. 1736)
status

James Lennington, Project
for the Southwest
provided the following
construction and project
report:

Contracts 2-3H and 7-5A - Transmission Pipeline to Hebron and Glen Ullin and the Rural Distribution Systems in the East Taylor Service Area: Work on contracts 2-3H and 7-5A continues to progress by the contractor, Karas Construction of Larimore, ND. The city of Hebron was connected to the project on November 16, 1998. The contractor has completed installation of the pipeline between Hebron and Glen Ullin. A letter was sent on December 2, 1998 to the city of Glen Ullin notifying the city of the project water availability within 90 days, which is required by the water service contract. At a meeting on December 15, 1998, the city noted its intention to wait until March 3, 1998 for service. This decision will affect water availability to rural users between Hebron and Glen Ullin. As of December 8, 1998, 14 rural users on contract 7-5A between Richardton and Hebron were turned over to the Southwest Water Authority for service.

The State Water Commission was informed at its October 19, 1998 meeting that eminent domain was exercised in one instance in this area

where an easement could not be obtained by other means. Another situation has developed on contract 7-5A in which several landowners want compensation for a rural water easement. Negotiations continue with the landowners to satisfy the issue.

Contract 4-4 - Jung Lake Pump Station: The prefinal inspection on contract 4-4 was held on November 23, 1998. The majority of the work at the pump station has been completed by the general and electrical contractors. The remaining work includes the telemetry system installation and several items remaining for the mechanical contractor.

1998

- 18 -

December 21,

Contract 5-4 - Jung Lake Reservoir: Because of the inclement winter conditions, the contractor has shut down operations. The majority of the reservoir exterior remains to be painted, but the interior of the tank has been painted and the tank has been put into service. Next spring the contractor will complete the exterior painting of the reservoir.

Contract 7-4/7-3A - Bucyrus and Three Pocket Service Area Rural Distribution System: The contractor for contract 7-4/7-3A, Northern Improvement, has completed the work and the prefinal inspection on both contracts is underway with completion expected in a week. The items that are mentioned in the prefinal inspection will be satisfied next spring. As of November 18, 1998, 333 users under the original 7-4 and 7-3A contracts have been turned over to the Southwest Water Authority for service. As of December 7, 1998, there were 71 new users connected to the project which were using water on these contracts. Seventy-six (76) users were turned over before the Authority's October 1, 1998 deadline for requiring the payment of minimums.

Northern Improvement is constructing the East Rainy Butte Pocket No. 2 service area under a change order to contract 7-4A, although the inclement winter weather conditions will shut down the operations in the very near future. There are 31 users in this service area and it is anticipated these users will be turned over to the Authority for service next spring or early summer.

The chloramination facility at the Dodge pump station is operational. The telemetry equipment remains to be installed allowing the Authority and the city of Dickinson to monitor that facility.

Representatives of the Southwest Water Authority and the city of Dickinson held a meeting on December 7, 1998 to discuss the sludge ponds at the Dickinson water treatment plant. Sludge is produced at the plant by the softening and filtration process and is presently disposed of by pumping to the two ponds across the Heart River from the plant. The two ponds, west and east, were constructed in the 1970s and are 4.4 acres and 4.8 acres in size, respectively.

A commitment was obtained from city officials at its meeting on December 7, 1998 to support the dedication of a portion of the land proposed for the sludge landfill for the presently proposed and future sludge disposal and also to make the land available at no cost to the project. The estimated cost of removing the sludge and disposing it at the proposed landfill site is approximately \$400,000. The Southwest Water Authority is considering options for funding the excavation of the sludge, which will be presented to the State Water Commission for consideration at a future meeting. The options being considered include a loan to be repaid by an O&M rate increase, capital construction funds, and the reserve fund for replacement and extraordinary maintenance.

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December 21,

1998

SOUTHWEST PIPELINE PROJECT -

State Water APPROVAL OF CITY OF BOWMAN

meeting, it was reported

RELEASE FROM PROJECT WATER

election of SERVICE AGREEMENT

of Bowman voted

(SWC Project No. 1736)

source

Pipeline Project. The results of the election were 593 voting no and 184 voting yes. Although the question was limited only to sole source delivery, the results of the election indicated that the residents of Bowman, at that point in time, did not want to receive water from the project.

At the October 19, 1998

Commission

that during its primary
June 8, 1998, the city

on whether to receive sole
service from the Southwest

The Southwest Water Authority

and the Commission staffs have been working with representatives of the city of Bowman to address concerns relative to the water needs of the rural residents if the city and the Commission are released from the Southwest Pipeline water service contract. There are approximately 250 rural signups in the Bowman, Scranton and Rhame service areas which could be affected. James Lennington indicated that without the city of Bowman, more study is needed to determine what level of service can be provided in the area. The absence of the city will make construction of the distribution system in the area more expensive on a "per user" basis. Bowman's release from the project will reduce the overall Southwest Pipeline Project's cost, reduce the cost of water service to others, and will allow other users in the area that have indicated an interest in the purchase of additional quantities of water from the project to do so.

The Bowman-Scranton phase of the project is scheduled after the Mott-Elgin phase in the phased-development plan for the project. The Mott-Elgin phase is the next phase scheduled for construction beginning in 1999. It is anticipated that Mott-Elgin will require three years to construct and that construction on the Bowman-Scranton phase would not begin until 2001 or 2002. The final rural signup campaign in the Bowman-Scranton phase will not be conducted for several years.

At its meeting on June 16, 1998, the Bowman City Commission passed a motion to withdraw its Southwest Pipeline Project water service agreement based on the vote of the people in the June primary election. Mr. Lennington said the draft agreement has been

reviewed by the Commission attorney and the agreement is acceptable.

Kenneth Woodley, Mayor of the city of Bowman, appeared before the State Water Commission to discuss the concerns that have been expressed and the options that the city of considering with the absence of the city from the project and its affect on the future service of good quality and reliable drinking water to rural residents in the area.

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- 20 -

December 21,

It was the recommendation of the State Engineer that based on the decision of the Bowman City Council at its June 16, 1998 meeting, and in negotiations with the city representatives, that the State Water Commission approve the execution of the agreement releasing the city of Bowman from its Southwest Pipeline Project water service agreement.

It was moved by Commissioner Swenson and seconded by Commissioner Johnson that the State Water Commission approve the execution of the agreement releasing the city of Bowman from its Southwest Pipeline Project water service agreement. SEE APPENDIX "D"

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

NORTHWEST AREA WATER
the
SUPPLY PROJECT UPDATE
Facil-
(SWC Project No. 237-04)
report, a draft

James Lennington reported that
revised Biota Transfer Control
ities and Criteria
Findings of No

Significant Impact, and a proposed final Environmental Assessment were distributed to the Garrison Joint Technical Committee (GJTC) on September 18, 1998. The GJTC held a meeting on November 20, 1998 to discuss these documents.

The Canadian section of the committee presented a list of issues and concerns they have with the project as it is proposed. The committee agreed to draft a joint letter of finding to the Garrison United States-Canada Consultative Group. The Bureau of Reclamation, as the responsible federal agency, will provide a statement of its intentions concerning the National Environmental Policy Act (NEPA) decision document, as well as a draft copy of the document. According to

the 1986 Garrison Diversion Reformulation Act, construction may begin after the project has received clearance from the United States section of the Consultative Group assuring that the Administrator of EPA and the Secretaries of State and Interior have determined that the project will meet the requirements of the Boundary Waters Treaty of 1909.

Mr. Lennington stated that it is the intent of the United States section of the GJTC to send the letter to the Consultative Group as soon as possible in order to schedule a meeting of the Consultative Group at the earliest possible time. He said it is possible that a decision of the United States members of the Consultative Group can be obtained in the next month or two, that construction on the project could begin in the spring of 1999.

Construction is progressing on the expansion and upgrade of the Rugby water treatment plant. The contractor, Swanberg Construction, Valley City, ND, is working on the addition and has completed the construction of water proofing the basins and installing the lime handling equipment. Remaining work includes installation of the solids contact and aeration equipment as well as the general construction items. The addition is scheduled to go on-line in May, 1999, at which time the upgrade of the existing equipment will commence.

DEVILS LAKE
the

HYDROLOGIC UPDATE
(SWC Project No. 416-02)
approximately

time recorded daily high of 1444.7 that occurred in July, 1998. He said Devils Lake will require approximately 307,000 acre-feet of inflow next spring to raise from its current elevation to elevation 1446.6, which is the elevation that it begins to flow into Stump Lake.

Secretary Sprynczynatyk reported

current level of Devils Lake is 1443.9.

The lake has receded
10 inches since its all

The snowfall within the basin varied widely during the month of November, 1998. The water equivalent of the snowfall ranged from 2 to 3 inches in the western portion of the basin to 1 - 1 1/2 inches in the east, with less than 1 inch occurring near Devils Lake. Secretary Sprynczynatyk reported that although the snowfall was much higher than normal in many areas within the basin, it is too early to forecast the effect it will have on Devils Lake in the spring.

CORPS OF ENGINEERS DEVILS
the LAKE EMERGENCY OUTLET
consul-
(SWC Project No. 416-01)
Engineering, are contin-

Secretary Sprynczynatyk reported
Corps of Engineers and their

tant, Barr

using the engineering work on the proposed emergency outlet for Devils Lake. The proposed outlet will follow the Peterson Coulee corridor and will consist of a pump station located on the shore of the west bay south of Minnewaukan, approximately 13 miles of pipeline, and an energy dissipation structure located adjacent to the Sheyenne River. The pipeline will have a maximum pumping capacity of 300

cubic feet per second, but the flow will be controlled to maintain the 450 mg/l sulfate standard and 600 cubic feet per second channel capacity in the Sheyenne River.

The State Water Commission staff continues to meet with the Corps and Barr Engineering to discuss the state's interests in the design of the outlet. Detailed design discussions have included the south pipeline (the gravity flow section), the north pipeline (the pressure flow section), the pump station, the pump station's functionality, the inlet channel,

and the fish screen. The principal design parameters are essentially complete, while the intake channel at the pump station is being refined for constructionability purposes, and the fish screen design is in the process of identifying potential approaches.

The most recent meeting with the Corps of Engineers and Barr Engineering occurred on December 3, 1998, primarily to present the current status of the pump station design and discuss the comments. Other issues discussed were the proposed bridge cranes, the geotechnical design, and the project costs. It is anticipated that the engineering documentation for the entire project will be completed in January, 1999. The final scoping document is expected to be released near the end of January, 1999, which will include the details of the process used to determine the scope of issues that will be included in the Environmental Impact Statement (EIS) for the project. Future milestones in the EIS process for the emergency outlet are currently set as:

September, 1999 Draft EIS out for public review
October, 1999 Public review meetings
February, 2000 Final EIS distributed
May, 2000 Record of Decision

DEVILS LAKE TO STUMP LAKE EMERGENCY OUTLET

If Devils Lake reaches an elevation of 1446.6 feet msl, it will begin to spill (SWC Project No. 416-01) into Stump Lake. In an effort to reduce or delay flood damages around Devils Lake and to provide time for the Peterson Coulee outlet to be constructed, the State Water Commission staff has been investigating the possibility of an emergency plan to move up to four feet of floodwater from Devils Lake to Stump Lake. The intention is to raise Stump Lake to an elevation between 1441 and 1448 feet msl, depending on the inflow to Devils Lake over the next several years.

The project will require compensating landowners around Stump Lake whose land will be inundated by the project. To establish the cost of the land, appraisals were conducted, and a contract with Reilly Appraisals Consultants, Inc., was executed by the State Engineer on August 31, 1998. The contract called for appraisals of three

tracts of land for the Devils Lake to Stump Lake emergency outlet including: 1) a tract along the channel; 2) a large tract on West Stump Lake consisting of a farmstead cropland and hayland; and 3) a wooded tract on East Stump Lake. The contract was completed October 12, 1998.

1998

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December 21,

A preliminary cost estimate of \$8 million has been developed for the project, which is based upon a preliminary project design, an estimate of project mitigation requirements, a county-wide average of land values, and \$2 million to raise State Highway 1 east of Stump Lake.

Secretary Sprynczynatyk informed the Commission members that on December 11, 1998, a response was received from Roger Hollovoet, District Manager, U.S. Fish and Wildlife Service, Devils Lake, ND, addressing the request of refuge compatibility in the proposed plan to move water from Devils Lake to Stump Lake where the Stump Lake National Wildlife Refuge is located. In part, the letter states:

"The solicitor's opinion determined that your proposal is a refuge compatibility issue. Therefore, we have to determine if the proposed action will interfere with or detract from the mission of the National Wildlife Refuge System or the purposes of the individual National Wildlife Refuge. Stump Lake NWR was established under Executive Order 296A by President Theodore Roosevelt on March 9, 1905 for the purpose of a preserve and breeding grounds for native birds.

We are mandated to carry out the mission of the National Wildlife Refuge System and the purpose of Stump Lake NWR. Your proposal will inundate the Refuge for several years and will not allow the refuge to carry out its designed purpose, therefore, it is determined that this proposed action is not compatible. This decision is based on the Refuge's purpose, the National Wildlife Refuge Administration Act and the National Wildlife Refuge Improvement Act. After various discussions, I have also determined that we cannot mitigate or negotiate the loss of an entire Refuge unless Congress requires us to do so."

<p>DEVILS LAKE AVAILABLE STORAGE ACREAGE PROGRAM - (ASAP) contracts have been completed. ASAP PROGRAM FOR 1999 will be (SWC Project No. 1882-01)</p>	<p>The Devils Lake Available Acreage Program - APPROVAL TO CONTINUE</p>	<p>Approximately \$1 million spent for the 21,000 acre-</p>
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feet of water stored. The average cost per acre-foot was about \$49 in 1998. Costs for water storage include lease payments, structure costs, and two claims of crop damage from adjacent landowners. Unspent allocations from previous years and money not yet spent from 1998 total approximately \$200,000. A portion of this balance will be held as a reserve fund to cover any contingencies that may arise. The State Water Commission staff continues to review the current ASAP sites for their water storage potential in 1999.

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December 21,

1998

Participants are required to leave their site intact through December, 1998. LeRoy Klapprodt indicated many participants have expressed an interest in continuing with the program in 1999. As in 1998, the sites no longer effective for reducing the level of Devils Lake will not be renewed. For 1999, any site with a water holding elevation of 1446 feet msl or less will probably be dropped from the program. To date, 12 sites totalling \$180,200 fall into this category. Removing the ineffective sites leaves 111 renewable sites at a cost of \$850,000. Mr. Klapprodt stated this will buy approximately 16,100 acre-feet of storage, which is a reduction of over 4,800 acre-feet from 1998. Additionally, \$100,000 for new sites and contingencies is requested, which brings the funding need for the ASAP program in 1999 to \$950,000.

Secretary Sprynczynatyk explained the proposed sources of funding to continue the ASAP program in 1999 include \$212,000 in the program contingency fund, \$612,000 earmarked for Devils Lake projects, and \$126,000 from the general projects fund, as needed.

It was the recommendation of the State Engineer that the State Water Commission approve the reallocation of up to \$950,000 from the proposed funding sources mentioned previously to continue the ASAP program through 1999.

It was moved by Commissioner Swenson and seconded by Commissioner Hillesland that the State Water Commission approve the reallocation of up to \$950,000 from the previous ASAP contingency fund, from money earmarked to Devils Lake projects, and from the general projects fund, as needed, to the Available Storage Acreage Program to continue the program through 1999.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Johnson, Olin, Swenson, Thompson,

and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

Due to a previously scheduled commitment, Commissioner DeWitz left the meeting.

1998

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December 21,

APPROVAL OF FUNDING FOR Commission
DEVILS LAKE BASIN MANAGER; funding
DEVILS LAKE ENGINEERING ASSISTANCE; AND DEVILS LAKE and the
EMERGENCY OUTLET DOWNSTREAM project.
AWARENESS PROJECT LeRoy Klapprodt
explained the following programs and
(SWC Project No. 416-01) requests for the
presented Commission's con- sideration to continue funding the programs for 1999:

Devils Lake Basin Manager: This would maintain a full-time Devils Lake Basin Manager and an office for the Devils Lake Basin Joint Water Resource Board. Wayne Simon was hired for the position in 1998 and an office was established in the Ramsey County Courthouse. The Joint Board formally requested continued financial participation for a 12-month period, effective January 1, 1999.

The cost share arrangement requested is 40 percent provided by the State Water Commission for one year, not to exceed \$23,000. The Commission would pay the Joint Board for the actual expenses based on quarterly expense reports approved by the Commission.

Devils Lake Engineering Assistance: State Water Commission engineering assistance has been provided to the Devils Lake region for nearly three and a half years through cost share arrangements with the Devils Lake Basin Joint Water Resource Board. The Devils Lake Joint Board formally requested that this arrangement be continued for a 12-month period, effective January 1, 1999.

Terms of the proposed agreement: the Devils Lake Basin Joint Water Resource Board will pay the State Water Commission \$9,000 to maintain a staff engineer committed full-time to Devils Lake water projects. The State Water Commission will pay the balance of the position costs.

Devils Lake Emergency Outlet Downstream Awareness

Project: Success in implementing a Devils Lake emergency outlet requires that all potentially-affected parties completely understand the project and its potential impacts. Over the past 12 months, the Garrison Diversion Conservancy District, the Devils Lake Basin Joint Water Resource Board, and Forward Devils Lake Corporation have cost shared with the State Water Commission to fund a full-time position for the purpose of dispersing information about the proposed emergency outlet. Joe Belford was hired to this position and has met with many interest groups such as civic,

wildlife, and agricultural organizations in North Dakota, Minnesota and Manitoba. All other parties of the previous agreement have indicated their desire to continue this effort through 1999.

The terms of the proposed contribution agreement are as follows:

	The State Water Commission	\$15,000	(33 percent)
percent)	Garrison Diversion Conservancy District	\$15,000	(33 percent),
percent,	Devils Lake Joint Board	\$10,000	(22 service)
service)			plus in-kind
percent)	Forward Devils Lake Corporation	\$ 5,000	(12 percent)

It was the recommendation of the State Engineer that the State Water Commission approve funding for the Devils Lake Basin Manager, Devils Lake Engineering Assistance, and the Devils Lake Outlet Downstream Awareness Project as described above, contingent upon the availability of funds.

Governor Schafer voiced his displeasure with the failure of the Devils Lake Area Chamber of Commerce to endorse the Dakota Water Resources Act of 1997 legislation. Joe Belford responded that he has met on several occasions with the Chamber about this issue, and he said the reason that the Chamber has not endorsed the legislation is because the Garrison Diversion legislation has no provisions for Devils Lake stabilization. Stabilization was a major part of the original diversion plan and reformulations, but was removed from the legislation's latest version.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve the following funding, contingent upon the availability of funds:

- 1) Devils Lake Basin Manager:

40 percent provided by the State Water Commission, not to exceed \$23,000, for a period of 12 months, effective January 1, 1999.

2) Devils Lake Engineering Assistance:

The Devils Lake Basin Joint Water Resource Board will pay the State Water Commission \$9,000 to maintain a staff engineer committed full-time to Devils Lake water projects, for a period of 12 months, effective January 1, 1999. The State Water Commission will pay the balance of the position costs.

3) Devils Lake Emergency Outlet
Downstream Awareness Project:

State Water Commission - \$15,000
(33 percent)

Garrison Diversion
Conservancy District - \$15,000 (33 percent)

plus
Devils Lake Joint Board - \$10,000 (22 percent,
in-kind service)

Forward Devils Lake
Corporation - \$ 5,000 (12 percent)

This funding is for a period of 12
months, effective January 1, 1999.

Commissioners Ames, Bjornson, Hillesland,
Johnson, Olin, Swenson, and Thompson voted
aye. Chairman Schafer voted nay. The
Chairman declared the motion passed.

LETTER FROM DONALD KONZAK, Secretary Sprynczynatyk
informed the Commission members
DEVILS LAKE, ND, RELATIVE TO that
POTENTIAL LEGAL ACTION Donald Konzak, Devils Lake,
ND, invited landowners living in
AGAINST AGENCIES RESPONSIBLE the
FOR FLOOD DAMAGES Devils Lake area to a
meeting on December 19, 1998 in
(SWC Project No. 416) for the purpose of a
Minnewaukan, legal firm from St. Paul, Minnesota, hired by Mr. Konzak, to explain a

potential action to sue for damages of real property flooded by the waters of Devils Lake. He indicated the State Water Commission was not represented at the meeting since it was a meeting with the landowners and their attorneys and, therefore to date, does not have the results of the meeting.

1999 STATE WATER PLAN
Division

(SWC Project No. 322)

Commission is

the 1999 State Water Management Plan. Work was initiated during the last part of 1997 and is scheduled to be completed by the end of 1998 and available for the 1999 legislative session.

The Planning and Education

of the State Water

continuing to develop

The previous update to the plan in 1992 focused on water projects. The 1999 State Water Plan will focus on water management for the 21st century. It will outline current management policies, problems with those policies, and will help serve as a guide for decision-makers. It is intended to be a realistic vision of water management with emphasis on regional and local projects that are appropriate to the plan's goals and objectives.

The 1999 State Water Management Plan has three principal goals: 1) to comprehensively illustrate how North Dakota water resources are currently managed and the responsibilities associated with that management; 2) to provide a vision or direction for how water could be managed into the 21st century; and 3) to reinforce the framework for implementation of the current water management plan and water development program, per the Fifty-fifth North Dakota Legislative Assembly Session laws, Chapter 15, Section 9, which reads as follows:

The legislative assembly finds that there is a critical need to develop a comprehensive statewide water development program. The state water commission shall develop and implement a comprehensive statewide water development program. The commission shall design the program to serve the long-term water resource needs of the state and its people and to protect the state's current usage of, and the state's claim to its proper share of Missouri River water.

LeRoy Klapprodt provided a status report on the development of the 1999 State Water Management Plan. The Commission members were provided the draft 1999 State Water Management Plan Executive Summary. Mr. Klapprodt explained the Executive Summary represents the input gathered through extensive public meetings held across North Dakota. Comments were provided from government agencies, particularly local water resource boards, and private groups representing a variety of special interests including agriculture, the environment, and Native Americans. He stated that when the Executive Summary is in final form, it will provide a clear picture of how North Dakota will pursue water management into the next millennium. The Executive Summary will be offered to the Legislature in response to their request for a comprehensive, statewide water development program. The summary contains key information from the more expansive main report which is

presently being finalized and expected to be released by March 1, 1999.

It was the recommendation of the State Engineer that the State Water Commission approve adoption of the draft 1999 State Water Management Plan Executive Summary and its use in displaying North Dakota's water management needs.

1998

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December 21,

It was moved by Commissioner Olin and seconded by Commissioner Bjornson that the State Water Commission approve adoption of the draft 1999 State Water Management Plan Executive Summary and its use in displaying North Dakota's water management needs.

Commissioners Ames, Bjornson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

1999 LEGISLATION
1998

At its meetings on November 25, and December 19, 1998, the State Water Commission approved bill drafts for introduction during the 1999 legislative session, which are under the authority of the State Water Commission and the State Engineer. Secretary Sprynczynatyk stated the following bill drafts were filed on December 10, 1998 with the Legislative Council:

Under the Authority of the State Water Commission:

House Bill No. 1166:

A BILL for an Act to create and enact five new sections to chapter 61-24.6 of the North Dakota Century Code relating to water rates, operation and maintenance fund, reserve fund for replacement, capital costs, and areas served by the northwest area water supply project; to amend and reenact sections 61-02-23.1 and 61-24.6-02 of the North Dakota Century Code, relating to condemnation of property for and inclusion of Pierce County in the northwest area water supply project.

Senate Bill No. 2106:

A BILL for an Act to create and enact a new subdivision to subsection 6 of section 6-09-4.03 of the North Dakota Century Code, relating to the state water commission's participation in the municipal bond

bank's drinking water state revolving fund.

Under the Authority of the State Engineer:

Senate Bill No. 2107:

A BILL for an Act to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to water permit applications; and to amend and reenact subsection 4 of section 61-04-05 and section 61-04-06 of the North Dakota Century Code, relating to water permit applications.

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December 21,

1998

House Bill No. 1139:

A BILL for an Act to create and enact a new section to chapter 61-16.1 of the North Dakota Century Code, relating to appeals of water resource board decisions of noncomplying dams, dikes, or other devices to the state engineer.

House Bill No. 1140:

A BILL for an Act to amend and reenact sections 61-35-04, 61-35-07, 61-35-08, and subsection 1 of section 61-35-25 of the North Dakota Century Code, relating to payment of publication costs to create a water district, election of a board of a water district, and notice of dissolution or merger of a rural water cooperative or corporation.

House Bill No. 1167:

A BILL for an Act to create and enact a new section to chapter 11-33.2, a new subsection to section 61-16.2-02, and new section to chapter 61-16.2 of the North Dakota Century Code, relating to identifying the floodplain on plats, definition of community, and state engineer review of uses in floodways; and to amend and reenact subsection 2 of section 11-33-03, subsection 2 of section 40-47-03, subsection 11 of section 40-50.1-01, sections 58-03-12, 61-16.2-04, 61-16.2-08, and 61-16.2-13 of the North Dakota Century Code, relating to emergency management, identifying floodplain on plats, delineation of the floodway for lakes, elevation of structure in the floodway, and mandatory community participation in the flood insurance program.

The State Water Commission also considered a proposed bill draft relating to Indian reserved water rights negotiations, which expresses as the state's policy its position that it would rather negotiate than litigate Indian claims reserved water rights. The bill draft authorizes the State Engineer to negotiate Indian reserved water rights.

At its meeting on December 10, 1998, Secretary Sprynczynatyk informed the Commission members that on

December 9, 1998, a meeting was held with representatives of the Indian tribes regarding the Indian reserved water rights legislation. A copy of the most recent draft legislation was distributed and discussed at the meeting. A representative of the Turtle Mountain Band of Chippewa Indians indicated the Tribal Council intended to reconsider its request for negotiation of water rights at a meeting scheduled for December 16, 1998, and that it is likely the earlier request from the Turtle Mountain Band of Chippewa Indians for water rights negotiations would be rescinded.

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1998

It was the recommendation of the State Engineer at the Commission's December 10, 1998 meeting that based on conversations with representatives of the tribes, no action be taken to introduce the Indian water rights legislation until after the tribal meeting on December 16, 1998 to address the issue. It was also the State Engineer's recommendation that if the Turtle Mountain Band of Chippewa Indians Tribal Council acts to rescind its request for negotiations, no legislation should be introduced. If the Council acts to continue negotiations, legislation can then be introduced by a legislator.

Secretary Sprynczynatyk reported that, to date, formal notice has not been received from the Turtle Mountain Band of Chippewa Indians Tribal Council to rescind its request for negotiations of water rights.

Commissioner Ames discussed a proposal that would provide the State Water Commission authority to sell bonds to finance irrigation development for irrigation districts. The Commission staff was requested by Commissioner Ames to develop the required legislative language to provide the Commission the authority to sell bonds to finance individual irrigation systems similar to the program in Montana which is administered by the Montana Department of Natural Resources. In discussion of the proposal, it was requested that the information relative to Montana's program be provided to the Commission members. The Commission also discussed a similar program that is funded through the North Dakota Municipal Bond Bank.

Secretary Sprynczynatyk reported that he has discussed the possibility of a joint weekly legislative report with the State Water Commission, the North Dakota Water Users Association, the North Dakota Water Coalition, and the North Dakota Rural Water Systems Association. He indicated this would avoid duplication of effort during the legislative session and would save everyone some expenses.

RED RIVER BASIN BOARD
was (SWC File AOC/RBB)
cause to be

The Red River Basin Board
organized to develop and

water

implemented, a comprehensive

management plan for the Red River basin addressing the needs on a

watershed basis and to facilitate and pursue the resolution of inter-jurisdictional issues. The board of directors is comprised of five members each from Minnesota and North Dakota; seven members from Manitoba; two members from South Dakota; and two members from the tribal/aboriginal reservations in Minnesota, North Dakota, and Manitoba. The Board continues to meet on a monthly basis.

The board contracted with Eugene Krenz, former State Water Commission employee, to develop the Red River Basin Water Management Plan and coordinate the efforts for implementation of the plan. An inventory task force, with several subcommittees, are working on the initial phases on the new plan.

The Red River Basin Board has established special task forces to address watershed issues involving Devils Lake, Pembina River, and Lake Traverse.

The board held a retreat on September 30 and October 1, 1998 in Grand Forks, and agreed to continue its relationship with The International Coalition and to hire an executive director to oversee the tasks of the board. Public workshops were held October 27-29, 1998 to discuss the guiding principles that were established by the board and to inform the public on the board's direction.

MISSOURI RIVER UPDATE
of (SWC Project No. 1392)
a draft Envir-

In 1994, the U.S. Army Corps
Engineers circulated

onmental Impact Statement (EIS), which identified a preferred alternative for the future operation of the Missouri River mainstem reservoir system. As required by the National Environmental Policy Act, the draft EIS was subject to full public review. In response to the public comments, the Corps agreed to conduct additional technical studies, re-initiate the alternative analysis, and prepare a revised draft EIS. The Corps agreed that the revised draft EIS would present a preferred alternative for public review and comment.

Current efforts of the Missouri River Basin Association and other interest groups have shown considerable progress in regard for the potential for consensus building in the basin. To maximize the potential for consensus building regarding the operation of the reservoir system, the Corps of Engineers elected to prepare and circulate a preliminary revised draft EIS, which does not present a preferred alternative, but presents data on eight alternatives that represent the range of interests in the basin. At its August 13, 1998 meeting, the Commission members were provided the "Summary of the Preliminary Revised Draft Environmental Impact Statement Master Water Control Manual Missouri River", dated August, 1998.

A six-month public coordination period follows the release of the preliminary revised draft EIS, with a series of public workshops held throughout the Missouri River basin. The public workshops were held in North Dakota in September, 1998 at New Town,

Williston, Garrison and Bismarck. Informational material, prepared by the Commission staff relative to North Dakota's perspective, was made available at the workshops. The preliminary revised draft EIS is part of the Corps' effort to build consensus to facilitate the identification of a preferred alternative. State agencies developed the official state's position to ensure that North Dakota's interests are considered in the new Master Manual. When a preferred alternative has been identified and the revised draft EIS completed, the Corps of Engineers will hold public hearings, currently scheduled for October, 1999 through March, 2000.

Secretary Sprynczynatyk reported on the Missouri River Basin Association conference held in Kansas City, Missouri, on December 14 and 15, 1998. Approximately 150 Missouri River constituents participated in the conference to address the Corps of Engineers Master Manual review for the operations of the Missouri River system. He commented that it was a positive conference, and the Missouri River Basin Association will review the recommendations at its next meeting scheduled for January 22, 1999.

GRAND FORKS FLOOD
CONTROL PROJECT
on (SWC Project No. 830)
protection

Ken Vein, Grand Forks City
Engineer, provided a status report
the permanent flood

project for the cities of Grand

Forks and East Grand Forks. The federal Water Resources Development Act of 1998 was discussed, as well as flood protection project costs, and the relocation of major components of the water treatment plant. The estimated project cost is \$342 million, with a non-federal share of \$116 million.

ATMOSPHERIC RESOURCE
to BOARD AND NATIONAL
state
WEATHER SERVICE
was COOPERATIVE OBSERVER
North Dakota NETWORK SUMMER
Resource Board and PRECIPITATION SUMMARY
Weather Service cooperative

Information was provided relative
the 1961-1998 April-September
precipitation summary. The data
recorded through the
Atmospheric
National
observer networks.

APPROVAL OF RESOLUTION
appreciation to
OF APPRECIATION TO
present-
WILLIAM SPYCHALLA,
considera-
ST. PAUL CORPS OF ENGINEERS
from (SWC Resolution No. 98-12-481)

A draft resolution of
William "Bill" Spychalla was
ed for the Commission's
tion. Mr. Spychalla is retiring
the St. Paul

Corps of Engineers after a tenure of 27 years working with state officials, local water resource boards, and the public meeting the water management needs in the Red River of the North Basin in North Dakota.

It was the recommendation of the State Engineer that the State Water Commission approve the draft resolution of appreciation to Mr. Spychalla.

It was moved by Commissioner Bjornson, seconded by Commissioner Thompson, and unanimously carried, that Resolution No. 98-12-481, In Appreciation to William W. "Bill" Spychalla, be approved. SEE APPENDIX "E"

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NEXT STATE WATER
Water
COMMISSION MEETING

The next meeting of the State
Commission is scheduled for
January 27, 1999, in Bismarck, ND,
at 1:30 PM.

There being no further business to
come before the State Water Commission, Governor Schafer adjourned the
meeting at 4:15 PM.

Schafer_____

/S/ EdwardT.

Edward T. Schafer
Governor-Chairman

SEAL

Sprynczynatyk_____

/S/ DavidA.

David A. Sprynczynatyk
State Engineer, and
Chief Engineer-Secretary

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