

MINUTES

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

June 15, 1989

The North Dakota State Water Commission held a telephone conference call meeting on June 15, 1989, in the second floor conference room of the Old State Office Building, Bismarck, North Dakota. Chairman, Lt. Governor Lloyd Omdahl, called the meeting to order at 5:00 p.m., and requested Acting State Engineer and Secretary, David Sprynczynatyk, to call the roll and present the agenda.

MEMBERS PRESENT:

Lt. Governor Lloyd Omdahl, Chairman
Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
Joyce Byerly, Member from Watford City
Jacob Gust, Member from West Fargo
Lorry Kramer, Member from Minot
William Lardy, Member from Dickinson
Norman Rudel, Member from Fessenden
Jerome Spaeth, Member from Bismarck
David Sprynczynatyk, Acting State Engineer and Secretary,
North Dakota State Water Commission, Bismarck

MEMBER ABSENT:

Daniel Narlock, Member from Oslo, MN

OTHERS PRESENT:

State Water Commission Staff Members

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

**SOUTHWEST PIPELINE PROJECT -
CONSIDERATION OF DEFAULT ON
SOUTHWEST PIPELINE PROJECT
CONTRACT 2-3B
(SWC Project No. 1736)**

At the June 7, 1989 meeting, the Commission members had a discussion relative to Chapter 11 bankruptcy actions filed by Johnson Construction, the contractor for the Southwest Pipeline Project contracts 2-3A and 2-3B. At this meeting, the Commission passed a motion authorizing the Acting State Engineer to negotiate with the St. Paul Fire and Marine Insurance Company to reach an agreement which both protects the State Water

Commission and assures completion of the Southwest Pipeline Project contracts 2-3A and 2-3B, and that prior to the acceptance of any negotiated agreement, the State Water Commission shall meet by telephone conference call, or at an upcoming meeting, to consider the negotiated agreement.

Rosellen Sand, Assistant Attorney General for the State Water Commission, briefed the Commission members on the status of the bankruptcy actions and stated June 15, 1989 at 5:00 p.m. was the deadline for Johnson Construction to cure its default on the contracts and provide the necessary bonds to remain as the contractor for contracts 2-3A and 2-3B of the Southwest Pipeline Project.

Ms. Sand reported on the bankruptcy court hearing held June 14, 1989 with the parties involved in the matter. The bankruptcy court has determined the money the State Water Commission is now holding no longer belongs to Johnson Construction and is not a part of the bankruptcy estate. Therefore, the money is to be distributed according to state laws.

The bonding company has offered the State Water Commission, good until June 15, 1989, a contract with Barnard Construction Company, Inc. to complete the work under terms comparable to the original contracts.

Based on the bankruptcy court hearing actions and Johnson Construction's failure to cure its default on the Southwest Pipeline Project contracts 2-3A and 2-3B, it was the recommendation of the Acting State Engineer that the State Water Commission authorize the Acting Secretary, and in his absence, the Assistant Secretary, to enter into contracts with Barnard Construction Company, Inc. for the completion of work on Southwest Pipeline Project contracts 2-3A and 2-3B; and, that the terms of the contracts are to be comparable to the terms of the existing contracts with Johnson Construction, Inc. Acting Secretary David Sprynczynatyk summarized the terms of the offer from the bonding company.

It was moved by Commissioner Byerly and seconded by Commissioner Rudel that the State Water Commission authorize the Acting Secretary, and in his absence, the Assistant Secretary, to enter into contracts with Barnard Construction, Inc. for the completion of work on Southwest Pipeline Project contracts 2-3A and 2-3B;

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and, that the terms of the contracts are to be comparable to or equal to the terms of the existing contracts with Johnson Construction, Inc.

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

There being no further business to come before the State Water Commission at this time, it was moved by Commissioner Lardy, seconded by Commissioner Kramer, and unanimously carried, that the telephone conference call meeting adjourn at 5:10 p.m.


George A. Sinner
Governor-Chairman

SEAL

ATTEST:


David A. Sprynczynatyk
Acting State Engineer and Secretary

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