

MINUTES

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

May 14, 2008

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on May 14, 2008. Governor John Hoeven, Chairman, called the meeting to order at 4:00 P.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Roger Johnson, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

STATE WATER COMMISSION MEMBER ABSENT:

Jack Olin, Member from Dickinson

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
Todd Sattler, Office of Attorney General, Bismarck (via phone)
Dave Koland, General Manager, Garrison Diversion Conservancy District, Carrington
Teresa Slocumb, Department of Emergency Services, Bismarck
Roxanne Johnson, North Dakota State University-Water Quality Association, Fargo
Chris Hovden, KXMB-TV, Bismarck
Sarah Gustin, KX News, Bismarck
Jon Rivoli, Bismarck Tribune, Bismarck
Janell Cole, Forum Communications-Capitol Press Room, Bismarck
Dale Wetzel, 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

Southwest Pipeline Project contract S78D, south Fryburg seeding.

Governor Hoeven announced the agenda would include consideration of

**DROUGHT DISASTER LIVESTOCK
WATER SUPPLY PROJECT
ASSISTANCE PROGRAM -
REINSTATE PROGRAM; AND
APPROVAL OF STATE COST
PARTICIPATION (\$1,000,000)
(SWC Project No. 1851)**

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

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, pipelines, and extensions from rural water system connections. North Dakota Century Code chapter 61-34 limits the assistance to individual producers of 50 percent of project costs, not to exceed \$3,500 per project and a total of three projects. The State Water Commission is authorized 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 participation of \$300,000. The program was reinstated on July 1, 2001 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 participation 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. The program was reinstated on June 28, 2006 following Governor Hoeven's issuance of North Dakota Emergency Proclamation, Executive Orders 2006-05 and 2006-05.1 on June 26, 2006 and July 12, 2006, respectively. The State Water

Commission allocated \$200,000 on June 28, 2006 for the program, and additional allocations of \$200,000 on July 20, 2006, \$250,000 on October 12, 2006, and \$550,000 on February 15, 2007, for a total state participation of \$1,200,000 since program reinstatement. 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. The program was terminated on July 1, 2007.

On May 9, 2007, it was the direction of the State Water Commission that as required by North Dakota Century Code Chapter 61-34, the advisory committee appointed in 1991 to develop the administrative rules for the management of the Drought Disaster Livestock Water Supply Project Assistance Program reconvene for the purpose of updating the administrative rules to reflect the following modifications to the program by the 2007 legislature: to allow up to three projects with a maximum reimbursement of \$3,500 for each project; extend the limit to construct a project from 60 days to 180 days; construction on a project can begin immediately after submitting a completed application to the State Engineer (a project does not require approval from the State Engineer prior to beginning the project); a project located on tribal land is eligible; an applicant is limited to three livestock water supply projects; and the list of eligible equipment was expanded to allow the use of new technologies.

On May 9, 2008, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2008-02, which indicates a drought emergency exists statewide in North Dakota. Executive Order 2008-02 is attached hereto as **APPENDIX "A"**. Governor Hoeven stated that "the lack of snowfall and rain, combined with high winds, has caused severe dry conditions and low soil moisture levels that have had a detrimental impact on crop and pasture conditions throughout North Dakota." Executive Order 2008-02 also "ordered the State Water Commission convene to take the necessary measures to implement and fund the Drought Disaster Livestock Water Supply Project Assistance Program."

It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission reinstate the Drought Disaster Livestock Water Supply Project Assistance Program, pursuant to North Dakota Statewide Agricultural Drought Emergency Proclamation, Executive Order 2008-02; and, that an allocation not to exceed \$1,000,000 be approved from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds, and that the program be revisited for additional funds, if needed.

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

**SOUTHWEST PIPELINE PROJECT -
CONTRACT S78D, SOUTH FRYBURG
SEEDING OF DISTURBED AREAS
ASSOCIATED WITH CONTRACT 7-8D
(SWC Project No. 1736)**

On May 16, 2008, bids will be opened for Southwest Pipeline Project contract S78D for seeding disturbed areas associated with SWPP contract 7-8D. Work on contract 7-8D took place in 2007, and the seeding will consist of

approximately 126 acres. Based on past bids, the seeding contract should be between \$35,000 and \$50,000; the South Fryburg project is being funded through the USDA Rural Development. Because of procurement policies, it will be necessary to readvertise for bids if the work cannot be accomplished for less than \$100,000.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract S78D to the lowest bidder, provided the low bid is less than \$100,000.

It was moved by Commissioner Swenson and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract S78D, South Fryburg seeding, to the lowest bidder, provided the low bid is less than \$100,000.

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

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the audio conference call meeting at 4:20 P.M.



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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