

**Audio Conference Call Meeting  
Governor's Conference Room - Ground Floor  
State Capitol  
Bismarck, North Dakota**

**August 17, 2011  
11:00 A.M., CDT**

**AGENDA**

- A. Roll Call
- B. Consideration of *Agenda* - Information pertaining to the agenda items is available on the State Water Commission's website at <http://www.swc.nd.gov> (select 'News and Information')
- C. ***East Devils Lake Outlet Project - Contract 5, Pipe Installation*** \*\*
- D. ***Devils Lake City Dam/Levee Raise*** \*\*
- E. ***Mouse River Enhanced Flood Protection Project, Preliminary Engineering*** \*\*
- F. Southwest Pipeline Project:
  - 1) ***Contract 3-1E - Oliver-Mercer-North Dunn Regional Service Area, Reverse Osmosis Concentrate Discharge Facility*** \*\*
  - 2) ***Contract 7-9C - Oliver-Mercer-North Dunn Regional Service Area, South Zap Service Area*** \*\*
- G. Other Business:
  - 1) Next State Water Commission Meeting - September 21, 2011
- H.. Adjournment

**\*\* BOLD, ITALICIZED ITEMS REQUIRE SWC ACTION**

To provide telephone accessibility to the State Water Commission meeting for those people who are deaf, hard of hearing, deaf and/or blind, and speech disabled, please contact Relay North Dakota, and reference ... TTY-Relay ND ... 1-800-366-6888, or 711.

## **MINUTES**

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

**August 17, 2011**

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room at the State Capitol, Bismarck, North Dakota, on August 17, 2011. Governor Jack Dalrymple, Chairman, called the meeting to order at 11:00 A.M., and requested Todd Sando, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Dalrymple announced a quorum was present.

#### **STATE WATER COMMISSION MEMBERS PRESENT:**

Governor Jack Dalrymple, Chairman  
Doug Goehring, Commissioner, North Dakota Department of Agriculture, Bismarck  
Arne Berg, Member from Devils Lake  
Maurice Foley, Member from Minot  
Larry Hanson, Member from Williston  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page  
Douglas Vosper, Member from Neche

#### **OTHERS PRESENT:**

Todd Sando, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck  
State Water Commission Staff  
Jennifer Verleger, Assistant Attorney General, Office of Attorney General, Bismarck  
Andrea Travnicek, Office of the Governor, Bismarck  
Jeff Zent, Office of the Governor, Bismarck  
MG Murray Sagsveen, State Flood Recovery Coordinator, Bismarck  
Robert Schempp, Minot Flood Recovery Committee, Minot  
Alan M. Walter, Public Works Superintendent, Minot  
Dave Koland, Garrison Diversion Conservancy District, Carrington  
Dave Lutzky, Ulteig Engineers, Bismarck  
Scott Olson, APEX Engineering Group, Bismarck  
Scott Schneider, APEX Engineering Group, Bismarck  
James Lennington, Bartlett and West/AECOM, Bismarck  
Kevin Martin, Houston Engineering, Bismarck  
Mary Massad, Southwest Water Authority, Dickinson (via telephone)

Jeffrey Hruby, Montgomery Associates: Resource Solutions, Bismarck (via telephone)  
Terry Laudick, Xcel Energy, Denver, CO (via telephone)  
Leo Walker, Maddock, ND (via telephone)  
Joe Belford, Devils Lake Downstream Acceptance Program, Devils Lake (via telephone)  
Jeff Frith, Devils Lake Basin Joint Board, Devils Lake (via telephone)  
Richard Johnson, Mayor, City of Devils Lake (via telephone)  
Terry Johnston, Administrator, City of Devils Lake (via telephone)  
Duaine Ash, Ramsey County Water Resource Board, Devils Lake (via telephone)

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, Governor Dalrymple announced the agenda approved as presented.

**EAST DEVILS LAKE OUTLET  
PROJECT STATUS REPORT;  
AND AWARD OF CONTRACT 5,  
PIPE INSTALLATION  
(SWC Project No. 416-15)**

To alleviate flooding in the Devils Lake basin and to protect the downstream communities, the State of North Dakota has selected a project plan to build a second outlet from Devils Lake. The project calls for constructing an under-

ground pipeline from East Devils Lake to the downstream side of Tolna Coulee. The outlet will be capable of transferring 350 cubic feet per second (cfs) of water from Devils Lake to the Sheyenne River. From East Devils Lake, the pipeline will run approximately 5.5 miles southeast to Tolna Coulee. The project is scheduled for completion in the spring of 2012, and is expected to cost between \$75,000,000 and \$85,000,000.

Bartlett & West/AECOM, project engineer for the East Devils Lake outlet project, is continuing the design work. The 96-inch diameter pipe is being manufactured and pipe deliveries are expected to begin by mid-August, 2011. On June 21, 2011, the State Water Commission authorized the award of contracts for the pumps and valves; site preparations; electrical supply; and property acquisitions. The geotechnical work has been completed except for some additional borings at the intake area.

On August 12, 2011, bids were opened for the East Devils Lake outlet project, Contract 5, Pipe Installation. Six bid packages were received from Garney Companies, Inc., Kansas City, MO; Western Summit Constructors, Denver, CO; Ames Construction, Burnsville, MN; Barnard Construction, Bozeman, Mt; S.J. Louis Construction, Rockville, MN; and W.A. Rasic, Bell Gardens, CA. All bids appeared to be in order and all were opened. The apparent low bid received was \$7,998,550 submitted by Garney Companies, Inc., Kansas City, MO. The engineer's opinion of probable construction costs was \$27,000,000.

There was a significant difference in the engineer's estimated cost and the low bid for pipe installation. Several factors that led to this differential included the bidding environment is more competitive than expected, and an addendum that was issued as a result of the pre-qualification process and pre-bid conference held in July, 2011 that allowed the use of CLSM as a bedding material and a Weld-After-Backfill process for steel pipe installation. There were also less dewatering costs and winter-time construction costs.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the engineer's review, the bid received from Garney Companies, Inc., Kansas City, MO, appears to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsible and responsive bid. It was the recommendation of the project engineer to award Contract 5 to Garney Companies, Inc., Kansas City, MO. The award of contract and notice to proceed are dependent on the satisfactory completion and submission of the contract documents by Garney Companies, Inc., and review/approval by the Commission's legal counsel.

Commissioner Swenson reiterated the concerns he had previously expressed relating to the value of the project in terms of the benefit/cost ratio.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to award East Devils Lake Outlet Project, Contract 5, Pipe Installation, to Garney Companies, Inc., Kansas City, MO, in the amount of \$7,998,550.

***It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission authorize the secretary to the State Water Commission to award East Devils Lake Outlet Project, Contract 5, Pipe Installation, to Garney Companies, Inc., Kansas City, MO, in the amount of \$7,998,550. This action is contingent upon the satisfactory completion and submission of the contract documents by Garney Companies, Inc., and review/approval by the Commission's legal counsel.***

***Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Vosper, and Governor Dalrymple voted aye. Commissioner Swenson voted nay. The recorded votes were 8 ayes; 1 nay. Governor Dalrymple announced the motion carried.***

**DEVILS LAKE CITY DAM/LEVEE RAISE -  
APPROVAL OF ADDITIONAL STATE  
COST PARTICIPATION (\$10,500,000)  
(SWC Project No. 416-02)**

On August 12, 1996, the City of Devils Lake entered into a contract with the U.S. Army Corps of Engineers for additional flood control (Devils Lake levee system) measures to reduce the risk of

flood damages at the City of Devils Lake and the surrounding area. The existing embankment has been raised several times and is currently at elevation 1460 feet msl.

The proposed federal project would raise the height of the levee from 1460 feet msl to a minimum of 1465 feet msl and a maximum of 1468 feet msl. The Corps of Engineers proposes three phases of construction at an estimated total cost of \$113,000,000, with a 75 percent federal/25 percent non-federal cost share (\$28,250,000). At 1468 feet msl, the levee would protect the city from a maximum lake level of 1459 feet msl, which allows 9 feet for wave action and freeboard.

Phase I involved raising approximately 8,800 feet of existing embankment along Creel Bay, the area with the highest wave run-up, and replacing the Creel Bay pump station. In addition to the raise, the Corps is modifying the levee to meet dam safety standards. The cost estimate for Phase I was \$23,200,000 and required a 25 percent non-federal match of \$5,800,000.

The 2001 legislative session approved House Bill 1015 authorizing the State Water Commission to use up to \$5,000,000 to provide cost share for constructing and improving the levees at Devils Lake.

On December 6, 2002, the State Water Commission approved an allocation not to exceed \$4,074,202 from the funds appropriated to the State Water Commission in the 2001-2003 biennium. On May 9, 2007, the State Water Commission reduced the state's financial obligation by \$1,440,000 for the Devils Lake City Dam/Levee Raise, Phases I-III, and reallocated that amount (\$1,440,000) to the Devils Lake water supply project. This action provided a total state financial obligation of \$2,634,202 for the Devils Lake City Dam/Levee Raise project.

On August 18, 2009, the State Water Commission approved a 50 percent state cost participation for the non-federal match for the Devils Lake City Dam/Levee Raise, Phase I, not to exceed an additional allocation of \$2,900,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

On September 1, 2009, the State Water Commission approved an additional allocation not to exceed \$20,825,798 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020).

The Corps of Engineers revised estimate to complete this project has resulted in a cost overrun of \$42,000,000. The non-federal share of this increase would be 25 percent (\$10,500,000). A request from the City of Devils Lake was presented for the State Water Commission's consideration for state cost participation not to exceed an additional \$10,500,000 for the non-federal share required to complete the raise of the Devils Lake City Dam/Levee Raise project.

It was the recommendation of Secretary Sando that the State Water Commission approve state cost participation not to exceed an additional allocation of \$10,500,000 for the non-federal share (25 percent) required to complete the raise of the Devils Lake City Dam/Levee Raise project. The Commission's affirmative action on this request would increase the total state financial obligation to \$36,860,000.

***It was moved by Commissioner Berg and seconded by Commissioner Vosper that the State Water Commission approve state cost participation not to exceed an additional allocation of \$10,500,000 from the funds appropriated to the State Water Commission in the 2011-2013 biennium (S. B. 2020) to the City of Devils Lake for the non-federal share (25 percent) required to complete the Devils Lake City Dam/Levee Raise project. This action is contingent upon the availability of funds; and, that the City of Devils Lake serve as the local project sponsor and execute the project cooperative agreement between the U.S. Army Corps of Engineers and the City of Devils Lake.***

***This action increases the total state cost financial allocation to \$36,860,000 for the Devils Lake City Dam/Levee Raise project.***

***Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Swenson, Vosper, and Governor Dalrymple voted aye. Governor Dalrymple announced the motion unanimously carried.***

**MOUSE RIVER ENHANCED FLOOD  
PROTECTION PROJECT - APPROVAL  
TO CONDUCT ENGINEERING  
SELECTION PROCESS  
(SWC Project No. 1974)**

The City of Minot intends to develop a flood control project that would provide the city and communities/developments outside of the city limits with protection from the magnitude of flood events experienced in 2011. Since the proposed

project is located outside of the city of Minot limits, the Souris River Joint Water Resource Board has consented to sponsor the project.

Resolution No. 3004, adopted by the Minot City Council on August 1, 2011, requested that the State Water Commission sponsor improvements to the Mouse River flood control system that would control

floods of the magnitude of the 2011 flood, and that the State Water Commission search for and retain an engineering firm to design the project improvements. This is a critical step in the area's recovery as many owners of damaged homes need to make informed decisions about the disposition of their property. The existence and configuration of this project would have significant implications on those decisions. The cost of the design, construction of the project, and the length of time it would take to build permanent flood control are uncertain at this time. The state is being asked to provide funds up to 90 percent of the cost of designing the flood protection, the Board would be responsible for the remaining 10 percent.

The scope of the preliminary engineering would provide details of the alignments and a footprint for the levees that would indicate the affected homes and which homes would be protected, an opinion of the cost, an indication of the level of protection, options for extending the project into the areas outside of the urban areas of Minot, and an assessment of permitting and certification issues. Due to the time-critical nature of this work, it has been determined that the best approach to the engineering would be in a stepwise manner with each step defined by a task authorization. The first of these authorizations will be the levee alignments. Tim Fay has been named as the Commission's project engineer to oversee the Mouse River Enhanced Flood Protection project.

Governor Dalrymple said "this is something that the people have been looking for. People want to know, as a property owner - do they have a chance of being in a buy-out area, do they have no chance of being in a buy-out area, or are they probably in a 'maybe' situation. I think we can bring some clarity to people before the end of fall (2011) as to what category they might fall in, and it will help people to make personal decisions about what to do with their property." Governor Dalrymple also noted that flood protection will be on the agenda of the Legislature's special session in November, 2011.

Governor Dalrymple also stated "we may be proceeding on all of this project without the direct involvement of the U.S. Army Corps of Engineers because of the critical time frame to execute this plan. Everything that is done in this project will probably be engineered to meet the Corps of Engineers specifications for levee certification."

It was the recommendation of Secretary Sando that the State Water Commission approve the request from the Souris River Joint Water Resource Board and conduct an engineering selection process for the Mouse River Enhanced Flood Protection project preliminary engineering on the Mouse River.

*It was moved by Commissioner Foley and seconded by Commissioner Swenson that the State Water Commission approve the request from the Souris River Joint Water Resource Board and conduct an engineering selection process for the Mouse River Enhanced Flood Protection project preliminary engineering on the Mouse River.*

*Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Swenson, Vosper, and Governor Dalrymple voted aye. Governor Dalrymple announced the motion unanimously carried.*

**SOUTHWEST PIPELINE PROJECT,  
OLIVER-MERCER-NORTH DUNN  
REGIONAL SERVICE AREA -  
AUTHORIZE AWARD OF CONTRACT 3-1E,  
REVERSE OSMOSIS CONCENTRATE  
DISCHARGE FACILITY  
(SWC Project No. 1736)**

Southwest Pipeline Project, Oliver-Mercer-North Dunn Regional Service Area, Contract 3-1E, includes both reverse osmosis concentrate discharge lines for the Oliver-Mercer-North Dunn water treatment plant, and potable water lines lying along the same alignment for future contracts. The project includes

the installation of approximately 16.2 miles of 8" to 2" PVC gasketed joint pipe, 2,500 feet of fused HDPE pipe, one control vault, one discharge diffuser, road and railroad crossings, connections to existing pipelines, and other related appurtenances. The project engineer's cost estimate is \$2,931,030. The contract will be funded with the 2011-2013 biennium State Water Commission allocation to the Southwest Pipeline Project. The bids will be opened for Contract 3-1E on August 25, 2011.

Approximately one mile of the construction will take place on land owned by the U.S. Army Corps of Engineers, some of which is leased and managed by the North Dakota Game and Fish Department as a wildlife management area. The combination of these factors, in addition to delays due to the permitting process with the Corps of Engineers, has made timing of the award critical.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project Contract 3-1E, Oliver-Mercer-North Dunn Regional Service Area, Reverse Osmosis Concentrate Discharge Facility, to the lowest responsive bidder, contingent upon the recommendations of the project engineer and the secretary to the State Water Commission, and review/approval by the Commission's legal counsel.



***It was moved by Commissioner Olin and seconded by Commissioner Goehring that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project Contract 3-1E, Oliver-Mercer-North Dunn Regional Service Area, Reverse Osmosis Concentrate Discharge Facility, to the lowest responsive bidder, contingent upon the recommendations of the project engineer and the secretary to the State Water Commission, and review/approval by the Commission's legal counsel.***

***Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Swenson, Vosper, and Governor Dalrymple voted aye. Governor Dalrymple announced the motion unanimously carried.***

***SOUTHWEST PIPELINE PROJECT,  
OLIVER-MERCER-NORTH DUNN  
REGIONAL SERVICE AREA -  
SOUTH ZAP SERVICE AREA,  
AWARD OF CONTRACT 7-9C  
(SWC Project No. 1736)***

On August 4, 2011, bids were opened for Southwest Pipeline Project, Contract 7-9C, Oliver-Mercer-North Dunn Regional Service Area, South Zap Service Area. Contract 7-9C consists of furnishing and installing approximately 143 miles of 6" to 1 1/2" PVC gasketed joint pipe, 304 services, road and railroad crossings, connections to existing pipeline, and other related appurtenances. Approximately 10,500 feet of the pipeline will be located within road right-of-way. The contract documents stipulate a substantial completion date of October 1, 2012.

On August 4, 2011, bids were opened for Southwest Pipeline Project, Contract 7-9C, Oliver-Mercer-North Dunn Regional Service Area, South Zap Service Area. Contract 7-9C consists of furnishing and installing approximately 143 miles of 6" to 1 1/2" PVC gasketed joint

Two bid packages were received for contract 7-9C from Northern Improvement Co., Inc., Bismarck, ND; and Carstensen Contracting, Inc., Pipestone, MN. Both bids appeared to be in order and were opened. The apparent low bid received was \$4,593,950.50 submitted by Northern Improvement Co., Bismarck, ND. The project engineer's estimate was \$4,714,556.00.

The contract documents allow the State Water Commission to select the most advantageous bid. Based on the project engineer's review, the bid received from Northern Improvement Co., Inc., appeared to be in accordance with the advertisement for construction bid and the bid documents, and is considered to be a responsive bid. It was the recommendation of the project engineer to award contract 7-9C to Northern Improvement Co., Inc., Bismarck, ND. The award of contract and notice to proceed are dependent on the satisfactory completion and submission of the contract documents by Northern Improvement Co., Inc., concurrence from the Garrison Diversion Conservancy District, and review/approval by the Commission's legal counsel.

This contract will be funded with a combination of the balance of the federal Fiscal Year 2010 Municipal, Rural and Industrial Water Supply Program allocation for the Southwest Pipeline Project, and the balance of the uncommitted carryover from the 2009-2011 biennium State Water Commission allocation to the Southwest Pipeline Project.

It was the recommendation of Secretary Sando that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-9C, Oliver-Mercer-North Dunn Regional Service Area, South Zap Service Area, to Northern Improvement Co., Inc., Bismarck, ND, in the amount of \$4,593,950.50.

***It was moved by Commissioner Goehring and seconded by Commissioner Hanson that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-9C, Oliver-Mercer-North Dunn Regional Service Area, South Zap Service Area, to Northern Improvement Co., Inc., Bismarck, ND, in the amount of \$4,593,950.50. This action is contingent upon the satisfactory completion and submission of the contract documents by Northern Improvement Co., Inc., concurrence from the Garrison Diversion Conservancy District, and review/approval by the Commission's legal counsel.***

***Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Swenson, Vosper, and Governor Dalrymple voted aye. Governor Dalrymple announced the motion unanimously carried.***

#### **OTHER BUSINESS**

It was announced that the next meeting of the State Water Commission is scheduled for September 21, 2011 beginning at 1:30 P.M. in the Commission's lower level conference room, Bismarck, ND.

There being no additional business to come before the State Water Commission, Governor Dalrymple adjourned the audio conference call meeting at 11:45 A.M.



---

Jack Dalrymple, Governor  
Chairman, State Water Commission

---

Todd Sando, P.E.  
North Dakota State Engineer,  
and Chief Engineer-Secretary  
to the State Water Commission