

## **MINUTES**

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

**May 11, 2005**

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on May 11, 2005. Lt. Governor Jack Dalrymple, representing Governor John Hoeven, Chairman, called the meeting to order at 2:00 PM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, 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  
Charles Halcrow, Member from Drayton  
Larry Hanson, Member from Williston  
Elmer Hillesland, Member from Grand Forks  
Curtis Hofstad, Member from Devils Lake  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
Dale L. Frink, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **OTHERS PRESENT:**

State Water Commission Staff  
James Stewart, Arntson & Stewart, P.C., Fargo (via phone)  
Joe Belford, Devils Lake Downstream Acceptance Coordinator, Devils Lake  
Gordon Weixel, Bismarck Tribune, 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, Lt. Governor Dalrymple announced the agenda approved as presented.

**CONSIDERATION OF DRAFT MINUTES  
OF MARCH 10, 2005 STATE WATER  
COMMISSION MEETING - APPROVED**

The draft minutes of the March 10, 2005 State Water Commission meeting were approved by the following motion:

***It was moved by Commissioner Thompson, seconded by Commissioner Hofstad, and unanimously carried, that the draft minutes of the March 10, 2005 State Water Commission meeting be approved as prepared.***

**ADOPTION OF 2005 SERIES  
B BOND RESOLUTION**

Senate Bill 2022, the State Water Commission's 2003-2005 appropriation bill, authorizes the State Water Commission

to issue up to \$60 million of bonds to be used for water projects identified in the statewide water development plan. The current appropriation bill allows bonding under section 61-02, which would secure the bonds with only the Water Development Trust Fund (tobacco settlement funds), and section 61-02.1, which includes additional securitization.

When the State Water Commission began the process to issue the bonds, it became apparent there were technical issues with the authorizing legislation and, therefore, House Bill 1153 was drafted to clarify and optimize the agency's bonding authority. The Fifty-ninth Legislative Assembly passed House Bill 1153, with an emergency clause, which was executed by Governor Hoeven.

Secretary Frink explained that the State Water Commission has committed \$55 million of the \$60 million to various water projects. Although the projects have been approved that will utilize these bond proceeds, he said not all of the projects will expend the full amount that they have been approved for in the 2003-2005 biennium. Because of this, the agency was able to utilize a \$25 million line of credit with the Bank of North Dakota to fund these projects in the interim.

It was the recommendation of the State Engineer that the State Water Commission adopt the 2005 Series B Bond Resolution for the issuance of North Dakota State Water Commission, Water Development Trust Fund, Water Development and Management Program Bonds, 2005 Series B. If the bond sale is approved, the bonds will be issued on June 7, 2005.

***It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission adopt the 2005 Series B Bond Resolution for the issuance of North Dakota State Water Commission, Water Development Trust Fund, Water Development and Management Program Bonds, 2005 Series B. (Executed 2005 Series B Bond Resolution is attached hereto as APPENDIX "A")***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, 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.***

***SWEETBRIAR CREEK DAM,  
MORTON COUNTY - APPROVAL  
OF ADDITIONAL STATE COST  
PARTICIPATION (\$4,010.33)  
(SWC Project No. 642)***

Sweetbriar Creek Dam is located in Morton county approximately 17 miles west of Mandan, ND. In the spring of 2002, a major crack in the upstream face of the concrete drop inlet spillway was discovered by personnel from the

North Dakota Department of Transportation (DOT).

A joint inspection by staffs of DOT and the Commission was conducted in May, 2002, to determine the extent of the damage. Based on the inspection, it was determined the structure needed to be repaired, and it was agreed the most feasible method to make the repairs was to include the work into the reconstruction of U.S. Interstate 94, which was scheduled for the 2003 construction season at this location.

The total estimated cost to make the repairs and modifications at Sweetbriar Creek Dam was \$130,000. On March 5, 2003, the State Water Commission approved state cost participation of 33.3 percent of the eligible costs, not to exceed an allocation of \$43,333, of which \$25,333 was from the funds appropriated to the State Water Commission in the 2001-2003 biennium, and \$18,000 was for in-kind services provided by the Commission. Other funding sources were provided by the North Dakota Game and Fish Department - \$71,110 (54.7 percent), and the Morton County Park Board - \$15,600 (12 percent).

The project engineer's revised final project cost is \$136,775.58. The overrun on project costs was attributed to change orders issued for additional concrete removal and borrow material. A request was presented for the State Water Commission's consideration for additional state cost participation of \$4,010.33 for the Sweetbriar Creek Dam repairs and modifications.

Secretary Frink stated that a contract was executed with GEI Consultants, Inc. to inspect Sweetbriar Creek Dam, Epping Dam, and Big Coulee Dam, which have similar designs as Mount Carmel Dam. The inspection results are anticipated in mid-May, 2005. Because there are significant concerns with Sweetbriar Creek Dam, a field investigation plan is being developed and a request for engineering services will be published for additional repairs and modifications.

The State Water Commission members discussed and expressed concerns relating to recreational dam maintenance and state cost participation. Dams that were constructed in the 1960s and 1970s could begin to experience problems in the future, which could result in significant costs to state and local entities for repairs and maintenance. Therefore, the Commission members recognized the need for long-range planning including a recreational dam inventory, projected cost estimates, and the solicitation of information from potential stakeholders relating to impoundment priority and maintenance cost share. The Commission members also suggested that a state cost participation policy for recreational dams may need to be considered. The State Engineer and the Commission staff were directed to provide an inventory of recreational dams in the state including, but not limited to pertinent information relating to dam description, construction date, usage, maintenance issues, and potential stakeholders for cost share.

It was the recommendation of the State Engineer that the State Water Commission approve state cost participation of 33.3 percent of the eligible costs, not to exceed an additional expenditure of \$4,010.33 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for repairs and modifications to Sweetbriar Creek Dam. Affirmative action by the State Water Commission would increase the state cost share contribution to \$45,546.27, of which \$16,202.94 is for in-kind services provided by the State Water Commission, and \$29,343.33 would be expended from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

***It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve state cost participation of 33.3 percent of the eligible costs, not to exceed an additional expenditure of \$4,010.33 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for repairs and modifications to Sweetbriar Creek Dam. This motion is contingent upon the availability of funds.***

***This action increases the total State Water Commission cost share contribution to \$45,546.27, of which \$16,202.94 shall be in-kind services provided by the State Water Commission, and \$29,343.33 shall be expended from the funds appropriated to the State Water Commission in the 2003-2005 biennium.***

***Commissioners Halcrow, Hanson, Hillesland, Hofstad, 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.***

**STATE WATER COMMISSION  
MEETING - JUNE 22, 2005**

The next meeting of the State Water Commission is scheduled for June 22, 2005, convening at 1:30 PM at the State

Office Building, lower level conference room, Bismarck, ND.

There being no further business to come before the State Water Commission, Lt. Governor Dalrymple adjourned the audio conference call meeting at 2:30 PM.

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

SEAL

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

