

MINUTES

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

April 18, 1996

The North Dakota State Water Commission held a telephone conference call meeting in the Governor's conference room, State Capitol, Bismarck, North Dakota, on April 18, 1996. Chairman, Edward T. Schafer, called the meeting to order at 10:00 AM, and requested State Engineer and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman declared a quorum was present.

MEMBERS PRESENT:

Governor Edward T. Schafer, Chairman
Sarah Vogel, Commissioner, Department of Agriculture, Bismarck
Mike Ames, Member from Williston
Florenz Bjornson, Member from West Fargo
Judith DeWitz, Member from Tappen
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission (by phone from Washington, DC)

OTHERS PRESENT:

State Water Commission Staff
Gregg Thielman, State Water Commission (by phone from Devils Lake)
Gordon Weixel, Devils Lake Daily Journal (by phone from Devils Lake)
Julie Krenz, Assistant Attorney General, Bismarck
Michael Spletto, Office of Intergovernmental Assistance, Bismarck
Michael Lindblom, KFVR-TV, Bismarck
Dave Thompson, Prairie Public Radio, Bismarck

The attendance register is on file with the official minutes.

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

APPROVAL OF AGENDA

There being no additional items for the agenda, the Chairman declared the agenda approved and requested Secretary Sprynczynatyk to present the agenda.

SOUTHWEST PIPELINE PROJECT -

**APPROVAL OF CONTRACT
2-4A/7-3 TO NORTHERN**

**IMPROVEMENT COMPANY,
FARGO, ND**

(SWC Project No. 1736)

Hettinger, as well as the Perkins County Rural water system in South Dakota. The bids included an alternate for this line to increase its size for service to the Perkins County system.

On March 21, 1996, bids were opened

for Southwest Pipeline Project contract 2-4A/7-3, which is for the

construction of the Jung Lake service area, including a 12-mile segment of

transmission line which is necessary to serve the cities of Reeder and

Secretary Sprynczynatyk indicated that the bids received were very favorable, The apparent low bid was submitted by Northern Improvement Company, Fargo, North Dakota, with a price of \$1,918,107 for the base condition, and an additional cost of \$284,572 to increase the capacity for Perkins County, South Dakota users. All additional costs for the Perkins County capacity are to be paid by Perkins County. He said Northern Improvement Company has considerable experience in building rural water systems, including construction of the Taylor Watershed PL-566 project.

Although the contract with Perkins County has not been approved, Secretary Sprynczynatyk said that recent discussions and negotiations have resulted in significant progress on the potential contract and, therefore, he is confident an agreement will be reached with Perkins County for delivery of project water to that area. The draft water service contract for the Perkins County rural water system in South Dakota will be presented to the Commission for consideration at its April 29, 1996, meeting.

It was the recommendation of the State Engineer that the State Water Commission approve award of Southwest Pipeline Project contract 2-4A/7-3 to Northern Improvement Company, with the alternative that includes capacity for the Perkins County rural water system in South Dakota.

Alfred Underdahl, Chairman of the Southwest Water Authority, expressed support for service to the Perkins County rural water system in South Dakota.

It was moved by Commissioner Vogel and seconded by Commissioner Olin that the State Water Commission award Southwest Pipeline Project contract 2-4A/7-3 to Northern Improvement Company, Fargo, North Dakota, with the alternative that includes capacity for service to the Perkins County rural water system in South Dakota.

Commissioners Ames, Bjornson, DeWitz, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

**DEVILS LAKE EMERGENCY
RESPONSE PLAN -
DEVILS LAKE - STUMP LAKE
PUMPING COMPONENT
STATUS REPORT
(SWC Project No. 1882)**

Secretary Sprynczynatyk provided a status report on the Devils Lake Emergency Response plan, which is a short-term emergency flood control measure to alleviate flood conditions around Devils Lake in 1996 and 1997 while long-term flood reduction

alternatives are being evaluated. The plan consists of two critical components: (1) pumping water from east Devils Lake to Stump Lake; and (2) upper basin water retention.

The Stump Lake component of the plan consisted of pumping approximately 87,000 acre-feet of water from east Devils Lake to Stump Lake, at a rate of approximately 250 cubic feet per second. Secretary Sprynczynatyk said this component would have provided 1.2 feet of relief for Devils Lake which, in turn, would have raised Stump Lake approximately 10 feet. The one-time pumping operation would have taken six months. The state recognized that landowners along the route and around Stump Lake would incur some long-term impacts on the productivity of their land, so financial compensation was offered accordingly.

Secretary Sprynczynatyk said even with compensation to landowners and concessions for environmental impacts, the Stump Lake pumping project generated enough local opposition to stall its implementation. County officials and landowners expressed concerns that if an outlet to Stump Lake could be included in the project, most of their opposition could be eliminated. Secretary Sprynczynatyk said, unfortunately, a Stump Lake outlet would create significant impacts to people living downstream.

Secretary Sprynczynatyk stated that some of the land acquired for the Stump Lake pumping project will be used for upper basin flood storage. Permits and easements obtained thus far are valid until the end of 1997, therefore, he said it is possible the project can still go forward if local concerns can be satisfied and more landowners agree to participate.

**DEVILS LAKE UPPER BASIN
WATER RETENTION PROGRAM -
APPROVAL OF ADDITIONAL
FUNDS (\$175,000) FOR AVAILABLE
STORAGE ACREAGE PROGRAM
(ASAP); AND RE-ALLOCATION
OF FUNDS (\$50,000) FOR ASAP
PROGRAM
(SWC Project No. 1882)**

Secretary Sprynczynatyk stated that a very critical part of the Devils Lake Emergency Response Plan includes the upper basin water retention component. Upper basin storage will be obtained from landowners willing to participate in a voluntary program.

Secretary Sprynczynatyk briefed the Commission members on the Available Storage Acreage Program (ASAP), which was designed in the Devils Lake Water Management Plan to control floodwater in areas upstream from Devils Lake. The 1996 goal for the program was 75,000 acre-feet of storage with about half of that to be obtained by holding the water levels a foot or two higher in the basin's larger upstream lakes. The balance would be gained on smaller tracts of the basin that contribute runoff to Devils Lake. He said it appears the ASAP will only meet a small percentage of its goal in 1996, however, storage sites that are implemented this year may become a catalyst to encourage others to participate next year, since it is expected that Devils Lake will continue to rise.

The response to upper basin storage has increased over the last two months and, currently, well over 100 applications have been received. Secretary Sprynczynatyk said if all of the sites applied for could be implemented, they would keep nearly 15,000 acre-feet of water from reaching Devils Lake. The State Water Commission staff is processing the applications and offering contracts to those with sites that meet the program criteria, are within the approved compensation range, and can hold water in early 1996.

The program criteria remains the same since the program was developed. The water storage site must hold water beyond normal or previous levels (i.e. drained wetland would have no previous level, therefore, any water could count) and drain into Devils Lake. Not pumping from permitted pumping sites also qualifies for the program if it will keep water out of Devils Lake.

The compensation paid to landowners for water storage has ranged from \$25 per acre for a site also enrolled in CRP to \$125 per acre for a high-water capacity site with low construction costs. Secretary Sprynczynatyk stated that presently a justifiable payment threshold for storage sites is approximately \$60 per acre-foot, although exceptions may be made. This price includes the cost to lease the land and the cost of building any water retention structures. A threshold price based on acre-feet (volume) allows the sites with the ability to hold more water to receive a higher per-acre payment.

The last condition considered before contracts are offered is whether the State Water Commission force account crew or a private contractor can get the site constructed in time to catch runoff water in early 1996. Secretary Sprynczynatyk said due in large part to frozen soil conditions, plugging culverts, not pumping from legal sites, and breaching dikes to hold water over additional land are the highest priority sites. The Commission staff is confident these sites will fill with, and hold, water. The implementation of some sites requiring significant construction effort will have to be deferred until fall for storage in 1997.

Secretary Sprynczynatyk explained that any sites that cannot be finished this spring will be considered for construction this fall. In such cases, the state would obtain a one-year lease with the applicant to hold water during 1997. If the lease is obtained, the State Water Commission, or the applicant, will have time this fall to construct the necessary control structures. He said the benefit of not having to work when the frost is in the ground may also make some of the previously rejected sites affordable.

At its February 23, 1996, meeting, the State Water Commission approved the obligation of \$75,000 from the Contract Fund for approximately 1,500 acre-feet of water storage in the upper Devils Lake basin to be in place for the 1996 spring runoff. Secretary Sprynczynatyk said it appears possible to complete additional sites yet this spring, with the total volume of water stored approximating 5,000 acre-feet. The funding need of \$175,000 is required immediately to carry out all of the available sites this spring.

Secretary Sprynczynatyk explained that with the Stump Lake pumping project on hold, \$100,000 which has been obligated for the purchase of pumps, pipe, and land could be re-allocated to upper basin storage. Of the \$750,000 allocated by the State Water Commission at its November 29, 1995, meeting, for the Devils Lake Emergency Response Plan, \$75,000 remains allocated, but unobligated.

It was the recommendation of the State Engineer that the State Water Commission approve funding an additional \$175,000 for the ASAP to complete water storage sites on applications that can be in place to catch, and hold, water this spring. These funds would come from project savings allocated to the Stump Lake pumping project of \$100,000, and from unobligated funds of \$75,000, from the \$750,000 approved by the Commission on November 29, 1995.

At its October 27, 1995, meeting, the State Water Commission approved a request from the Devils Lake Joint Water Resource Board allocating \$50,000 from the Contract Fund for the storage of water on CRP land in the Devils Lake basin. Secretary Sprynczynatyk reported the

Joint Board has turned operation of water storage on CRP sites over to the State Water Commission. The Commission staff is handling CRP sites in the same manner as non-CRP sites, except that the CRP payment is subtracted from the applicant's bid price.

It was the recommendation of the State Engineer that the \$50,000 allocated to the Devils Lake Basin Joint Water Resource Board be re-allocated to the ASAP and not be earmarked for CRP-only sites. Although the current contract between the State Water Commission and the Devils Lake Basin Joint Board would be terminated, the Joint Board could be involved with the ASAP in whatever capacity they choose.

It was moved by Commissioner Swenson and seconded by Commissioner Hillesland that the State Water Commission:

1) approve the obligation of an additional \$175,000 from the Contract Fund for the Upper Devils Lake Basin Available Storage Acreage Program (ASAP) to complete water storage sites on applications that can be in place to catch, and hold, water in the spring of 1996.

These funds are part of the \$750,000 allocated on November 29, 1995, of which \$100,000 approved for the Stump Lake pumping project shall be re-allocated, and \$75,000 of unobligated funds shall be allocated for the Available Storage Acreage Program.

2) approve the re-allocation of \$50,000 from the Contract Fund to the Available Storage Acreage Program, which was previously approved to the Devils Lake Basin Joint Water Resource Board for the storage of water on CRP land in the Devils Lake basin.

This motion is contingent upon the availability of funds.

Commissioner Ames, Bjornson, DeWitz, Hillesland, Olin, Swenson, Thompson, Vogel, and Chairman Schafer voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

Commissioner Vogel requested that the State Water Commission be provided an opportunity to review the upper Devils Lake Basin Available Storage Acreage Program, and to discuss future sources of funding for the project.

There being no further business to come before the State Water Commission, it was moved by Commissioner Olin, seconded by Commissioner Hillesland, and unanimously carried, that the State Water Commission telephone conference call meeting adjourn at 10:20 AM.

/S/ Edward T. Schafer

Edward T. Schafer
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk

David A. Sprynczynatyk
State Engineer, and
Chief Engineer-Secretary

