

**North Dakota State Water Commission**

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

**June 30, 2011  
9:00 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. ***Consideration of Award of Contract for Schedule A for Pipe Procurement for East Devils Lake Outlet Project*** \*\*
- D. Other Business:
  - 1) Reappointment of Commission Members Arne Berg, Maurice Foley, and Larry Hanson
- E. Adjournment

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

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## **MINUTES**

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

**June 30, 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 June 30, 2011. Governor Jack Dalrymple, Chairman, called the meeting to order at 9:00 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  
Larry Hanson, Member from Williston  
Jack Olin, Member from Dickinson  
Harley Swenson, Member from Bismarck  
Robert Thompson, Member from Page

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

Maurice Foley, Member from Minot  
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  
Andrea Travnicek, Office of the Governor, Bismarck  
Jennifer Verleger, Assistant Attorney General, Office of Attorney General, Bismarck  
Dave Thompson, Prairie Public, Bismarck

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.

**REAPPOINTMENT OF STATE  
WATER COMMISSION MEMBERS -  
ARNE BERG, DEVILS LAKE, ND;  
MAURICE FOLEY, MINOT, ND; AND  
LARRY HANSON, WILLISTON, ND**

Arne Berg, Devils Lake, ND, Maurice Foley, Minot, ND, and Larry Hanson, Williston, ND, were reappointed by Governor Dalrymple to serve six-year terms as members of the State Water Commission. Their reappointment terms are July 1, 2011 through June 30, 2017.

**EAST DEVILS LAKE OUTLET PROJECT -  
APPROVAL OF PIPE PROCUREMENT  
CONTRACT, SCHEDULE A, TO  
NORTHWEST PIPE COMPANY,  
SAGINA, TEXAS, IN THE AMOUNT  
OF \$4,397,348  
(SWC Project No. 416-15)**

On June 21, 2010, the State Water Commission considered the award of contract for the pipe procurement for the East Devils Lake outlet project. In discussion of the contract and because of the potential for legal issues, it was the consensus of the State Water Commission and in the best interests of the

state/project that all bids received for the pipe procurement contract, Schedule A, be rejected.

The project was rebid, bids were opened on June 27, 2011 for Bid Package A, High Pressure Segment - Steel, for the East Devils Lake outlet project. Three bids were received and were publicly opened and read. Based on the bids received for the 96-inch diameter pipe, the apparent low bidder for Schedule A, (high pressure steel, 8,000 linear feet) was Northwest Pipe Company, Saginaw, Texas, in the amount of \$4,397,348.

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 finalize and award the contract for Bid Package A, High Pressure Segment - Steel, to Northwest Pipe Company, Saginaw, Texas, in the amount of \$4,397,348.

***It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission authorize the secretary to the State Water Commission to finalize and award the contract for Bid Package A, High Pressure Segment - Steel, to Northwest Pipe Company, Saginaw, Texas, in the amount of \$4,397,348.***

**Commissioners Berg, Goehring, Hanson, Olin, Thompson, and Governor Dalrymple voted aye. Commissioner Swenson voted nay. Recorded votes were 6 ayes; 1 nay. Governor Dalrymple announced the motion carried.**

**NORTH DAKOTA DEVILS LAKE OUTLET - SHEYENNE RIVER CROSSING B (EDDY COUNTY) - STATUS REPORT (SWC Project No. 416-07)**

On October 26, 2010, the State Water Commission was informed of the inability of two river crossings located on the Sheyenne River downstream of the Devils Lake outlet to handle higher flows caused by the Devils Lake outlet.

The crossings are located in Eddy County in Section 19, Township 150 North, Range 64 West, and in Section 35, Township 150 North, Range 62 West. Since the required increased capacity at the crossings is to allow the Devils Lake outlet to operate, the state has a significant responsibility.

Because the State Water Commission's cost share policy does not currently recognize this issue, the Commission directed the cost share policy committee to address the issue. The recommendation from the cost share policy committee was to review concerns/cost share requests as received and to not develop a policy.

The State Water Commission further considered the request to upgrade the crossings in Eddy County at its December 10, 2010 meeting. Because of the complexity and uniqueness of each project, Governor Dalrymple called for a motion to consider each project request separately: 1) Crossing A (upstream) is located in Section 19, Township 150 North, Range 64 West (the original construction cost was \$293,000). On December 10, 2011, the State Water Commission approved an allocation not to exceed \$500,000 to support the upgrade for capacity of up to 800 cubic feet per second (cfs) for Crossing A.

On December 10, 2010, a motion was offered by the State Water Commission that state funding not be allowed for the upgrade of Crossing B located in Section 35, Township 150 North, Range 62 West, Eddy County. Representatives from Eddy County provided technical information at that meeting involving Crossing B issues relating to legal, liability, ownership, and right-of-way. It was the general consensus of the State Water Commission members that resolve of these issues required additional information in order to make an informed decision. A motion was made to lay the question of the motion on the table.

Commissioner Berg provided the Commission members with updated information following an onsite inspection and data from Eddy County representatives relating to the cost share request for the upgrade of Crossing B in Eddy County. It was the general consensus that although the information was valuable and appreciated, there are issues that remain unresolved.

There being no additional business to come before the State Water Commission, Governor Dalrymple adjourned the audio conference call meeting at 9:30 A.M.



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Jack Dalrymple, Governor  
Chairman, State Water Commission

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