

## **MINUTES**

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

**May 24, 2000**

The North Dakota State Water Commission held a telephone conference call meeting in the Governor's conference room, State Capitol, Bismarck, North Dakota, on May 24, 2000. Chairman, Governor Edward T. Schafer, called the meeting to order at 9:30 AM, and requested State Engineer, and Chief Engineer-Secretary, David A. Sprynczynatyk, to call the roll. The Chairman announced a quorum was present.

#### **MEMBERS PRESENT:**

Governor Edward T. Schafer, Chairman  
Roger Johnson, Commissioner, Department of Agriculture, Bismarck  
Florenz Bjornson, Member from West Fargo  
Judith DeWitz, Member from Tappen  
Larry Hanson, Member from Williston  
Elmer Hillesland, Member from Grand Forks  
Jack Olin, Member from Dickinson  
Robert Thompson, Member from Page  
Harley Swenson, Member from Bismarck  
David A. Sprynczynatyk, State Engineer, and Chief Engineer-Secretary,  
North Dakota State Water Commission, Bismarck

#### **OTHERS PRESENT:**

State Water Commission Staff  
Julie Krenz, Assistant Attorney General, Bismarck  
Joe Bichler, Bartlett & West/Boyle Engineering, Bismarck  
Maurice E. Cook, Beauclair & Cook, Bismarck  
Texx Lone Bear, Three Affiliated Tribes, New Town  
Dale Wetzel, Associated Press, 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 announced the agenda approved, and requested Secretary Sprynczynatyk to present the agenda.

**SOUTHWEST PIPELINE PROJECT -  
CONTRACT AND CONSTRUCTION  
STATUS; AND PROJECT UPDATE  
(SWC Project No. 1736)**

James Lennington, Project Manager for the Southwest Pipeline Project, provided the following contract, construction and project status report:

**Contract 2-3H - Hebron Service Area Main Transmission Pipeline:** The contractor, Karas Construction of Larimore, ND, has several landowner releases to obtain. The contractor also needs to obtain the 10 percent backfill warranty bond. When these items are completed, the contract will be closed.

**Contract 2-6B - Burt Service Area Main Transmission Pipeline:** The contractor, Northern Improvement Company, has installed approximately 21 miles out of a total of about 45.9 miles on the contract. Several underground meter vaults, an underground booster pump station vault, a PRV, and a tank control vault are associated with this contract. There is some concern relative to the delivery of the items in time for the contractor to meet the following completion dates: service to New Leipzig by September 15, 2000; service to Elgin by October 15, 2000; and service to Carson by November 30, 2000. The final completion date for the contract is January 14, 2001.

**Contract 5-6 - Burt Tank:** The contractor, Engineering America, Inc. of White Bear Lake, Minnesota, has completed erection of the 400,000 gallon glass-fused, bolted steel tank, which is 48 feet tall with a diameter of 38 feet. Remaining work includes site work, installation of the overflow piping, and disinfection. The completion date for the contract is September 2, 2000.

**Contract 5-14 - Hebron Reservoir:** The contractor, Engineering America, Inc. of White Bear Lake, Minnesota, has completed erection of the 500,000 gallon glass-fused, bolted steel tank, which is 43 feet tall with a diameter of 45 feet. Remaining work includes site work, installation of the overflow piping, and disinfection. The completion date for the contract is August 26, 2000.

**Contract 7-3B/7-5B - Rural Water Distribution System, Southeast Jung Lake and South Hebron Pocket Areas:** The contractor, Northern Improvement Company, began installation of the pipeline on May 15, 2000 in the South Hebron pocket. The contractor is using a plow train to install 4-inch to 1 1/2-inch diameter pipe. To date, there have been about 2 1/2 miles of pipe installed. The contract has an intermediate completion date of August 1, 2000 for the 22 hookups in the South Hebron pocket, and a substantial completion date of September 1, 2000 for the remaining 40 hookups in the Southeast Jung Lake pocket. Final completion is required by October 16, 2000.

**Contract 7-4/7-3A - Bucyrus and Three Pockets Service Areas, Rural Distribution System:** This contract has been completed with final closeout in April, 2000.

**Contract 7-5A - Hebron Service Area, Rural Distribution System:** The contractor, Karas Construction of Larimore, ND, is required to obtain the 10 percent backfill settlement warranty bond in order to complete the contract.

**Contract 7-6A - Burt Service Area, Rural Distribution System:** This contract is addressed in a separate item at this meeting.

**Dickinson Water Treatment Plant Influent Piping:** The contractor, PKG Contracting, Inc., Fargo, ND, is replacing the influent piping in the treatment plant. Barring any difficulties, the contract is anticipated to be completed by May 26, 2000.

A map showing the phased development of the Southwest Pipeline Project was provided to the State Water Commission members. (Note: The colored map is attached to the official minutes.)

In response to Governor Schafer's concerns expressed at the April 10, 2000 State Water Commission meeting for specific clarification relative to the funding sources for the Southwest Pipeline Project, the following revised table was presented. (Note: This information is also provided in a colored chart attached to the official minutes.)

**SOUTHWEST PIPELINE PROJECT  
Funding Sources (through 2000)  
(In Millions \$)  
State Funding:**

Resources Trust Fund (including \$3.4 in user fees)	\$ 32.3
Water Development Trust Fund	4.5
	\$ 36.8

**Grants:**

GDU MR&I	\$ 69.6
USDA	5.7
	\$ 75.3

**State Bonds Repaid By Users:**

Public Revenue Bonds	\$ 6.8
USDA	4.9
DWSRLF Program	1.0
	\$ 12.7

**Total Funding** **\$124.8**

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF GENERAL  
AUTHORIZATION RESOLUTIONS  
FOR 2000 SERIES A AND B BONDS  
(SWC Project No. 1736)**

James Lennington explained the 2000 funding package for Mott-Elgin, Phase II, of the Southwest Pipeline Project, totalling \$4.27 million, which includes \$2 million in a grant and \$400,000 in bonds through the USDA,

Rural Development. The state's share of the 2000 funding package consists of \$870,000 in a grant to the project through the funding made available by Senate Bill 2188 during the 1999 Legislative session, and \$1 million in a loan through the Drinking Water State Revolving Loan Fund program. Mr. Lennington said the state grant of \$870,000 completes the grant of \$4.5 million authorized for the project under Senate Bill 2188. Completion of the 2000 funding package will allow the State Water Commission to award Southwest Pipeline Project contract 7-6A for the Burt Service Area, Rural Distribution System, serving about 152 rural service connections and 13 pasture taps.

Mr. Lennington explained the projected construction schedule and the estimates of cost for the Mott-Elgin phases, which are attached hereto as **APPENDIX "A"**.

On April 10, 2000, the State Water Commission passed Resolution No. 2000-4-487 authorizing the submission of an application for \$1.5 million in funding for the Southwest Pipeline Project through the Drinking Water State Revolving Loan Fund (DWSRLF) program. Mr. Lennington explained the loan through this source will be in the form of bonds issued through the Southwest Pipeline Project General Resolution and will be designated as 2000 Series A. The first \$1 million in funding, through the DWSRLF program, will be used as part of the state's share of the 2000 Mott-Elgin funding package. The remaining \$500,000 will be used for part of the state's share of the 2001 Mott-Elgin funding package.

At its April 10, 2000 meeting, the State Water Commission authorized the execution of USDA, Rural Development documents to satisfy the requirements for the obligation of funds for the MottElgin, Phase II, 2000 package.

Mr. Lennington said contract 7-6A for the Burt service area is the only contract that is planned to use the 2000 funds. The award of contract 7-6A will be considered by the State Water Commission at this meeting under a separate action. The obligation of funds provided by the USDA, Rural Development loan and grant, and a loan through the DWSRLF is required to award contract 7-6A. The state grant of \$870,000 and the \$1 million loan through the DWSRLF must be spent before any of the USDA, Rural Development funding can be spent. The USDA, Rural Development loan must then be spent before any of the USDA, Rural Development grant money is used.

The following USDA, Rural Development and DWSRLF program funding documents required for issuing the 2000 Series A and 2000 Series B bonds were presented for the Commission's consideration:

- 1) General Authorization Resolution and 2000 Series A Bond Resolution
- 2) General Authorization Resolution and 2000 Series B Bond Resolution
- 3) Right-Of-Way Certificate, Form FmHA 442-21
- 4) Loan Agreement with the North Dakota Municipal Bond Bank

Mr. Lennington explained that each Bond Issuance Authorization Resolution is a wrap-around document which, if adopted by the State Water Commission, will do the following:

- 1) Authorize the execution of the individual 2000 Series Bond Resolutions
- 2) Approve the execution, delivery, and sale of the individual 2000 Series Bonds
- 3) Accept and approve the acts of officers and proceedings with respect to the General and Series Resolutions
- 4) Authorize the issuance of bonds pursuant to the General and Series Resolutions
- 5) Describe the method of executing the bonds
- 6) Authorize investment agreements between the State Water Commission and the Trustee

Mr. Lennington stated the Bond Issuance Authorization for the 2000 Series A bonds will authorize the execution of the Loan Agreement with the North Dakota Municipal Bond Bank and the Bond Issuance Authorization for the 2000 Series B bonds will authorize the Right-Of-Way Certificate, Form FmHA 442-21.

The 2000 Series B bond documents have not yet received approval from USDA, Rural Development. Mr. Lennington said no significant revisions are anticipated. Closing on the 2000 Series A bonds is scheduled for June 7, 2000, and closing on the 2000 Series B bonds is scheduled for June 9, 2000.

It was the recommendation of the State Engineer that in order to obligate the USDA, Rural Development, and the DWSRLF program funding, the State Water Commission authorize the execution of the 2000 Series A and B bond documents as presented. He said the documents have been satisfactorily reviewed by the State Water Commission's Assistant Attorney General and Bond Counsel.

***It was moved by Commissioner Swenson and seconded by Commissioner Olin that the State Water Commission approve and adopt the execution of the General Authorization Resolution for the North Dakota State Water Commission Water Development Revenue Bond (Southwest Pipeline Project) 2000 Series A - \$1,500,000; and the General Authorization Resolution for the North Dakota State Water Commission Water Development Revenue Bond (Southwest Pipeline Project) 2000 Series B - \$400,000. SEE APPENDIX "B"***

***Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.***

**SOUTHWEST PIPELINE PROJECT -  
AWARD OF CONTRACT 7-6A,  
BURT SERVICE AREA, TO  
NORTHERN IMPROVEMENT  
COMPANY, FARGO, ND  
(SWC Project No. 1736)**

On March 15, 2000, bids were opened for Southwest Pipeline Project contract 7-6A for the Burt service area. This contract is for approximately 248 miles of rural distribution lines serving about 168 rural water connections.

Only one bid was received for contract 7-6A for the rural distribution system in the Burt service area, and one alternate bid schedule (Schedule No. 1A) bid under this contract. The apparent low bid was received from Northern Improvement Company, Fargo, ND, at a bid price of \$3,715,000 for the base bid schedule and \$3,705,111 for the alternate bid schedule. James Lennington said the alternate bid schedule is lower than the base bid schedule by \$10,000. The base bid schedule included a pneumatic booster station. The alternate bid schedule required a variable frequency drive booster station rather than the pneumatic booster station. The contract allows the State Water Commission to select the most advantageous bid. The engineer has reviewed the bid, found the bid responsive, and recommended award of the contract to Northern Improvement Company.

On April 10, 2000, the State Water Commission was informed that only one bid had been received for this contract, that the single bid would be analyzed, and a recommendation presented to the State Water Commission for consideration at a future meeting. Mr. Lennington explained when only one bid is received, there is always concern that a lack of competition has resulted in a substantially higher bid than would otherwise be the case. Pipe prices in this bid were substantially higher than for the last rural water contract awarded due to a combination of higher poly-vinyl chloride (PVC) resin costs and higher fuel costs. He said based on the analysis of the bid, the bid received was reasonable and the contract should be awarded.

Funding for this contract is provided by \$870,000 in a grant to the project through the funding made available by Senate Bill 2188 during the last Legislative session, \$1 million through the Drinking Water State Revolving Loan Fund program, \$400,000 in a loan from USDA, Rural Utilities Service, and a \$2 million grant through the USDA, Rural Utilities Service. Although the 2000 Series B bond documents have not been approved by USDA, Rural Development, Mr. Lennington said no significant revisions are anticipated. Closing on the 2000 Series A bonds (DWSRLF) is scheduled for June 7, 2000, and closing on the 2000 Series B bonds (USDA, Rural Development) is scheduled for June 9, 2000, and will allow for the award of the contract before the 90-day deadline of June 13, 2000. The award of the contract is contingent upon the successful closing on the bonds, satisfactory completion and submission of the contract documents, and the Commission's legal review.

It was the recommendation of the State Engineer that the State Water Commission approve the award of Southwest Pipeline Project contract 7-6A, Rural Distribution System in the Burt service area, to Northern Improvement Company, Fargo, ND.

***It was moved by Commissioner Thompson and seconded by Commissioner Hanson that the State Water Commission approve the award of Southwest Pipeline Project contract 7-6A, Rural Distribution System, Burt Service Area, to Northern Improvement Company, Fargo, ND, contingent upon the successful closing of the 2000 Series A and 2000 Series B bonds.***

***Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.***

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF ONE-TIME  
ADJUSTMENT TO RURAL  
WATER EXPENDITURE LIMIT  
FOR CONTRACT 7-6A, BURT  
SERVICE AREA  
(SWC Project No. 1736)**

On March 15, 2000, bids were opened for Southwest Pipeline Project contract 7-6A for the Burt service area rural distribution system. This contract is for approximately 248 miles of rural distribution lines serving about 168 rural service connections. Only one bid was received, from Northern

Improvement Company, Fargo, ND. The engineer's estimate was approximately \$3,490,000 at the time bids were advertised. At the time of bid opening, the engineer had increased the estimate to \$3,755,000 due to an increase in PVC pipe prices and higher fuel costs. Northern Improvement Company's bid price was approximately \$3,705,000. (Note: The State Water Commission approved the award of contract 7-6A to Northern Improvement Company, Fargo, ND, by previous action at this meeting, contingent upon the successful closing of the 2000 Series A and 2000 Series B bonds.)

Secretary Sprynczynatyk explained the pipe unit prices in Northern Improvement Company's bid were substantially higher than the unit prices received on the last contract bid which was opened in December, 1999. Because of the higher unit prices, it was decided an analysis was necessary to determine the reasons for the higher prices and what, if any, adjustments to the rural water expenditure limit for the Burt service area should be considered.

Secretary Sprynczynatyk said the analysis compared the unit prices from the 7-6A bid with those from the previous three rural water contracts, and what the 7-6A bid would have been had the previous unit prices been received in March, 2000. The analysis also compared raw PVC prices, average gasoline prices, and the Consumer Price Index concurrent with those contracts. (Note: A colored graph showing the comparison of indices and costs is attached to the official minutes.)

The analysis results showed that from June, 1997 to December, 1999, gasoline prices rose by 8.4 percent, and PVC prices rose by 18.52 percent. In the same time period, the Consumer Price Index rose only 5.12 percent. From June, 1997 to March, 2000, gasoline and PVC prices have risen 29.75 percent and 27.78 percent respectively, while the Consumer Price Index rose 6 percent.

Secretary Sprynczynatyk said the analysis indicated that the estimated 7-6A bid, using the December, 1999 unit prices, would have been about 11.8 percent higher than if the unit prices of 1997 had been received. The difference between the actual 7-6A bid and the estimated 7-6A bid, if the unit prices of 1997 had been received, is 21.5 percent. He said

this indicates that the bid unit prices received for contract 7-6A tracked the increase in raw materials and fuel, and because of the impact of the much higher PVC and fuel prices there may have been an approximate 10 percent increase in the bid.

The \$25,000 limit set by the State Water Commission in 1993 for a single hookup has been adjusted annually for inflation when developing the design of rural water distribution systems for each phase of the Southwest Pipeline Project. Secretary Sprynczynatyk said the current feasibility standard minimum cost for a single equivalent service unit was \$30,020 at the time of the contract 7-6A bid opening. There are a total of ten users bid in contract 7-6A, including all six users in Pocket No. 2, which exceed the \$30,020 limit.

On May 9, 2000 a letter was received from the Southwest Water Authority requesting the State Water Commission to increase the equivalent service unit maximum cost by 10 percent for the Burt service area. This would allow water service to an additional six users. The Authority's board of directors approved the one-time request for the Burt service area at its May 1, 2000 meeting. The Authority also agreed that the base equivalent service unit maximum cost remain at \$30,020 when developing the design of rural water distribution systems for future phases of the project.

Secretary Sprynczynatyk explained a one-time adjustment of 10 percent, or \$3,000, would result in two of the ten users over the \$30,020 limit to be brought in under the limit. He said an adjustment of at least 30 percent would be necessary to bring on any of the remaining eight users. These users would have the option of signing up for additional units of water, paying the difference between the limit and the project cost of constructing their service, or additional users could sign up along the lines and make their construction feasible.

The goal of the State Water Commission and the Southwest Water Authority is to serve as many potential users as feasibly possible with Southwest Pipeline water. Secretary Sprynczynatyk said because of the unusual increase in PVC and fuel costs, a one-time adjustment in the rural water expenditure limit of 10 percent is justified. Therefore, it was the recommendation of the State Engineer that the State Water Commission approve a one-time adjustment of 10 percent, or \$3,000, to the rural water expenditure limit for contract 7-6A for the Burt service area rural distribution system.

Commissioner Swenson questioned whether the recent fuel cost increases were unusual. It is possible that they were abnormally low previously and are now back to normal. He asked whether an increase to the limit would be considered on the next contract if the prices are the same as today's.

Secretary Sprynczynatyk responded that is not his intent in making the recommendation. If it turns out that the bids on the next contract are high, we would be back to the regular limit without exception.

***It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve a one-time adjustment of 10 percent, or \$3,000, to contract 7-6A for the Burt service area rural distribution system because of the unusual increase in PVC and fuel prices.***

***Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.***

**SOUTHWEST PIPELINE PROJECT -  
APPROVAL OF AMENDMENTS TO  
1997 SOUTHWEST PIPELINE PROJECT  
GENERAL BOND RESOLUTION AND  
1997 SERIES B BOND RESOLUTION  
(SWC Project No. 1736)**

On May 22, 1997, the State Water Commission adopted the Water Development Revenue Bonds, Southwest Pipeline Project, General Bond Resolution, authorizing the issuance of bonds by the Commission on one or more series for the project.

On July 1, 1997, the Commission adopted the Water Development Bonds, Southwest Pipeline Project, 1997 Series B Bond Resolution, authorizing the issuance of the Water Development Revenue Bonds, 1997 Series B bonds.

James Lennington presented 2000 Supplemental Resolutions Amending the 1997 Southwest Pipeline Project General Bond Resolution and the 1997 Series B Bond Resolution. He explained these amendments are necessary to clarify the additional bonds test sections of both resolutions and to make both of the resolutions uniform in the application of the additional bonds test.

The amendment to the General Bond Resolution will allow the consideration of all capital repayment revenue, earnings, and interest deposited in the revenue account when certifying that additional bonds test requirements are met.

The 1997 Series B Resolution was the only resolution to require that revenue collected in the previous year to a proposed bond issue exceed the maximum annual debt service for the existing bonds plus

the additional bonds by a factor of 1.20. The amendment changes that requirement so that it applies to the revenue projected to be collected for the year following the additional bonds, conforming with the other series resolutions.

It was the recommendation of the State Engineer that the State Water Commission approve and adopt the 2000 Supplemental Resolution Amending the 1997 General Bond Resolution, and the 2000 Supplemental Resolution Amending the 1997 Series B Bond Resolution.

***It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission approve and adopt the 2000 Supplemental Resolution Amending the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, 1997 General Bond Resolution; and the 2000 Supplemental Resolution Amending the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, 1997 Series B Bond Resolution. SEE APPENDIX "C"***

***Commissioners Bjornson, DeWitz, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Chairman Schafer voted aye. There were no nay votes. The Chairman announced the motion unanimously carried.***

**GARRISON DIVERSION PROJECT -  
PROJECT UPDATE  
(SWC Project No. 237)**

On May 15, 2000, Governor Schafer, Secretary Sprynczynatyk and other state representatives participated in a workshop on the Dakota Water Resource

Act of 1999 with the United States Senate, Committee on Energy and Natural Resources, and representatives of Minnesota and Missouri in an effort to resolve the differences relating to the project. The workshop did go well, and there will be continued discussion to resolve the differences regarding the Dakota Water Resources Act.

Secretary Sprynczynatyk reported H.R. 297, Lewis and Clark Rural Water System Act of 2000, passed the U.S. House of Representatives on May 23, 2000 for a Missouri River regional water supply for South Dakota, Iowa and Minnesota. He said this is significant for North Dakota because some of the features and components considered for that project are similar to the Dakota Water Resources Act.

**NEXT STATE WATER  
COMMISSION MEETING**

The next meeting of the State Water Commission is scheduled for July 14, 2000, in Bismarck, ND, beginning at 9:00 AM in the lower level conference room at the State Office Building.

There being no further business to come before the State Water Commission, Governor Schafer adjourned the telephone conference call meeting at 10:00 AM.

/S/ Edward T. Schafer \_\_\_\_\_  
Edward T. Schafer  
Governor-Chairman

SEAL

/S/ David A. Sprynczynatyk \_\_\_\_\_  
David A. Sprynczynatyk  
State Engineer, and  
Chief Engineer-Secretary