

MINUTES**North Dakota State Water Commission
Dickinson, North Dakota****July 6, 1992**

The North Dakota State Water Commission held a meeting at the Southwest Pipeline Operation and Maintenance Headquarters, Dickinson, North Dakota, on July 6, 1992. Chairman, Lieutenant Governor, Lloyd Omdahl, called the meeting to order at 4:00 PM, Mountain Standard Time, and requested State Engineer and Chief Engineer-Secretary, David Sprynczynatyk, to call the roll. Commissioners Narlock and Rudel participated in the meeting via telephone conference call. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Lieutenant Governor Lloyd Omdahl, Chairman
 Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
 Joyce Byerly, Member from Watford City
 Marjorie Farstveet, Member from Beach
 Daniel Narlock, Member from Grand Forks
 Jacob Gust, Member from Fargo
 Norman Rudel, Member from Fessenden
 Jerome Spaeth, Member from Fargo
 David Sprynczynatyk, State Engineer and Chief Engineer-Secretary, North Dakota State Water Commission, Bismarck

MEMBER ABSENT:

Lorry Kramer, Member from Minot

OTHERS PRESENT:

State Water Commission Staff Members
 Kris Moelter, Assistant Attorney General
 Loren Myran, Southwest Water Authority, Taylor
 Bruce McCollom, Bartlett & West/Boyle Engineering Corp., Bismarck

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.

APPROVAL OF AGENDA

There being no additional items for the agenda, the Chairman declared the agenda approved and requested Secretary Sprynczynatyk to present the agenda.

**MISSOURI RIVER STATUS -
CONSIDERATION AND APPROVAL
OF RESOLUTION CONCERNING
THE US CORPS OF ENGINEERS
REVIEW OF MASTER MANUAL
(SWC Project No. 1392)
(SWC Resolution No. 92-7-448)**

At the July 1, 1992 State Water Commission meeting, the State Engineer was directed to draft a resolution expressing the State Water Commission's displeasure with the US Army Corps of Engineers repeated postponements of the schedule for releasing the result of the Master Manual analysis.

Secretary Sprynczynatyk presented for the Commission's consideration draft Resolution No. 92-7-448 concerning the US Army Corps of Engineers review of the Master Manual.

It was moved by Commissioner Vogel and seconded by Commissioner Gust that the State Water Commission approve Resolution No. 92-7-448, Concerning the United States Army Corps of Engineers Review of the Master Manual. See APPENDIX "A".

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

**SOUTHWEST PIPELINE PROJECT -
SELECTION OF ENGINEER FOR
PROJECT'S RURAL WATER
DISTRIBUTION SYSTEM
(SWC Project No. 1736)**

On July 6, 1992, the Southwest Pipeline Project Rural Water Engineer Selection Committee met to hear interviews with the three firms selected for further consideration, and to make the final ranking based upon the qualifications of the firms. The firms selected for further consideration were Bartlett & West/Boyle Engineering Corp., Houston Engineering, and KBM/Kadmas-Lee-Jackson.

Chairman Omdahl called for the report of the Engineer Selection Committee. Tim Fay, Chairman and Secretary of the Committee, presented the Committee's report, the scoring matrix and the list of questions asked of each firm during the interview process. The report is attached hereto as APPENDIX "B".

July 6, 1992

Mr. Fay stated that following the interviews with the three firms, the Committee members individually assigned scores to each firm in each criteria. The score sheets were collected, the individual criteria scores were added, and the importance factors of the criteria were applied. The total scores were as follows:

Bartlett & West/Boyle Engineering Corp.	4338.8
Houston Engineering	4194.6
KBM/Kadrmass-Lee-Jackson	3750.8

Commissioner Spaeth reiterated the comments he stated at the July 1, 1992 Commission meeting relating to the engineering selection process as prescribed by law. He said that whenever possible, more engineering firms need to become involved in a project of this magnitude.

In discussion of the Committee's report, Commissioner Spaeth noted there is approximately a five percent difference in the final scores between the two highest ranking firms and, therefore, he preferred that the contract negotiation process begin with the firm of Houston Engineering, who ranked second in the total scores.

It was moved by Commissioner Spaeth and seconded by Commissioner Vogel that the State Water Commission select the firm of Houston Engineering, who ranked second in total scores, to negotiate a contract to develop the rural water distribution system for the Southwest Pipeline Project.

In discussion of the motion, Kris Moelter, Assistant Attorney General, reviewed Chapter 54-44.7 6) and 7) of the North Dakota Century Code relating to the contract negotiation process, which states:

6) The agency selection committee shall submit its written report ranking the interviewed persons or firms to the governing body of the using agency for its evaluation and approval. When it is determined that the ranking report is final by the agency, written notification of the selection and order of preference must be immediately sent to all of those that responded to the agency selection committee's invitation to submit information.

7) The governing body of the using agency or its designee shall negotiate a contract for services with the

July 6, 1992

most qualified person or firm, at a compensation which is fair and reasonable to the state, after notice of selection and ranking. Should the governing body of the using agency or its designee be unable to negotiate a satisfactory contract with this person or firm, negotiations must be formally terminated. Negotiations must commence in the same manner with the second and then the third most qualified until a satisfactory contract has been negotiated. If no agreement is reached, three additional persons or firms in order of their competence and qualifications must be selected after consultation with the agency selection committee, and negotiations must be continued in the same manner until agreement is reached.

Ms. Moelter explained the legal ramifications and procedure if the State Water Commission were to disregard the Selection Committee's report and recommendations. She said if the motion is passed, it would allow for contract negotiations to begin with the firm who ranked second in the total scores.

Commissioners Gust and Spaeth voted aye. Commissioners Byerly, Farstveet, Narlock, Rudel, Vogel, and Chairman Omdahl voted nay. The recorded vote was 2 ayes; 6 nays. The Chairman declared the motion failed.

It was moved by Commissioner Byerly and seconded by Commissioner Farstveet that the State Water Commission concur with the Selection Committee's report and recommendations and authorize the State Engineer to proceed to negotiate and execute, on behalf of the State Water Commission, a contract with an engineering firm for the Southwest Pipeline Project rural water distribution system. Contract negotiations shall be initiated in the order of final scores for the following three firms:

- 1) Bartlett & West/Boyle Engineering Corp.
- 2) Houston Engineering
- 3) KBM/Kadmas-Lee-Jackson

July 6, 1992

Commissioners Byerly, Farstveet, Gust, Narlock, Rudel, Vogel, and Chairman Omdahl voted aye. Commissioner Spaeth voted nay. The recorded vote was 7 ayes; 1 nay. The Chairman declared the motion passed.

**SOUTHWEST PIPELINE PROJECT -
OLIVER COUNTY TO JOIN SWA
(SWC Project No. 1736)**

At the July 1, 1992 meeting, the Commission members were informed that the Southwest Water Authority approved a request from Oliver County to become a member of the Authority. Secretary Sprynczynatyk acknowledged receipt of the resolution from Oliver County.

**NEXT STATE WATER
COMMISSION MEETING**

Secretary Sprynczynatyk stated the dates for the next State Water Commission meeting are tentatively scheduled for September 14 and 15, 1992 in West Fargo. A dedication ceremony is being planned for the Sheyenne River Flood Control Project on September 14 and the Commission meeting on September 15.

1993-1995 BIENNIUM BUDGET

Secretary Sprynczynatyk stated the June, 1992 revenue forecast has been released and for the current biennium the forecast predicts a \$4.3 million shortage on June 30, 1993. The Office of Management and Budget has stated that in order to comply with the balanced budget laws, an allotment cut of \$4.3 million must be made. This cut will be across the board for general fund appropriations, which is about one third of 1 percent, or .36 percent of the general fund appropriation for 1991-1993. The allotment for the State Water Commission is \$20,942.

The preliminary forecast for the 1993-1995 biennium anticipates a \$156 million shortage, or 13 percent. This forecast is based on current spending and built-in spending increases and allows for a reasonable ending balance on June 30, 1995. Secretary Sprynczynatyk indicated the agencies have been requested to formulate the 1993-1995 budget to reflect a 10 percent budget cut in the optional reduction package. Facing this magnitude of cut in the next budget, he said the agency may need to look at cutting whole programs in addition to reductions in all programs. He said the agency will need to look at making long-term cuts rather than short-term adjustments.

July 6, 1992

**DROUGHT DISASTER LIVESTOCK
WATER ASSISTANCE PROGRAM
(SWC Project No. 1851)**

Disaster Livestock Water Assistance Program from the Water Resource Fund's general grants. The Commission approved proposed changes to the program's rules, which are required by law to follow the promulgation process.

At the July 1, 1992 meeting, the State Water Commission approved an additional \$50,000 to be allocated to the Drought

Secretary Sprynczynatyk stated one of the proposed rule changes specifies that funds be made available first to those producers who have inquired about the program and their names have been placed on the waiting list. To date, 47 individuals have inquired about the program and five of those individuals have completed their project work.

It was the recommendation of the State Engineer that contingent upon the promulgation of the program rule changes, of the \$50,000 of additional funds that have been allocated to the program, \$10,000 be set aside to provide reimbursement to those producers who are currently on the program waiting list and have completed their projects.

It was moved by Commissioner Vogel and seconded by Commissioner Byerly that contingent upon the promulgation of the rule changes to the Drought Disaster Livestock Water Assistance Program, of the \$50,000 of additional funds that have been allocated, \$10,000 be set aside to provide reimbursement to those producers on the program waiting list who have completed their project work.

Commissioners Byerly, Farstveet, Gust, Narlock, 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, it was moved by Commissioner Farstveet, seconded by Commissioner Gust, and unanimously carried, that the State Water Commission meeting adjourn at 4:30 PM, Mountain Standard Time.

July 6, 1992



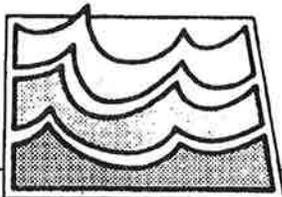
Lloyd B. Omdahl
Lieutenant Governor-Chairman

SEAL



David A. Spryzyratyk
State Engineer and
Chief Engineer-Secretary

July 6, 1992



North Dakota State Water Commission

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RESOLUTION NO. 92-7-448

Concerning the United States Army Corps of Engineers Review of the Master Manual

WHEREAS, the Missouri River is a natural resource of great economic importance to the State of North Dakota, constituting ninety-six percent of the State's total surface water supplies; and

WHEREAS, the availability of Missouri River water for outdoor recreation, irrigation, municipal and industrial, and other uses is an essential component of the State's economic infrastructure; and

WHEREAS, the manner in which the Missouri River mainstem reservoir system is operated impacts directly and adversely on all of those uses when operations favor one project use over another; and

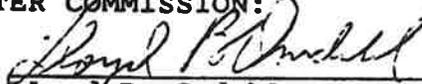
WHEREAS, the Missouri River Division of the United States Army Corps of Engineers has been charged with reviewing the Master Manual, which is used to guide reservoir operations; and

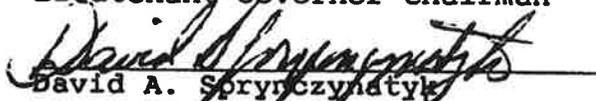
WHEREAS, the States of the Missouri River are to be an integral part of the review process and are to have ample and timely opportunity to provide their input; and

WHEREAS, schedule changes and postponements by the Corps of Engineers have complicated the process of integrating state viewpoints.

NOW, THEREFORE, BE IT RESOLVED by the North Dakota State Water Commission, at its meeting held in Dickinson, North Dakota, on July 6, 1992, that it admonishes the Corps of Engineers and expresses its extreme displeasure with the Corps' repeated postponements of the schedule for releasing the result of the Master Manual review analysis.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:


Lloyd B. Omdahl
Lieutenant Governor-Chairman


David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary

SEAL



Office of the State Engineer

MEMO TO: Governor George A. Sinner
 Lt. Governor Lloyd Omdahl
 State Water Commission Members

FROM: James T. Fay, J
 Secretary, Engineer Selection Committee

SUBJECT: SWPP Rural Water Engineering, SWC #1736

The Southwest Pipeline Project Rural Water Engineering Selection Committee met on July 6, 1992 at the Southwest Pipeline Project Operation and Maintenance Center in Dickinson. Present were James T. Fay, Chairman and Secretary; Jake Gust, State Water Commission; Marjorie Farstveet; State Water Commission, Loren Myran, Southwest Water Authority; Willie Mastel, Southwest Water Authority. Also present was David Sprynczynatyk, State Engineer. The purpose of the meeting was to hear interviews of the 3 firms selected for further consideration, and make the final ranking based upon the qualifications of the firms.

The interview format consisted of a 20 minute presentation followed by 30 minutes of questions and answers. A list of 12 questions was asked each firm.

After the interviews, committee members individually assigned scores to each firm in each criteria. The score sheets were collected, the individual criteria scores added, and the importance factors of the criteria were applied.

The total scores are as follows:

Bartlett & West/Boyle Engineering Corp.	4338.8
Houston Engineering	4194.6
KBM/Kadmas-Lee-Jackson	3750.8

The scoring matrix and the list of questions is attached.

SOUTHWEST PIPELINE PROJECT

BALLOT FOR
RATING OF ENGINEERING FIRMS

Criteria	Importance Value	KLJ/KBM	Houston	BW/BEC		
1. Past performance	14.4	504	604.8	633.6		
2. The ability of professional personnel	15.2	516.8	608	684		
3. Willingness to meet time and budget requirements	15.4	662.2	677.6	693		
4. Location	10.4	447.2	384.8	395.2		
5. Recent, current, and projected workloads of the firm	10.4	405.6	405.6	426.4		
6. Related experience on similar projects	21.6	799.2	972	1015.2		
7. Recent and current work for the agency	12.6	415.8	541.8	491.4		
	100.0	3750.8	4194.6	4338.8		

INSTRUCTIONS:

Assign a number from 1 to 10 which reflects your feelings of how the respective criteria is satisfied by each of the firms. A 10 is most favorable and 1 is most unfavorable. (No zeros, please.)

QUESTIONS

1. Please describe the roles of each member of your project team, and their qualifications to fulfill those roles.
2. How do you plan to handle the logistics of field activities?
3. How would you propose that the State Water Commission address the liability issues regarding the integration of the rural water distribution system with the main transmission system? What do you feel is the limit of professional liability insurance coverage necessary for this work?
4. In your experience, how have easements for rural water distribution systems been acquired?
5. What other services can your firm provide?
6. If problems with scheduling or personnel arose, would you consider subcontracting with other engineering firms?
7. What do you consider the most challenging aspect of this work, and how do you anticipate meeting that challenge?
8. Do you see any contractual or engineering problems due to the extended construction schedule, and how do you expect to handle those problems?
9. Anticipating that construction may last 8 or more years, and that there could be periods without funding for rural water construction, how would it affect your firm's operations and how would you plan for it.
10. What are the other demands on the members of your team, and how will those demands affect performance of this work?
11. How would you make use of the sign-up information developed by the Southwest Water Authority?
12. What is the one project your firm has developed that is most like the Southwest Pipeline Project's rural water service, and why? Who on your current project team was involved?