

MINUTES

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

February 15, 2007

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on February 15, 2007. Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman, called the meeting to order at 11:00 AM, and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary, to call the roll. Lt. Governor Dalrymple announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman
Roger Johnson, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Starkweather
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Robert Thompson, Member from Page

STATE WATER COMMISSION MEMBER ABSENT:

Harley Swenson, Member from Bismarck

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Dave Koland, General Manager, Garrison Diversion Conservancy District, Carrington
Joe Bichler, Bartlett & West Engineers, Bismarck
James Lennington, Bartlett & West Engineers, Bismarck
Milton Lindvig, North Dakota Irrigation Association, Bismarck
Jack Russell, USDA, Natural Resources Conservation Service, Bismarck
Janna Charrier, North Dakota Department of Emergency Services, 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

announced the agenda approved as presented.

There being no additional items for the agenda, Lt. Governor Dalrymple an-

**DROUGHT DISASTER LIVESTOCK
WATER SUPPLY PROJECT
ASSISTANCE PROGRAM -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$550,000)
(SWC Project No. 1851)**

livestock producers with water supply problems caused by drought. North Dakota Administrative Code Article 89-11 was adopted by the Commission on June 24, 1991 for management of this program.

The Drought Disaster Livestock Water Supply Project Assistance program, established by the North Dakota Legislature in 1991, is a state cost share participation program administered by the State Water Commission that provides financial assistance to existing

Only water supply projects located in counties included in a drought disaster declaration and counties adjacent to those counties included in a drought disaster declaration are considered eligible for state cost participation. Types of projects that may be funded by the program include the construction of new wells, construction of dugouts or stock dams that are spring-fed or have a high water table, and pipelines and extensions from rural water system connections. North Dakota Century Code chapter 61-34 limits assistance to individual producers of 50 percent of project costs, not to exceed \$3,500, and authorizes the State Water Commission to provide funds for the program.

The State Water Commission allocated \$250,000 for the program on June 24, 1991, and an additional \$50,000 was allocated on July 1, 1992, for a total state contribution of \$300,000. The program was reactivated on July 1, 2002 following Governor Hoeven's issuance of North Dakota Drought Emergency Proclamation, Executive Order 2002-04. The Commission allocated \$200,000 on August 15, 2002 for the program for those counties identified in the executive order, and an additional allocation of \$150,000 on November 3, 2003, for a total state contribution of \$350,000 since program reinstatement. On March 10, 2005, the State Water Commission passed a motion that the remaining funds allocated to the program be expended, followed by program termination; and, that the program be reinstated, if necessary, through a revised North Dakota Drought Emergency Proclamation issued by the Governor.

On June 28, 2006, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2006-05, which indicated a drought emergency existed in south central and southwestern North Dakota. Governor Hoeven subsequently issued Executive Order 2006-05.1 on July 12, 2006 to include all counties within North Dakota.

Pursuant to Executive Orders 2006-05 and 2006-05.1, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance Program on June 28, 2006. The Commission allocated \$200,000 for the program on June 28, 2006, \$200,000 on July 20, 2006, and \$250,000 on October 12, 2006, for a total state contribution of \$650,000 since program reinstatement on June 28, 2006. The Commission also approved proposed amendments to the North Dakota Administrative Code Article 89-11, Drought Disaster Livestock Water Supply Project Assistance Program, chapter 89-11, on July 20, 2006.

On July 20, 2006, the State Water Commission directed the State Engineer to consult with the Office of Attorney General for a legal interpretation of North Dakota Century Code, chapter 61-34, whether an applicant can apply for multiple projects and be considered for cost participation up to \$3,500 for each water supply project. Contingent upon legal satisfaction from the Office of Attorney General staff, the State Water Commission passed a motion on July 20, 2006 that the Commission shall allow an applicant to apply for a maximum of three water supply projects, and the applicant shall be considered for a 50 percent state cost participation, not to exceed \$3,500, for each water supply project. Following a review of the applicable laws and administrative rules, it was the legal opinion that the State Water Commission has the flexibility to approve multiple projects for individual applicants.

The drought conditions continue to persist over a large portion of the state, and an urgent need for assistance with developing livestock water supplies exists. As of February 1, 2007, approximately 500 program applications had been submitted, of which 400 applications were approved, with about \$625,000 expended for completed projects.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional allocation not to exceed \$550,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Drought Disaster Livestock Water Supply Project Assistance Program.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve an additional allocation not to exceed \$550,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Drought Disaster Livestock Water Supply Project Assistance Program. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$1,200,000 for the Drought Disaster Livestock Water Supply Project Assistance Program since reactivation on June 28, 2006.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Thompson, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
REJECTION OF CONTRACT 4-2A BIDS
FOR RICHARDTON PUMP STATION
STANDBY ENGINE GENERATOR
(SWC Project No. 1736)***

At its meeting on October 12, 2006, the State Water Commission approved an allocation not to exceed \$400,000 from the funds allocated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for the Richardton pump

station standby engine generator. This action would also reduce the 2007-2009 biennium allocation by that same amount.

The Richardton raw water pump station is located approximately one mile north of the city of Richardton, and includes three 900 horsepower (hp) and two 400 (hp) vertical turbine pumps. The designed flow capacity of the raw water line is 8950 gallons per minute (gpm), which is supplied by two of the 900 hp pumps running simultaneously. One of the 900 hp pumps can provide 6150 gpm. Running both of the 900 hp pumps would require a 2000 ± kilowatt (kW) generator and running one 900 hp would require a 1000 ± generator.

Generator sets in excess of 1000 kW are currently under high demand resulting in longer delivery times. Each vendor of these types of generator sets utilizes power units and generator units from different suppliers, therefore, there are no standard specifications for generators sets of this size. Given the uncertainty in size and delivery times, the bid forms were prepared to allow multiple sizes of generator sets and delivery times to be considered.

On February 8, 2007, bids were opened for the Richardton pump station standby engine generator, contract 4-2A. There were three bids received from the following for contract 4-2A: Butler Machinery Company, Bismarck, ND; Interstate Power Systems, Bismarck, ND; and Skeels Electric, Bismarck, ND. The contract documents stipulate that the State Water Commission reserves the right to award the contract and, if awarded, based on the bid that is most advantageous and in the best interest of the owner.

Secretary Frink explained the contract 4-2A bid alternates and summarized the bids received. Subsequent to the project engineer's review of the bids received, two of the bidders indicated that the generator sizes represented by their bids were not of adequate capacity to start and run a 900 hp pump.

It was the recommendation of Secretary Frink that the State Water Commission reject all bids on Southwest Pipeline Project contract 4-2A, Richardton pump station standby engine generator, and that the contract be rebid. It was also the recommendation of Secretary Frink that the new contract documents include plans and specifications for the Richardton pump station standby engine generator and a generator option for the Dodge pump station.

It was moved by Commissioner Olin and seconded by Commissioner Berg that the State Water Commission reject all bids on Southwest Pipeline Project contract 4-2A, Richardton pump station standby engine generator; and, that the contract be rebid with plans and specifications to include the Richardton pump station standby engine generator and a generator option for the Dodge pump station.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Thompson, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.

**AGPACE LOAN PROGRAM
ADMINISTERED BY BANK OF
NORTH DAKOTA -
APPROVAL OF HOLDING PONDS;
DENIAL OF DRAIN TILE
(SWC File IRR GEN)**

On October 23, 2001, the State Water Commission allocated \$1,000,000 to supplement the AgPACE loan program administered by the Bank of North Dakota to increase the interest buy down to \$40,000 for the development of new irrigation in North Dakota. The

Commission's portion of the program is limited to the infrastructure required for the capture, conveyance, and application of the water for irrigation. To date, 35 applications have been approved with an expenditure of \$381,527 from the State Water Commission's allocation.

The AgPACE program provides low interest financing to on-farm businesses. The funds are used to buy down the interest rate on loans that have been approved by a local lender and the Bank of North Dakota. It may be used for any business, except traditional production agriculture, which is integrated into the farm operation and is used to supplement farm income. The development of irrigation qualifies for the program.

A request from the Bank of North Dakota was presented for the State Water Commission's consideration that would allow the costs associated with the construction of a holding pond used to irrigate new acreage by the pivot method, and the installation of drain tile to remove standing water from farmland acreage to be eligible under the AgPACE program.

Secretary Frink explained that in some rivers and streams in North Dakota there is a significant amount of water that is available for capture during spring snowmelt/runoff periods; however, for irrigation applications, the water is generally not available later during the growing season. Beneficial irrigation use of this water could be accomplished by constructing off-stream storage facilities (holding ponds) to store water for later use during the growing season. Off-stream storage would provide for a more efficient use of the water resource, and reduce flooding and stress on the stream during the lower flow periods that occur during the summer growing season. The potential for water quality degradation and associated adverse effects on fish and wildlife resources could also be reduced. Secretary Frink said the construction of off-stream storage holding ponds would qualify as infrastructure required for the capture, conveyance, and application of water for irrigation.

Secretary Frink further explained that in some areas of North Dakota, particularly in the Red River valley, draining of agricultural land is considered a prerequisite for irrigation. Therefore, the construction of tile drains would not qualify as infrastructure required for the capture, conveyance, and application of water for irrigation.

It was the recommendation of Secretary Frink that the State Water Commission approve the eligibility of costs under the AgPACE program associated with holding pond construction. It was also the recommendation of Secretary Frink that the State Water Commission deny the eligibility of costs under the AgPACE program associated with drain tile construction.

It was moved by Commissioner Thompson and seconded by Commissioner Hanson that the State Water Commission:

- 1) approve the eligibility of costs under the AgPACE program associated with holding pond construction; and***
- 2) deny the eligibility of costs under the AgPACE program associated with drain tile construction.***

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Thompson, and Lt. Governor Dalrymple representing Governor Hoeven voted aye. There were no nay votes. Lt. Governor Dalrymple announced the motion unanimously carried.

2007 LEGISLATION REPORT

Senate Bill 2020, the State Water Commission appropriation bill, was heard before the Senate Appropriations Committee on January 19, 2007, and passed the Senate on February 14, 2007. Engrossed Senate Bill 2020 will be heard before the House Appropriations Committee, Education and Environmental Division, on March 2, 2007.

Secretary Frink referenced legislation that is being considered and revenue forecast/projections which would affect the Resources Trust Fund for the 2007-2009 biennium. Legislation involving the Southwest Pipeline Project and the Red River Valley Water Supply project was also discussed.

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the audio conference call meeting at 11:55 AM.



Jack Dalrymple, Lt. Governor
Representing John Hoeven, Governor
Chairman, State Water Commission

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
State Water Commission

