

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

December 7, 1988

The North Dakota State Water Commission held a meeting on December 7, 1988, at the Holiday Inn, Bismarck, North Dakota. Commissioner Richard Backes, Acting Chairman, called the meeting to order at 9:00 a.m., and requested State Engineer and Secretary, Vernon Fahy, to call the roll and present the agenda. Agriculture Commissioner-Elect, Sarah Vogel, was introduced.

MEMBERS PRESENT:

Richard Backes, Member from Glenburn
Joyce Byerly, Member from Watford City
Jacob Gust, Member from West Fargo
William Lardy, Member from Dickinson
Daniel Narlock, Member from Oslo, MN
Norman Rudel, Member from Fessenden
Jerome Spaeth, Member from Bismarck
Vernon Fahy, State Engineer and Secretary, North Dakota
State Water Commission, Bismarck

MEMBERS ABSENT:

Governor George A. Sinner
Kent Jones, Commissioner, Department of Agriculture, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 30 persons interested in agenda items

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

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

CONSIDERATION OF MINUTES
OF OCTOBER 11, 1988 MEETING -
APPROVED

The minutes of the October 11, 1988 meeting were approved by the following motion:

It was moved by Commissioner Rudel, seconded by Commissioner Spaeth, and unanimously carried, that the minutes of the October 11, 1988 meeting be approved as circulated.

SOUTHWEST PIPELINE PROJECT -
PROJECT UPDATE
(SWC Project No. 1736)

1988. Contract 2-2F, awarded to BRB Contractors, is essentially complete and expected to be finalized in December, 1988.

Dale Frink, Manager of the Southwest Pipeline Project, reported on the construction progress of the two contracts let in the spring of

Johnson Construction began construction on Contract 2-3A in mid-July, 1988. Mr. Frink reported all of the pipe of this 10.0-mile segment has been laid in the ground and is being tested. Although the contractor got a late start on the project, Mr. Frink said excellent progress has been made and the contract is anticipated to be finalized in the spring, 1989.

Mr. Frink indicated the State Water Commission has advertised for bids on Contract 1-1, the Intake Pump Station, and Contract 5-2, the Dickinson Reservoir, for January 12, 1989. The Commission has also advertised for bids on Contract 2-1, the Raw Water Pipeline, for February 2, 1989.

SOUTHWEST PIPELINE PROJECT -
APPROVAL TO AWARD CONTRACT 2-3B
(SWC Project No. 1736)

15 bids were received and the low bidder was Johnson Construction, Inc., of Fargo, with a bid of \$3,203,146.

Bids for Contract 2-3B were opened on November 15, 1988, involving an 11.3-mile segment of the Southwest Pipeline Project. Mr. Frink said

It was the recommendation of the State Engineer that the State Water Commission approve the awarding of Contract 2-3B of the Southwest Pipeline Project to Johnson Construction, Inc.

The Commission members discussed at length the possibility of providing parallel pipelines in the 11.3-mile segment for Contract 2-3B, and the segment within the City of Dickinson.

Bruce McCollom, Bartlett and West/Boyle Engineering provided detailed information relative to the engineering and estimated costs for paralleling pipelines at this time as compared to adding the lines in the future. Mr. McCollom recommended that because of the uncertainties involved at this time relative to the water treatment plant, the potential for cost savings by paralleling at this time as opposed to doing it in the future would not be justified. Mr. McCollom stated it may also not be a good risk factor to negotiate with the contractor on this issue because of the low bid for Contract 2-3B.

At the October 11, 1988 meeting, the Commission members approved cost sharing in the request from the West River Joint Water Resource Board to retain Bartlett and West/Boyle Engineering to conduct a study of the concept of integrating the rural water delivery systems into the Southwest Pipeline Project. Mr. McCollom suggested that the recommendation of this study could have an impact on the Commission's decision relative to paralleling pipelines.

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Mr. McCollom suggested if the Commission decided to proceed and award Contract 2-3B to Johnson Construction, a detailed presentation could be provided at the Commission's next meeting. The Commission members would still have the option to negotiate with the contractor regarding parallel lines prior to construction if it were to make that decision.

It was moved by Commissioner Gust and seconded by Commissioner Byerly that the State Water Commission approve the awarding of Contract 2-3B for the Southwest Pipeline Project to Johnson Construction, Inc. of Fargo.

In discussion of the motion, it was the consensus of the Commission members that Bruce McCollom, Bartlett and West/Boyle Engineering, provide a presentation relative to parallel pipelines at the Commission's next meeting.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Rudel and Spaeth voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

NORTHWEST AREA WATER
SUPPLY STUDY UPDATE
(SWC Project No. 237-4)

Randall Binegar, Project Manager for the Northwest Area Water Supply Study, provided the Commission members with the Final Report for the

Northwest Area Water Supply Study, dated November 30, 1988.

Secretary Fahy indicated that through discussions with the Fort Berthold Indian Reservation officials, it has been determined that a need exists to study a reservation-wide water supply system that could serve areas outside the reservation. As a result, an extension to the Northwest Area Water Supply Study contract has been requested to facilitate the completion of a supplement to the Northwest Area Water Supply Study which considers the integration of a Fort Berthold Indian Reservation system and a non-Indian system.

It was moved by Commissioner Lardy and seconded by Commissioner Byerly that the State Water Commission approve authorization for a Northwest Area Water Supply Study supplement to consider the integration of a Fort Berthold Indian Reservation system and a non-Indian system.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Rudel and Spaeth voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

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SOURIS RIVER FLOOD
CONTROL PROJECT UPDATE
(SWC Project No. 1408)

David Sprynczynatyk, Director of Engineering for the State Water Commission, briefed the Commission members on the status of the Souris

River Flood Control Project, an undertaking within the Province of Saskatchewan involving the construction of two dams in Canada in the Souris River watershed.

The proposed Rafferty Dam near Estevan will provide water for a coal-fired electric power generating plant, flood control, recreation and irrigation. Mr. Sprynczynatyk said the Province of Saskatchewan has expended, or obligated approximately \$20 million for the design and construction of the Rafferty Dam, Alameda Dam and Shand Power Plant. Construction of the Rafferty Dam began in the spring of 1988 and is scheduled for completion in 1990.

The proposed Alameda Dam near Oxbow is scheduled for construction in 1990 and completion in 1991. The dam will provide irrigation, recreation and flood control.

Mr. Sprynczynatyk stated the United States Government has agreed to contribute \$41.1 million toward the purchase of flood control storage in the dams. In order to make the final decision to purchase flood control, Mr. Sprynczynatyk indicated the following are required:

- 1) Negotiations are presently continuing between the Canadian Government and the United States Government to finalize an international agreement concerning the construction, operation and maintenance of the project. It is anticipated the draft agreement can be developed and agreed to in January, 1989.
- 2) The Corps of Engineers is completing its environmental review of the project and the Environmental Impact Statement is anticipated to be completed in December, 1988. The EIS must be completed prior to the two governments entering into the final agreement. Upon completion of the EIS, the Chief of Engineers will issue the Record of Decision, which is a statement as to whether or not the project should proceed from an environmental standpoint.
- 3) The Compatibility Statement of the U.S. Fish and Wildlife Service is required, which addresses the refuges that exist on the Souris River and indicates the project can proceed without a net negative impact on the refuges.
- 4) The Souris River Joint Board is reviewing the draft Local Cooperative Agreement between the Federal Government, the U.S. Army Corps of Engineers and the Souris River Joint Board.

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RED RIVER DIKES -
PROJECT UPDATE
(SWC Project No. 1638)

Rosellen Sand, Assistant Attorney General for the State Water Commission, briefed the Commission members on the Federal District Court

status conference held on October 31, 1988. Ms. Sand said staff is preparing reply briefs on issues concerning public roadways and other matters that the Court will be making a decision on after December 15, 1988.

At the October 11, 1988 meeting, the Commission members approved an agreement, effective until October 28, 1988, to provide payment of Red River dike modification work for farmers who had previously not signed an agreement with the State Water Commission. Ms. Sand said 10 agreements had been received within the deadline.

In staff review of the agreements and claims from the landowners with regard to the work that had been done, Ms. Sand made reference to a situation involving the Amelia Melville property. Because of the circumstances involved in this situation, it was the recommendation of Ms. Sand that the State Water Commission consider the authorization of accepting the late filing of Ms. Melville's agreement.

Commissioner Narlock commented on the Melville situation and indicated the Walsh County Commission has addressed this situation and agreed to cooperate with Ms. Sand's recommendation. Commissioner Narlock said the Walsh County Commissioners are in agreement that those landowners who have not signed an agreement will be responsible for payment of their county taxes.

It was moved by Commissioner Narlock and seconded by Commissioner Spaeth that the State Water Commission recognizes the unique situation of the Melville property and authorizes the acceptance of the late filing of the agreement from Amelia Melville.

Commissioners Backes, Byerly, Gust, Lardy, Narlock, Rudel and Spaeth voted aye. There were no nay votes. The Chairman declared the motion unanimously carried.

GARRISON DIVERSION PROJECT -
CONTINUED CONSIDERATION OF
MR&I WATER SUPPLY PROGRAM
FUNDING FOR WATER SUPPLY
PROJECT FEASIBILITY STUDIES
(SWC Projects No. 237-3)

At the October 11, 1988 Commission meeting, 15 MR&I Water Supply Projects were presented for the Commission's consideration that requested MR&I Water Supply Program funding for the project's feasibility study. After lengthy discussion re-

garding the review and prioritization of projects for MR&I funding, the Commission members deferred action on the requests being considered and were in general agreement that a point system for project prioritization of water supply projects requesting MR&I funding for feasibility studies be investigated.

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As a result of the discussion at the October 11, 1988 Commission meeting, Governor Sinner appointed Commissioner Gust and Commissioner Lardy to the MR&I Project Priority Committee to develop a point system for prioritizing MR&I water supply projects that have requested MR&I Water Supply Program funds for feasibility studies.

GARRISON DIVERSION PROJECT -
REPORT FROM MR&I PROJECT
PRIORITY COMMITTEE
(SWC Project No. 237-3)

Commissioner Gust, Chairman of the MR&I Project Priority Committee, reported he and Commissioner Lardy met with staff to develop a point system for the purpose of prioritizing MR&I water supply projects that have requested MR&I Water Supply Program funds for feasibility studies. Commissioner Gust said a draft point system has been developed and those projects which were deferred at the October 11, 1988 Commission meeting, and possibly some other projects, will be applied as examples in the draft point system. The draft will be forwarded to the Commission members for their review and comments. Commissioner Gust said it is the Committee's recommendation that consulting engineers in the State be involved in the development of the point system.

Commissioner Gust commented that the point system will merely be a tool for assistance to both the staff and the Commission members in the decision-making process relative to consideration of MR&I water supply projects requesting MR&I funding.

GARRISON DIVERSION PROJECT -
PRESENTATION BY ANDY MORK,
CHAIRMAN OF MORTON COUNTY
WATER RESOURCE BOARD, TO
DISCUSS REQUEST FOR MR&I FUNDING
FOR COUNTY FEASIBILITY STUDY
(SWC Project No. 237-3)

Andy Mork, Chairman of the Morton County Water Resource Board, briefed the Commission members on water quality and water quantity problems in Morton County, particularly in the Crown Butte area. Mr. Mork said a request has been submitted for MR&I Water Supply Program funding for a feasibility study in Morton County, and noted the seriousness of the water needs in that county.

CONSIDERATION OF AGENCY
FINANCIAL STATEMENT

It was the recommendation of the State Engineer, and agreed to by the Commission members, that discussion and action on the agency's financial statement be deferred at this time.

DISCUSSION RELATIVE TO
SB 2035 - SWAMPBUSTER BILL
AND AMENDMENTS TO BE CONSIDERED
BY 1989 LEGISLATURE
(SWC Project No. 1810)

At its annual Conference held December 5 and 6, 1988, the North Dakota Water Users Association and the North Dakota Water Resource Districts Association adopted a resolution in support of amendments to SB 2035, which relates to the Swampbuster Bill. Commissioner Rudel read the following resolution and requested the State Water Commission to consider its support of the amendments to SB 2035:

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RESOLUTION #3 - SB 2035 - SB 2035 provides an opportunity for new drainage under Swampbuster, through the minimal effect provision, for those farmers who want to be in the farm program and raise annual crops. SB 2035 is also the only mechanism to achieve the Mid-Dakota Reservoir as a replacement to Sykeston. SB 2035 provides flexibility for farmers and opportunities to be paid for wetland areas. We support keeping SB 2035 in 1989 so that continued progress and benefits can be achieved. However, we also support continued study and review of these issues, and adoption of an appropriation position prior to the 1991 Legislature because a number of county water resource districts and others oppose the application of SB 2035.

SB 2035 was passed by the 1987 Legislature, but Secretary Fahy said the State Water Commission did not go on record in support of the bill because at that time the Commission decided it was a legislative policy matter primarily related to the amalgamation of wetlands into the statewide program. Since the 1987 Legislative Session, Secretary Fahy said our staff has been involved in many meetings of groups interested in wildlife and wetland matters including the North Dakota Water Users, North Dakota Game and Fish Department and agricultural interests. These meetings have included discussions of SB 2035.

It was moved by Commissioner Rudel that the State Water Commission support the amendments to SB 2035 relating to the Swampbuster Bill.

The motion died because of lack of a second.

Chairman Backes requested this item be placed on the agenda for the next State Water Commission meeting and directed staff to provide further information.

LEGISLATIVE REQUEST FOR
FUNDING FROM THE RESOURCES
TRUST FUND FOR THE 1989-1991
BIENNIUM

David Sprynczynatyk distributed copies of the State Water Commission request for funding from the Resources Trust Fund for the 1989-1991 biennium. This report was

prepared to satisfy the requirements of Section 57-51-1-07.1 (2) of the North Dakota Century Code requiring "Every legislative bill appropriating money from the Resources Trust Fund pursuant to Subsection 1, must be accompanied by a State Water Commission report."

At its October 11, 1988 meeting, the State Water Commission passed a motion recommending the allocation of \$6.7 million from the Resources Trust Fund for the 1989-1991 biennium. Mr. Sprynczynatyk said it was recommended that the \$6.7 million be appropriated in the line-item entitled "Contract Fund" and it is the intent of the Water Commission to allocate funds appropriated in the grants line-item as follows, and contingent upon the availability of funds:

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1) Sheyenne-Maple Flood Control Project	\$1.5 million
2) Garrison MR&I Water Supply Program	\$2.4 million
3) State Water Commission Contract Fund	\$2.05 million
4) Southwest Pipeline Project	\$.75 million
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Total	\$6.7 million

Mr. Sprynczynatyk said the 1985 Legislative Assembly appropriated \$905,000 to the Souris River Project. Due to project delays, funds were not expended during the biennium in which the appropriation was made available and the funds were carried over to the 1987-1989 biennium, in accordance with Section 54-44.1-11 of the North Dakota Century Code. Mr. Sprynczynatyk said at the present time there is a balance of \$862,000 from the 1985-1987 biennium, earmarked to the Souris River Flood Control Project, and it is possible that some or all of these funds will not be expended by the end of the current biennium. It was recommended that any remaining funds from the 1985-1987 biennium for the Souris River Flood Control Project be made available for expenditure during the 1989-1991 biennium.


Mr. Sprynczynatyk said the recommendation was also made that in the event the Resources Trust Fund receives revenues in excess of \$6.7 million that the excess be appropriated to the State Water Commission for the biennium beginning July 1, 1989 and ending June 30, 1991.

Mr. Sprynczynatyk explained that since Section 54-44.1-11 of the North Dakota Century Code allows for the carryover of certain funds but does not apply to appropriations made for grants, it was recommended that a special exclusion for grants be provided in the State Water Commission's appropriation if the contract fund is appropriated through the grants line-item.

It was moved by Commissioner Lardy, seconded by Commissioner Byerly, and unanimously carried, that the State Water Commission meeting adjourn at 12:15 p.m.


 George A. Sinner
 Governor-Chairman

ATTEST:


 Vernon Fahy
 State Engineer and Secretary

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