

MINUTES

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

May 24, 1996

The North Dakota State Water Commission held a telephone conference call meeting in the Governor's conference room, State Capitol, Bismarck, North Dakota, on May 24, 1996. Chairman, Edward T. Schafer, called the meeting to order at 2:00 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
Sarah Vogel, Commissioner, 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 A. 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
Gregg Thielman, State Water Commission (by phone from Devils Lake)
Gordon Weixel, Devils Lake Daily Journal (by phone from Devils Lake)
Julie Krenz, Assistant Attorney General, Bismarck

The attendance register is on file with the official 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.

**DEVILS LAKE UPPER BASIN
WATER RETENTION PROGRAM -
APPROVAL OF ADDITIONAL**

**FUNDS (\$150,000) FOR AVAILABLE
STORAGE ACREAGE PROGRAM
(ASAP); AND RE-ALLOCATION
OF FUNDS (\$50,000) FOR PROGRAM
(SWC Project No. 1882)**

Secretary Sprynczynatyk stated that a very critical part of the Devils Lake Emergency Response Plan includes

the upper basin water retention component. Upper basin storage will be obtained from landowners willing to participate in a voluntary program.

Secretary Sprynczynatyk briefed the Commission members on the Available Storage Acreage Program (ASAP), which was designed in the Devils Lake Water Management Plan to control floodwaters in areas upstream from Devils Lake. The 1996 goal for the program was 75,000 acre-feet of storage with about half of that to be obtained by holding the water levels a foot or two higher in the basin's larger upstream lakes. The balance would be gained on smaller tracts of the basin that contribute runoff to Devils Lake. He said it appears the ASAP will only meet a small percentage of its goal in 1996, however, storage sites that are implemented this year may become a catalyst to encourage others to participate next year, since it is expected that Devils Lake will continue to rise.

The response to upper basin storage has increased and, currently, well over 100 applications have been received. Secretary Sprynczynatyk said if all of the sites applied for could be implemented, they would keep nearly 15,000 acre-feet of water from reaching Devils Lake. To date, \$300,000 has been allocated to the ASAP program to fund 34 sites holding approximately 5,200 acre-feet of water. The State Water Commission staff is investigating sites that have been proposed for their water storage potential. If additional funding can be provided, Secretary Sprynczynatyk said the proposed sites could store an additional 3,300 acre-feet of water. Additional funding of approximately \$200,000 will be required for the storage sites that have been identified and meet the program criteria.

The program criteria remains the same since the program was developed. The water storage site must hold water beyond normal or previous levels (i.e. drained wetland would have no previous level, therefore, any water could count) and drain into Devils Lake. Not pumping from permitted pumping sites also qualifies for the program if it will keep water out of Devils Lake.

The compensation paid to landowners for water storage has ranged from \$25 per acre for a site also enrolled in CRP to \$125 per acre for a high-water capacity site with low construction costs. Secretary Sprynczynatyk stated that presently a justifiable payment threshold for storage sites is approximately \$60 per acre-foot, although exceptions may be made. This price includes the cost to lease the land and the cost of building any water retention structures. A threshold price based on acre-feet (volume) allows the sites with the ability to hold more water to receive a higher per-acre payment.

Secretary Sprynczynatyk explained that the 1995 legislature appropriated \$1 million to the Contract Fund, but these funds were not line-itemed. He said the legislature supported flood control projects and, subsequently, the State Water Commission further discussed and earmarked these funds for the Sheyenne and Maple River Flood Control project. Because of the emergency and need for funding for Devils Lake for flood control, the Governor discussed with the legislative leaders the possibility of allocating funds earmarked for the Sheyenne and Maple River Flood Control project for the Devils Lake Emergency Response plan. The legislative leaders agreed this could be done and that the replacement of the funds for the Sheyenne and Maple River Flood Control project could be addressed during the next legislative session. The State Water Commission passed a motion at its November 29, 1995, meeting, allocating \$750,000 from the Contract Fund for the Devils Lake Emergency Response plan, from the funds earmarked for the Sheyenne and Maple River Flood Control project.

It was the recommendation of the State Engineer that the State Water Commission approve an additional \$200,000 for the Devils Lake Available Storage Acreage Program. Of this amount, \$150,000 would come from the Contract Fund from the funds earmarked for the Sheyenne and Maple River Flood Control project, and \$50,000 would be re-allocated from the Stump Lake component of the Devils Lake Emergency Response plan.

It was moved by Commission Olin and seconded by Commissioner Hillesland that the State Water Commission approve an additional allocation of \$200,000 for the Devils Lake Available Storage Acreage Program (ASAP), of which \$150,000 shall be allocated from the funds earmarked for the Sheyenne and Maple River Flood Control project, and \$50,000 shall be re-allocated from the Stump Lake component of the Devils Lake Emergency Response plan. This motion is contingent upon the availability of funds.

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

**DEVILS LAKE UPPER BASIN
WATER RETENTION PROGRAM
IN UPPER CHAIN OF LAKES
(SWC Project No. 1882)**

holding more water in the upper basin. Although 8,500 acre-feet of storage in small holding areas throughout the basin will be developed for 1996 with the funds

Secretary Sprynczynatyk explained that as the peak elevation of Devils Lake for 1996 approaches, efforts are continually being explored to minimize the potential damages by

allocated thus far, there is still the potential for holding an additional 15,000 acre-feet of water in the upper chain of lakes. He said the proposal for holding water in the upper chain of lakes is possible by operating the existing structures at higher elevations than in the past. Landowners would be compensated a price equivalent to cash rent for the land if they are willing to hold the water at the higher elevation until October 15, 1996. He said it is estimated that approximately \$100,000 would be required for compensation to the landowners.

Secretary Sprynczynatyk said it is the responsibility of the Devils Lake Joint Water Resource Board to take the lead in this effort. In a letter to the chairman of the Joint Board, dated May 17, 1996, Secretary Sprynczynatyk informed the board that a successful effort will help prevent damages to homes, roads, public utilities and private land. In order for this to occur, it is imperative for the Joint Board, which represents all of the basin, to become more involved in working with landowners around the chain of lakes, in order to help landowners around Devils Lake. Such an effort and the resulting storage clearly will show that people throughout the basin are ready and willing to be a part of the solution to address the Devils Lake flood problems. The effort is necessary for downstream communities, conservationists, the state and federal government, and other interested parties to support an outlet as part of the overall solution in the basin. He said the State Water Commission staff will continue to work with the Joint Board by providing technical assistance and financial assistance.

It was moved by Commissioner Vogel and seconded by Commissioner Swenson that the State Water Commission allocate \$100,000 to the Devils Lake upper chain of lakes water storage proposal. These funds will come from the funds earmarked for the Sheyenne and Maple River Flood Control project. This motion is contingent upon the availability of funds.

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

**APPROVAL OF REQUEST FOR
COST SHARING FOR NORTH
LEMMON LAKE DAM SAFETY
MODIFICATION PROJECT
IN ADAMS COUNTY
(SWC Project No. 543)**

A request was presented for the Commission's consideration from the North Dakota Game and Fish Department for cost sharing in dam safety repairs to North Lemmon Lake Dam in Adams County. The

repairs to the dam involve correcting the embankment and foundation seepage and stabilization of the downstream slope of the dam.

Secretary Sprynczynatyk presented the request. The State Water Commission will provide engineering services and contract administration, which includes preparation of the plans and specifications for the project, engineering supervision of the work as it is being accomplished, and the final inspection of the project. The project is scheduled to open bids in early July and construction to begin August 1, 1996. It is anticipated that project construction should be completed in September, 1996.

The total estimated price of the project is \$150,000, with cost sharing as follows: \$38,000 from the Adams County Water Resource District, \$5,000 from Dakota West RCD, and \$53,500 each from the North Dakota Game and Fish Department and the State Water Commission.

It was the recommendation of the State Engineer that the State Water Commission provide cost sharing for the North Lemmon Lake Dam Safety Modification project in an amount not to exceed \$53,500, of which \$30,500 will come from the Contract Fund, and \$23,000 will be for in-kind engineering services and contract administration.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve cost sharing for the North Lemmon Lake Dam Safety Modification project in Adams County, in an amount not to exceed \$53,500, of which \$30,500 shall be allocated from the Contract Fund, and \$23,000 shall be provided by the State Water Commission staff for in-kind engineering services and contract administration. This motion is contingent upon the availability of funds.

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

**NORTHWEST AREA WATER
SUPPLY PROJECT -
CONTRACT WITH HOUSTON
ENGINEERING FOR FINAL
DESIGN ENGINEERING AND
CONSTRUCTION SERVICES
(SWC Project No. 237-4)**

On April 29, 1996, the State Water Commission authorized the State Engineer to execute the contract with Houston Engineering for the final design engineering and construction services for the Northwest Area Water Supply project, contingent

upon the successful negotiation between the state and the engineer on the issues of indemnification and insurance.

Secretary Sprynczynatyk informed the Commission members that the issues of indemnification and insurance have been satisfied in concept, and that he anticipates execution of the agreement the last week in May, 1996.

There being no further business to come before the State Water Commission, it was moved by Commissioner Olin, seconded by Commission Thompson, and unanimously carried, that the State Water Commission telephone conference call meeting adjourn at 2:30 PM.

/S/ Edward T. Schafer

Edward T. Schafer
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk

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

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