

## **MINUTES**

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

**February 4, 2008**

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on February 4, 2008. 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 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  
Jack Olin, Member from Dickinson

#### **STATE WATER COMMISSION MEMBERS ABSENT:**

Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page

#### **OTHERS PRESENT:**

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck  
State Water Commission Staff  
Kevin Martin, Houston Engineering, Bismarck  
Dave Koland, General Manager, Garrison Diversion Conservancy District (via phone)

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

## **CONSIDERATION OF AGENDA**

Governor Hoeven announced the agenda would include an update on the Red River Valley Water Supply project.

### **MR&I WATER SUPPLY PROGRAM - PROJECTS FOR FUNDING APPROVAL (SWC Project No. 237-03)**

In December, 2007, the Fiscal Year 2008 Consolidated Appropriations Act was passed by Congress and signed into law by President Bush providing

\$67.89 million in funding for the Garrison Diversion Unit for 2008, of which \$24.0 million was designated and earmarked for funding projects under North Dakota's Municipal, Rural and Industrial (MR&I) Water Supply program.

Secretary Frink explained that some of the projects earmarked for federal Fiscal Year 2008 MR&I funds were previously approved to receive funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). Therefore, it was the recommendation of Secretary Frink that the State Water Commission modify the following previous approvals and incorporate the federal Fiscal Year 2008 MR&I funds into the project's total amount approved. These project modifications will reduce the State Water Commission's funding commitment by approximately \$8,062,750. The following recommendations were approved by the Garrison Diversion Conservancy District's board of directors on January 17, 2008:

**City of Garrison Water System:** The city of Garrison has experienced water quality issues due to the fluctuating water levels of Lake Sakakawea. To address the issues, the city is proposing to change from a conventional treatment system to a membrane treatment system, control improvements, conversion from an acid system to a CO<sub>2</sub> system for pH adjustment, and a water storage capacity increase of 250,000 gallons. The estimated project cost is \$4,100,000.

The feasibility study for the proposed project is estimated at \$55,000. On December 7, 2007, the State Water Commission approved a 65 percent grant, not to exceed an allocation of \$35,750 from the Garrison Diversion Conservancy District Water Development Research Fund, for the water system feasibility study for the city of Garrison.

Federal Fiscal Year 2008 MR&I grant funds are earmarked in the amount of \$1,368,000 for the city of Garrison water system, which includes \$35,750 for the project's feasibility study, and funds for project design and construction.

***It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve a federal Fiscal Year 2008 MR&I grant allocation not to exceed \$1,368,000 (includes \$35,750 for the feasibility study, and funds for project design and construction) for the city of Garrison water system project. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.***

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

**Northwest Area Water Supply (NAWS) Project:** On March 24, 2006, Judge Rosemary Collyer approved the state and federal request to proceed with design and construction activities for three NAWS projects that would not affect the treatment decision: Minot high service pump station, Berthold pipeline, and the pipeline which would provide service north of the Minot water treatment plant. The estimated cost of the projects is \$25,480,000.

Contract 4-2A covers the Minot high service pump station at an estimated cost of \$13,500,000. Project funding will include federal Fiscal Year 2008 MR&I funds, and the city of Minot has indicated its intent to advance funds and to provide a 35 percent cost share. Authorization to award Contract 4-2A interim for the booster pump station will be considered by the State Water Commission under a separate item on February 4, 2008.

On December 7, 2007, the State Water Commission approved a 65 percent grant, not to exceed an allocation of \$3,400,000 (includes \$400,000 from federal Fiscal Year 2007 MR&I year-end funds, and \$3,000,000 from federal Fiscal Year 2008 MR&I funds) for the Northwest Area Water Supply Project.

Federal Fiscal Year 2008 MR&I grant funds are earmarked in the amount of \$9,840,000 for the Northwest Area Water Supply Project (includes \$3,000,000 from federal Fiscal Year 2008 MR&I grant funds approved on December 7, 2007).

***It was moved by Commissioner Johnson and seconded by Commissioner Hanson that the State Water Commission approve a federal Fiscal Year 2008 MR&I grant allocation, not to exceed \$9,840,000 (includes \$3,000,000 from federal Fiscal Year 2008 MR&I grant funds approved on December 7, 2007), for the Northwest Area Water Supply Project. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.***

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

**Southwest Pipeline Project (Medora-Beach Regional Service Area, Phase III - McKenzie County Rural Water System III):** McKenzie County Rural Water is proposing a water supply for System III in the Grassy Butte area in southern McKenzie county which could serve 82 users. The water supply includes a bulk connection to the Southwest Pipeline Project from the Medora-Beach regional service area, Phase III. The estimated cost for System III upgrades with the Southwest Pipeline Project is \$605,000. The remaining cost to complete the rural distribution of System III is \$1,445,000. The System III feasibility study is also required at an estimated cost of \$35,000. The total estimated cost of the McKenzie County Rural Water System III is \$2,085,000.

On July 17, 2007, the State Water Commission approved a 75 percent MR&I grant, not to exceed an allocation of \$1,563,750 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for the Southwest Pipeline Project, McKenzie County Rural Water System III.

Federal Fiscal Year 2008 MR&I grant funds are earmarked in the amount of \$3,936,000 for the Southwest Pipeline Project, which includes funding for McKenzie County Rural Water System III.

***It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve a federal Fiscal Year 2008 MR&I grant allocation, not to exceed \$3,936,000 for the Southwest Pipeline Project (includes funds for McKenzie County Rural Water System III). This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.***

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

**Traill Rural Water District Regional Water Supply:** The Traill Rural Water District conducted a water study for a regional system to meet the water needs of the cities of Hillsboro, Mayville, Galesburg, and Grandin to address the future Environmental Protection Agency's (EPA) water quality regulations. The preliminary studies have been completed and indicate that the Galesburg aquifer can meet the projected water needs.

On December 9, 2005, the State Water Commission approved a 65 percent grant, not to exceed an allocation of \$134,000 from the Garrison Diversion Conservancy District Water Development Research Fund, for the Traill Rural Water District water study (\$59,250) and the feasibility study (\$74,750).

The Traill Rural Water District is working with the cities of Hillsboro and Mayville to develop a regional project at an estimated overall cost of \$21,500,000. Phase I is the development of a new well field for the total regional water supply and transmission pipeline to the existing Traill water treatment plant, and raw water pipeline from the Traill plant to the city of Mayville. The estimated cost of Phase I is \$3,560,000, of which a 70 percent grant would amount to \$2,492,000.

Federal Fiscal Year 2008 MR&I grant funds are earmarked in the amount of \$984,000 for the Traill Rural Water District regional water supply project. In addition to the federal Fiscal Year 2008 earmarked funds, it was recommended that an allocation not to exceed \$1,508,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) be approved, which would provide for a total grant allocation of \$2,492,000.

***It was moved by Commissioner Hillesland and seconded by Commissioner Hanson that the State Water Commission approve a federal Fiscal Year 2008 MR&I grant allocation not to exceed \$984,000, and an allocation not to exceed \$1,508,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), for a total grant allocation not to exceed \$2,492,000 for the Traill Rural Water District regional water supply project. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.***

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

**MR&I WATER SUPPLY PROGRAM -  
FEDERAL FISCAL YEAR 2008  
EARMARKED PROJECT FUNDS; AND  
2007-2009 BIENNIUM STATE FUNDS  
(SWC Project No. 237-03)**

Secretary Frink presented and recommended the proposed federal and state allocations for the Garrison Diversion Unit Municipal, Rural and Industrial Water Supply program as outlined on **APPENDIX "A"** attached hereto

(includes the State Water Commission's previous approvals at this meeting relating to the city of Garrison water system, the Northwest Area Water Supply Project, the Southwest Pipeline Project, and the Traill Regional Rural Water District, Phase I). The table also indicates approved allocations from the Garrison Diversion Conservancy District Water Development Research Fund.

On July 17, 2007, the State Water Commission approved a 50 percent MR&I grant, not to exceed an allocation of \$70,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020) for the city of Wimbledon, contingent upon the city connecting to a regional water system. Secretary Frink explained that the grant allocation source has been modified from state funds to the Garrison Diversion Conservancy District Water Development Research Fund, as shown on the **APPENDIX "A"** table.

***It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission approve the federal and state project allocations for the Garrison Diversion Unit Municipal, Rural and Industrial Water Supply program as recommended and presented on APPENDIX "A" (includes the funding source modification for the city of Wimbledon). This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.***

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

**NORTHWEST AREA WATER  
SUPPLY (NAWS) PROJECT -  
AUTHORIZE AWARD OF CONTRACT  
4-2A INTERIM, BOOSTER PUMP STATION,  
TO CONSTRUCTION ENGINEERS, LTD,  
GRAND FORKS, ND  
(SWC Project No. 237-04)**

Bids were opened for Northwest Area Water Supply (NAWS) Project contract 4-2A interim on January 24, 2008. This contract involves a 2400 gallon per minute booster pump station at the HSPS/reservoir site adjacent to the Minot water treatment plant. The project will pump water into the 36-inch pipeline

installed under contract 2-2A and will boost the pressure in the line to deliver sufficient pressure to the south hill connection and to reservoir #1 on the contract 2-2B project.

This project was granted approval to proceed with design and construction by Judge Rosemary Collyer on March 24, 2006, while the lawsuit with Manitoba is pending.

There were two bids received and opened from the following for contract 4-2A interim: Construction Engineers, Ltd., Grand Forks, ND; and Swanberg Construction, Inc., Valley City, ND. The apparent low total base bid received was \$246,250 from Construction Engineers, Ltd., Grand Forks, ND. The project engineer's estimate was \$400,000. The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening.

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 4-2A interim to Construction Engineers, Ltd., Grand Forks, ND. 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.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project contract 4-2A interim, booster pump station, in the amount of \$246,250, to Construction Engineers, Ltd., Grand Forks, ND, 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 Johnson and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project contract 4-2A interim, booster pump station, in the amount of \$246,250, to Construction Engineers, Ltd., Grand Forks, ND. 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 Berg, Foley, Hanson, Hillesland, Johnson, Olin, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.***

***SOUTHWEST PIPELINE PROJECT -  
AUTHORIZE RED TRAIL ENERGY  
CONTRACT RW-6 AMENDMENT NO. 1  
(SWC Project No. 1736)***

On April 3, 2006, the State Water Commission, Southwest Water Authority, and Red Trail Energy, LLC, executed Southwest Pipeline Project contract RW-6 for raw water service from the

project. Contract RW-6 provides that the customer agrees to purchase and make payment for not less than 200 million gallons of water per year (minimum annual raw water purchase), and a constant flow rate not to exceed 600 gallons per minute.

Red Trail Energy began using raw water from the Southwest Pipeline Project in December, 2006, and the ethanol plant was in full production in April, 2007. Secretary Frink explained that in revisiting the original contract amounts and the customer's actual demands, it would be appropriate to reduce the minimum purchase amount from 200 million gallons annually to 160 million gallons annually, and to reduce the maximum flow rate from 600 gallons per minute to 480 gallons per minute.

It was recommended by Secretary Frink that the State Water Commission approve Amendment No. 1 to the Contract (Number RW-6) for raw water service from the Southwest Pipeline Project, North Dakota, as follows:

**Section V.2.**

The sentence is modified to read: "Constant flow rate not to exceed 480 gpm."

**Section V.3.**

The section is modified to read: "Minimum annual water purchase.

The customer agrees to purchase and make payment for not less than 160 million gallons per year (minimum raw water purchase) during the entire term of this contract (304 gpm)." ... (remainder of the section is unchanged)

***It was moved by Commissioner Johnson and seconded by Commissioner Foley that the State Water Commission approve the modifications to Sections V.2 and V.3 of the Red Trail Energy, LLC raw water service contract as recommended; and, authorize the secretary to the State Water Commission to execute Amendment No. 1 to the Contract Number RW-6 for raw water service from the Southwest Pipeline Project, North Dakota. The executed Amendment No. 1 is attached hereto as APPENDIX "B".***

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

**RED RIVER VALLEY WATER  
SUPPLY PROJECT -  
GOVERNOR WILLIAM L. GUY'S  
POSITION PAPER RELATIVE  
TO PREFERRED ALTERNATIVE  
(SWC Project No. 237)**

Dave Koland, General Manager, Garrison Diversion Conservancy District, responded to questions relating to Governor William L. Guy's position on the Red River Valley Water Supply Project. Governor Guy presented his proposal to the Lake Agassiz Water

Authority on January 3, 2008, and at the Red River Basin Commission conference on January 23, 2008. The proposal includes constructing a pipeline from Bismarck to

Fargo, and is estimated to cost an additional \$500 million than the preferred alternative jointly selected by the local, state and federal entities tasked with finding a reliable water supply for the Red River valley.

Governor Guy's proposal points entitled "What to expect from a Missouri River pipeline from Bismarck to Fargo?", and the Garrison Diversion Conservancy District's responses to the proposal, are attached hereto as **APPENDIX "C"**.

The Lake Agassiz Water Authority is scheduled to meet on February 11, 2008 in Fargo, and its agenda will include an update on the Red River Valley Water Supply Project.

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



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John Hoeven, Governor  
Chairman, State Water Commission

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

