

MINUTES

North Dakota State Water Commission
Telephone Conference Call Meeting
Bismarck, North Dakota

August 31, 1988

The North Dakota State Water Commission held a telephone conference call meeting at the State Water Commission offices in Bismarck, North Dakota, on August 31, 1988. Lt. Governor-Chairman, Lloyd Omdahl, called the meeting to order at 4:00 p.m., and requested Acting State Engineer and Secretary, David Sprynczynatyk, to call the roll and present the agenda.

MEMBERS PRESENT:

Lloyd Omdahl, Lt. Governor-Chairman
Kent Jones, Commissioner, Department of Agriculture, Bismarck
Richard Backes, Member from Glenburn
Joyce Byerly, Member from Watford City
Jacob Gust, Member from West Fargo
William Lardy, Member from Dickinson
Daniel Narlock, Member from Oslo, MN
Norman Rudel, Member from Fessenden
David Sprynczynatyk, Acting State Engineer and Secretary,
North Dakota State Water Commission, Bismarck

MEMBERS ABSENT:

Jerome Spaeth, Member from Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Peter Capossela, Standing Rock Sioux Tribe, Fort Yates, ND
Ron Marshall, Standing Rock Sioux Tribe, Fort Yates, ND
Stephanie Harrington, KFJR-TV, Bismarck, ND

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.

GARRISON DIVERSION PROJECT -
CONSIDERATION OF ALLOCATION
OF ADDITIONAL FISCAL YEAR 1988
MR&I WATER SUPPLY PROGRAM FUNDS
TO SOUTHWEST PIPELINE PROJECT
(SWC Project Nos. 237-3 and 1736)

David Sprynczynatyk informed the State Water Commission members that the U.S. Bureau of Reclamation has recently made available an additional \$2.5 million for the Fiscal Year 1988 Municipal, Rural and Industrial Water Supply Program. He

also stated additional Fiscal Year 1988 funds, possibly up to \$5 million, may become available before September 30, 1988. Under the terms of the MR&I Water Supply Program, funds must be requested for specific project(s) in Fiscal Year 1988. Mr. Sprynczynatyk explained the only eligible MR&I project currently capable of expending the additional funds is the Southwest Pipeline Project.

It was the recommendation of staff that the additional \$2.5 million MR&I Water Supply Program funds, and any additional MR&I Program funds which may become available before September 30, 1988, be allocated to the Southwest Pipeline Project. Mr. Sprynczynatyk indicated that on August 30, 1988, the Garrison Diversion Conservancy District's Executive Board considered, and approved this recommendation.

Mr. Sprynczynatyk indicated the additional MR&I funds will be used for Southwest Pipeline Project contracts currently underway. Although there is uncertainty at this time if the Bureau of Reclamation will allow for a reallocation of funds in Fiscal Year 1989, a plan must be provided relative to how the additional funds will be used. In recognition of the allocation of additional MR&I Water Supply Program funds to the Southwest Pipeline Project in Fiscal Year 1988, Mr. Sprynczynatyk said this should allow for more funds to be made available for other MR&I projects with Fiscal Year 1989 monies.

It was moved by Commissioner Jones and seconded by Commissioner Rudel that the State Water Commission approve the allocation of an additional \$2.5 million Fiscal Year 1988 Garrison Municipal, Rural and Industrial Water Supply Program funds, and any additional MR&I Program funds which may become available before September 30, 1988, to the Southwest Pipeline Project.

In discussion of the motion, Commissioner Backes indicated he is in support of the motion with the understanding this allocation of additional Fiscal Year 1988 MR&I funds to the Southwest Pipeline Project will allow more money to be considered for other MR&I projects with Fiscal Year 1989 funds.

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

SOUTHWEST PIPELINE PROJECT -
CONCURRENCE IN RECOMMENDATION
TO AWARD CONTRACT 2-2G
(SWC Project No. 1736)

David Sprynczynatyk indicated on August 23, 1988, bids were opened on the Southwest Pipeline Project Contract 2-2G for cathodic protection on 27.4 miles of steel pipeline. Goudy Engineering, Inc. of Tuscon, Arizona, submitted the only bid of \$43,670.00, which was \$3,470 higher than the engineer's estimate. Mr. Sprynczynatyk explained the reason only one bid was submitted is because

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this is a small and specialized contract requiring the work be performed by or under the supervision of an accredited corrosion specialist.

A recommendation has been submitted to the Bureau of Reclamation requesting approval to award Contract 2-2G to Goudy Engineering, Inc. Mr. Sprynczynatyk requested the State Water Commission consider its concurrence with this recommendation for awarding Contract 2-2G for the Southwest Pipeline Project.

It was moved by Commissioner Backes and seconded by Commissioner Gust that the State Water Commission concur with staff recommendation to award Southwest Pipeline Project Contract 2-2G to Goudy Engineering, Inc., Tuscon, Arizona.

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

GARRISON DIVERSION PROJECT -
CONSIDERATION, AND APPROVAL,
OF RELAXING MORATORIUM ON
FUNDING OF FEASIBILITY STUDIES
FOR ADDITIONAL MR&I PROJECTS
(SWC Project No. 237-3)

At the July 28, 1988 State Water Commission meeting, the Commission went on record in support of a moratorium which the Garrison Diversion Conservancy District had approved relative to MR&I funding of feasibility studies for additional

MR&I projects except in emergency situations. This action was taken because the Fiscal Year 1989 appropriation was considered insufficient to fund those projects already approved beyond the preliminary engineering report stage. Funding of additional feasibility studies which could become outdated by the time funding is available for construction was deemed inappropriate.

David Sprynczynatyk stated that at the Garrison Diversion Conservancy District's Executive Board meeting on August 30, 1988, the Executive Board reviewed the status of the MR&I Water Supply Program and decided to relax its previous action of considering MR&I funding of feasibility studies for additional MR&I projects only in emergency situations. The Executive Board took action at its meeting whereby additional MR&I projects would be considered for feasibility study MR&I funding when the project was considered an urgent situation and as MR&I Program funds become available.

It was staff recommendation the State Water Commission consider approving a similar motion relaxing action it took on July 28, 1988 which would consider MR&I Program funding of feasibility studies for additional MR&I projects only in emergency situations, but would now allow for the consideration of MR&I Program funding of feasibility studies for additional MR&I projects when a project is considered an urgent situation and as MR&I Water Supply Program funds become available.

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It was moved by Commissioner Byerly and seconded by Commissioner Narlock that the State Water Commission relax the moratorium action approved on July 28, 1988 relative to "the consideration of MR&I Program funding of feasibility studies for additional MR&I projects except in emergency situations". The State Water Commission shall consider MR&I Program funding of feasibility studies for additional MR&I projects when the project is considered an urgent situation and as MR&I Water Supply Program funds become available.

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

CONSIDERATION OF REQUEST FROM
LOWER HEART WATER RESOURCE
DISTRICT FOR COST SHARING IN
MODIFICATION OF FLOOD CONTROL
PROJECT IN MORTON COUNTY
(SWC Project No. 620)

A request was received from the Lower Heart Water Resource District and presented to the State Water Commission for consideration of cost sharing in the modification of a flood control project in Morton County, which the District has underway with the Corps of Engineers.

David Sprynczynatyk indicated the Corps of Engineers developed the flood control project several years ago to protect the City of Mandan but recently discovered the protection is inadequate in the event a flood should occur because of an ice jam. The project involves raising approximately 19,000 feet of dike which is now protecting the city, at an estimated total cost of \$1.7 million. The non-federal share of the costs, excluding land, is approximately \$364,000. Mr. Sprynczynatyk said the request before the Commission for consideration is cost sharing in 50 percent of the eligible non-federal costs, which would amount to approximately \$182,000.

Mr. Sprynczynatyk explained the Corps of Engineers will be letting bids for the flood control project the first week in September, 1988, and requires the estimated non-federal share of the costs of \$182,000 be deposited in an escrow account prior to the bid award and prior to the end of the federal 1988 fiscal year. Mr. Sprynczynatyk stated the request for cost sharing was received from the Lower Heart Water Resource District on August 29, 1988. That circumstance, coupled with the Corps of Engineers up-front financing and Fiscal Year 1988 requirements allowed insufficient time to provide the Commission members with the information normally required prior to considering a request for cost sharing. Mr. Sprynczynatyk indicated staff has been aware of the project and has been involved in the project working with the Corps of Engineers and the District.

Richard Gallagher, Attorney for the Lower Heart Water Resource District, discussed the project in detail and responded to a question that the local share of the non-federal costs will

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be raised by special assessment bonds. Mr. Gallagher said the request before the Commission is urgent in order to comply with the Corps of Engineers federal requirements within Fiscal Year 1988.

In discussion of the request, Commissioner Backes indicated although the Commission's policy for considering cost sharing requests is being violated, the project under consideration is within the Commission's guidelines for cost sharing and is a project which he feels will be supported by the Commission.

It was moved by Commissioner Backes and seconded by Commissioner Byerly that the State Water Commission approve cost sharing in 50 percent of the eligible non-federal costs for the Lower Heart Flood Control Project in an amount not to exceed \$182,000. This motion shall be contingent upon the availability of funds, and the securing of the special assessment bonds by the locals.

In discussion of the motion, Mr. Sprynczynatyk suggested since the Corps of Engineers requires the estimated non-federal share of the eligible costs be provided up-front and deposited in an escrow account, a provision be included in the contract with the Lower Heart Water Resource District that any unexpended non-federal funds after project completion be returned to the State Water Commission. Mr. Gallagher indicated that the contract between the District and the Corps of Engineers provides for this.

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

GARRISON DIVERSION PROJECT -
STATEMENT BY STANDING ROCK
SIOUX TRIBE REQUESTING
CONSIDERATION FOR ADDITIONAL
FISCAL YEAR 1988 MR&I PROGRAM FUNDS
(SWC Project No. 237-3)

Peter Capossela, Standing Rock Sioux Tribe, appeared before the Commission and made the following statement:

"Although we are not on the agenda we appreciate the opportunity to make a short statement regarding our capabilities in the short run to use up any leftover 1988 funds for MR&I projects. We do have some work that we could do on our intake structure, which is very feasible to do right now because the water level is so low and which could be done much more inexpensively now than if we waited for Fiscal Year 1989. Along the same lines, on our Cannonball pipeline, which we will begin construction on in 1989, we could put a pipe over the Porcupine Creek, which is practically dry at this point in time, much more inexpensively than we could do it later in time. We will forward this information to the Army Corps of Engineers and the Bureau of Reclamation seeking some of the leftover 1988 funding. Thank you very much for the opportunity to make a statement."

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Mr. Sprynczynatyk commented the tribal statement is timely because a meeting is scheduled with the Bureau of Reclamation and representatives from the three Tribes on September 1, 1988 to discuss 1989 funding and at the same time additional 1988 funding could also be discussed.

It was moved by Commissioner Jones, seconded by Commissioner Backes, and unanimously carried, that the telephone conference call meeting adjourn at 4:20 p.m.


George A. Sinner
Governor-Chairman

ATTEST:


Vernon Fahy
State Engineer and Secretary

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