

MINUTES

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

April 12, 2007

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on April 12, 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
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

STATE WATER COMMISSION MEMBER ABSENT:

Arne Berg, Member from Starkweather

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Lance Gaebe, Office of the Governor, Bismarck
Matthew Sagsveen, Office of Attorney General, Bismarck
Ray Christensen, Southwest Water Authority, Dickinson
Mary Massad, Southwest Water Authority, Dickinson
James Lennington, Bartlett & West Engineers, Bismarck
Joe Bichler, Bartlett & West Engineers, Bismarck
Kevin Martin, Houston Engineering, Inc., Bismarck
Randy Phelps, Cummins N Power, LLC, Fargo
James McPherson, Associated Press, 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

referenced to as the Southwest Pipeline Project, contract S78B78C79A, seeding resulting from 2006 construction activities.

Lt. Governor Dalrymple stated that the agenda includes an additional item

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT - AUTHORIZE AWARD OF CONTRACT 2-2A, WATER TRANSMISSION PIPELINE, MINOT AREA SEGMENT, TO ERS CONSTRUCTORS, CENTENNIAL, CO (SWC Project No. 237-04)

protection, and appurtenances. The project begins just east of the Minot water treatment plant at the proposed high service pump station, which is presently under design, proceeds west and crosses the U.S. Highway 83 bypass along the western edge of Minot, and "tees" to the south and north to the edges of the city of Minot.

Bids were opened for Northwest Area Water Supply (NAWS) Project, contract 2-2A, Water Transmission Pipeline, Minot Area Segment, on March 27, 2007. Contract 2-2A involves approximately 4 miles of 24-inch to 36-inch pipe, several river and highway borings, the Max railroad bore, cathodic

proceed with design and construction by Judge Rosemary Collyer on March 24, 2006, while the lawsuit with Manitoba is pending. Due to limited MR&I federal funding, this project and the other approved projects, are being funded through the combination of state, federal, Minot cost share, and Minot advanced funding. The approved projects were estimated at \$21,000,000 over the next two-three years. The city of Minot has provided a written agreement to provide \$7,000,000 in cost share and up to \$6,000,000 in advance funding. This is the first of the approved projects to be bid.

This project was granted approval to

following for contract 2-2A: ERS Constructors, Centennial, CO; S.J. Louis Construction, Inc., Waite Park, MN; and Park Construction Co., Hampton, MN. A bid from Triangle Excavating Co., Michigan, ND, was not opened because the bid did not contain a separate envelope on the outside for the bid bond. The apparent low bid received was \$5,876,766 from ERS Constructors, Centennial, CO. The project engineer's estimate was \$4,878,502.

There were four bids received from the

The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening. Because of concerns expressed with the completion date at the prebid meeting, an

addendum was added stating the completion dates are based on an award date of April 16, 2007. If the award date is later, additional days will be added to the contract/construction season, which is assumed to end November 9, 2007. Any additional days, if necessary, would apply in the spring of 2008.

Michelle Klose, NAWS project manager, explained that the contract documents allow the State Water Commission to select the most advantageous bid. The contract documents required submission of experience on similar projects. The project engineer reviewed the bids and recommended the award of contract 2-2A to ERS Constructors, Centennial, CO. The contract will require approval by the Bureau of Reclamation, and the award of the contract and notice to proceed are dependent on the completion of the contract documents and a legal review.

Kevin Martin, Houston Engineering, Bismarck, ND, stated that the low bid was approximately \$1,000,000 higher than the engineer's estimate, which was largely due to the cost of 10 borings included in the contract. One bore is at a 32-foot depth and will require sheet piling, and river crossings bore depths are at 7 feet below the streambed. Higher prices were also received for mobilization, pressure testing, and vault work. Mr. Martin stated that local contractors expressed concerns with the depths and uncertainties with the bores, and the only bids received were from out-of-state.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary of the State Water Commission to award Northwest Area Water Supply Project, contract 2-2A, Water Transmission Pipeline, Minot Area Segment, in the amount of \$5,876,766, to ERS Constructors, Centennial, CO, contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission authorize the secretary of the State Water Commission to award Northwest Area Water Supply Project, contract 2-2A, Water Transmission Pipeline, Minot Area Segment, in the amount of \$5,876,766, to ERS Constructors, Centennial, CO. This action is contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.

Commissioners Foley, Hanson, Hillesland, Johnson, Olin, Swenson, 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 -
AUTHORIZE AWARD OF CONTRACT
4-2A/4-1C, RICHARDTON AND DODGE
PUMP STATIONS STANDBY ENGINE
GENERATORS, TO CUMMINS N
POWER, LLC, FARGO, ND; AND
APPROVAL OF ADDITIONAL
ALLOCATION OF \$600,000
(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.

On February 8, 2007, bids were opened on Southwest Pipeline Project, contract 4-2A, for the Richardton pump station standby engine generator. Subsequent to the project engineer's review of the bids, two of the bidders indicated that the generator sizes represented by their bids were not of adequate capacity. On February 15, 2007, the State Water Commission rejected all of the bids on Southwest Pipeline Project, contract 4-2A, Richardton pump station standby engine generator, and directed 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.

The project was rebid as contract 4-2A/4-1C with the intention of placing one generator each at both the Richardton and Dodge raw water pump stations. Three separate bid schedules were provided including a bid schedule for Dodge, a bid schedule for Richardton, and a combined single bid for both Dodge and Richardton to provide flexibility to award two individual contracts or a combined contract for both. Bid schedules were based on an October 1, 2007 delivery date. An alternate was included for each bid schedule with an alternate price and delivery date set by the bidder due to uncertainties in availability.

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 Dodge raw water pump station has three 700 hp and two 150 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 at Richardton, or two of the 700 hp pumps at Dodge running simultaneously. One of the large pumps at either pump station can provide 6150 gpm. The contract documents require that the generator be capable of starting and running one 900 hp pump and a 40 kW auxiliary load at the Richardton pump station, and starting and running one 700 hp pump and a 30 kW auxiliary load at the Dodge raw water pump station. This will allow the system to deliver 8.8 million gallons per day (mgd).

On March 29, 2007, bids were opened for Southwest Pipeline Project, contract 4-2A/4-1C, for the Richardton and Dodge pump stations standby engine generators. There were three bids received from the following for contract 4-2A/4-1C: Cummins N Power, LLC, Fargo, ND; Butler Machinery Co., Bismarck, ND; and Interstate Power Systems, Bismarck, ND. The apparent low bid received was \$919,800 submitted by Cummins N Power, LLC, under the combination of bid alternatives A & B for November 15, 2007 delivery.

Tim Freije, Southwest Pipeline project manager, explained the contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, all bids appeared to be in accordance with the advertisement for construction bids and the bid documents and were considered to be responsible and responsive bids. The project engineer recommended the award of Southwest Pipeline Project, contract 4-2A/4-1C to Cummins N Power, LLC. The award of the contract and notice to proceed are dependent on the completion of the contract documents, and a legal review.

Total project costs including engineering services and 2.5 percent contingencies will total approximately \$998,000. Funding to allow the award of contract 4-2A/4-1C will be provided by the allocation of \$400,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (approved by the State Water Commission on October 12, 2006), and the State Water Commission's consideration for an additional allocation of \$600,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021).

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary of the State Water Commission to award Southwest Pipeline Project, contract 4-2A/4-1C, Richardton and Dodge pump stations standby engine generators, in the amount of \$919,800, to Cummins N Power, LLC, Fargo, ND, under the combination of bid alternatives A and B, with a delivery date of November 15, 2007.

It was also the recommendation of Secretary Frink that the State Water Commission approve an additional allocation not to exceed \$600,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for contract 4-2A/4-1C, for the Richardton and Dodge pump stations standby engine generators. Affirmative action by the State Water Commission would increase the total allocation to \$1,000,000, and would also reduce the 2007-2009 biennium allocation by that same amount.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission:

1) authorize the secretary of the State Water Commission to award Southwest Pipeline Project, contract 4-2A/4-1C, Richardton

and Dodge pump stations standby engine generators, in the amount of \$919,800, to Cummins N Power, LLC, Fargo, ND, under the combination of bid alternatives A and B, with a delivery date of November 15, 2007. This action is contingent upon completion of the contract documents, and a legal review; and

2) approve an additional allocation not to exceed \$600,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for contract 4-2A/4-1C, for the Richardton and Dodge pump stations standby engine generators. This action is contingent upon the availability of funds, and would reduce the 2007-2009 biennium allocation by that same amount.

This action increases the total State Water Commission allocation to \$1,000,00 for Southwest Pipeline Project, contract 4-2A/4-1C, from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021).

Commissioners Foley, Hanson, Hillesland, Johnson, Olin, Swenson, 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 -
AWARD OF CONTRACT S78B78C79A,
FOR SEEDING OF DISTURBED AREAS
ASSOCIATED WITH CONSTRUCTION OF
CONTRACTS 7-8B, 7-8C, AND 7-9A, TO
HOLLAND CONTRACTING, INC.,
MOORHEAD, MN
(SWC Project No. 1736)**

On April 10, 2007, bids were opened for Southwest Pipeline Project, contract S78B78C79A, for seeding of the disturbed areas associated with construction of Southwest Pipeline Project contracts 7-8B, 7-8C and 7-9A. The construction in late 2005 and 2006 constituted 472 miles of pipeline. The pipeline alignment went through a higher

percentage of pasture and hay land than was typical on other contracts resulting in an estimated combined 1,033 acres of hay/grass land, pasture, CRP, and alfalfa that requires seeding. Disturbed areas from previous contracts had been seeded under contract by the Southwest Water Authority, but because of the significant workload required for this contract, it was decided to let the contract out for competitive bids.

There were two bids received from the following for Southwest Pipeline Project, contract S78B78C79A: Quality Landscaping, Inc., Minot, ND, and Holland Contracting, Inc., Moorhead, MN. The apparent low bid received was \$288,270 from Holland Contracting, Inc., Moorhead, MN.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary of the State Water Commission to award Southwest Pipeline Project, contract S78B78C79A, for seeding of the disturbed areas associated with the construction of Southwest Pipeline Project contracts 7-8B, 7-8C, and 7-9A, in the amount of \$288,270, to Holland Contracting, Inc., Moorhead, MN. Funding to allow the award of this contract are provided by the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021).

It was moved by Commissioner Swenson and seconded by Commissioner Johnson that the State Water Commission authorize the secretary of the State Water Commission to award Southwest Pipeline Project, contract S78B78C79A, for seeding of the disturbed areas associated with the construction of Southwest Pipeline Project contracts 7-8B, 7-8C, and 7-9A, in the amount of \$288,270, to Holland Contracting, Inc., Moorhead, MN. This action is contingent upon completion of the contract documents, and a legal review.

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

**APPROVAL OF BOND COUNSEL
TO STATE WATER COMMISSION -
ARNTSON & STEWART, P.C., FARGO, ND
(SWC File CON/ARN)**

The State Water Commission and North Dakota Office of Attorney General requested proposals to provide bond counsel and any necessary tax counsel services to the Commission in connection with the ongoing development of the Commission's Water Development Revenue Bond program. Because there is a potential for additional bond issues for projects authorized by the legislature, the Commission is seeking to retain bond counsel for an engagement of up to four years, subject to an annual performance review.

The Commission anticipates that the program will provide funding for state water development projects over the next several years through the issuance of program bonds. Any bonds issued are generally expected to be repaid with revenues of the improved water systems and, with respect to any non-revenue producing projects, biennial appropriations by the legislature.

Secretary Frink reported that four requests for proposals were received. The proposals were reviewed by a committee of Commission and Attorney General staffs and bond consultants.

It was the recommendation of Secretary Frink that Arntson & Stewart, P.C., Fargo, ND, be selected as the bond counsel to the State Water Commission. The firm has served as bond counsel to the Commission since February, 2002, and Secretary Frink stated that he is pleased with the services provided by this firm.

It was moved by Commissioner Johnson and seconded by Commissioner Hillesland that Arntson & Stewart, P.C., Fargo, ND, be selected as the bond counsel to the North Dakota State Water Commission. This action is contingent upon concurrence of the North Dakota Office of Attorney General.

Commissioners Foley, Hanson, Hillesland, Johnson, Olin, Swenson, 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 was heard before the House Appropriations Committee, Education and Environmental Division, on March 2, 2007, and passed the House on March 27, 2007. Amendments to Engrossed Senate Bill 2020 are currently being considered by the Senate/House conference committee.

NEXT STATE WATER COMMISSION MEETING

The next meeting of the State Water Commission is scheduled for May 9, 2007, convening at 1:30 PM in the Commission's lower level conference room, Bismarck, ND. Interest was expressed for a tour of the Maple River Dam at a future Commission meeting.

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the audio conference call meeting at 11:50 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

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