

MINUTES

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

December 29, 1993

The North Dakota State Water Commission held a telephone conference call meeting in the Governor's Conference Room, State Capitol, Bismarck, North Dakota, on December 29, 1993. Chairman, Governor Edward T. Schafer, called the meeting to order at 9:15 AM, and requested State Engineer and Chief Engineer-Secretary, David Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Jeff Weispfenning, representing Sarah Vogel, Department of
Agriculture, Bismarck
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David Sprynczynatyk, State Engineer and Chief Engineer-
Secretary, North Dakota State Water Commission, Bismarck

MEMBERS ABSENT:

Mike Ames, Member from Williston
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen

OTHERS PRESENT:

State Water Commission Staff Members
Michael Dwyer, representing Southwest Water Authority, Bismarck
Curt Peterson, Association of General Contractors, Bismarck
Julie Krenz, Attorney General's Office, Bismarck
Michele Johnson, Attorney General's Office, Bismarck
(The attendance register is on file with the official minutes.)

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

CONSIDERATION OF AGENDA

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

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**SOUTHWEST PIPELINE PROJECT -
CONTRACT 2-6A PIPE
MATERIALS DEFICIENCIES
(SWC Project No. 1736)**

Southwest Pipeline Project Contract 2-6A has been stalled since July, 1993, due to defects discovered in the installed pipe in an eight-mile

stretch of the project from Mott to Regent. Secretary Sprynczynatyk stated that the installed pipe fails to meet the contract specifications, but there is no definitive way to determine the impact to the useable life of the pipe. During the past several months, various ways have been explored of resolving the problem and assessing the effects of the defects. The contract price for the eight miles of installed pipe was \$264,000.

Secretary Sprynczynatyk briefed the Commission members on settlement proposals that have been discussed by the contractor and at the State Water Commission staff level in an attempt to resolve the defective pipe problem. He also explained the legal ramifications if the issue went to court.

It was the recommendation of the State Engineer that the State Water Commission approve accepting the eight miles of installed pipe on Southwest Pipeline Project Contract 2-6A, with the following considerations:

- 1) A reduction in the contract price in the amount of \$135,000. This amount includes the cost for additional engineering and testing.
- 2) A no-cost extension in contract time of 115 calendar days measured from the first day of work in 1994.
- 3) The 12,300 feet of JM pipe on-site can be installed after inspection.
- 4) The remaining pipe will be procured from a different supplier.

In discussion of the State Engineer's recommendation, it was the consensus of the Commission members that this issue should be settled out of court if possible. Concern was expressed regarding the risks involved of leaving the faulty pipe in the ground, and the payment of costs if a failure occurred in the future. Secretary Sprynczynatyk explained that the warranty from the original contract specifications would be honored by the contractor, as well as all of the other provisions of the original contract.

The State Engineer and staff were directed to work with the Southwest Water Authority, who will be responsible for the project maintenance, to develop options that could be available for future replacement costs.

Secretary Sprynczynatyk commented that the proposed settlement is reasonable and is justified by the facts, and that the amount of deduct from the contract price outweighs the risks.

It was moved by Commissioner Olin and seconded by Commissioner Swenson that the State Water Commission approve accepting the eight miles of installed pipe on Southwest Pipeline Project Contract 2-6A in exchange for a deduct of \$135,000 in the contract price, contingent to the considerations stated in the State Engineer's recommendation.

Commissioners Hillesland, Olin, Swenson, Thompson, Chairman Schafer, and Jeff Weispfenning for Commissioner Vogel, 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 Olin, seconded by Commissioner Thompson, and unanimously carried, that the State Water Commission telephone conference call meeting adjourn at 9:45 AM.


Edward T. Schafer
Governor-Chairman

SEAL


David A. Sprynczynatyk
State Engineer and
Chief Engineer-Secretary