

MINUTES

NORTH DAKOTA ATMOSPHERIC RESOURCE BOARD

March 28, 2002

A telephone conference call meeting of the Atmospheric Resource Board was called to order by Chairman Jay Sandstrom at 9:00 a.m. , Thursday, March 28, 2002. Roll call was taken and members participating were Jay Sandstrom, Chuck Thompkins, Mary Cichos, Hattie Melvin, Judith DeWitz, Dave Schmidt, Bobb Brewer, Dale Frink, Gary Ness, and Steven Weber. Staff members participating were Darin Langerud, Director; LeNor Dollinger, Business Manager; Dawn Feist, Project Assistant; Aaron Gilstad, Chief Meteorologist; and Chris Shulz, Research Meteorologist.

MINUTES

Mary Cichos moved the minutes of the October 25, 2001 meeting be approved as distributed. Second by Chuck Thompkins. Motion carried.

FINANCIAL STATUS REPORT

LeNor Dollinger reviewed the financial status report for the period ended February 28, 2002. There were no questions.

APPLICATIONS FOR WEATHER MODIFICATION LICENSE RENEWAL

Mr. Langerud informed the board that Weather Modification, Inc. (WMI) of Fargo has applied for renewal of their weather modification license and paid the \$50 fee. The names submitted are Mr. Patrick Sweeney, Mr. Hans Ahlness, Mr. James Sweeney, and Mr. Timothy Sedlock. Mr. Langerud recommended the license renewal from Weather Modification, Inc., in the names of Patrick Sweeney, Hans Ahlness, and Timothy Sedlock be approved. Mr. Langerud recommended Mr. James Sweeney not be licensed because he does not meet the requirements due to lack of field experience.

Mr. Langerud informed the board Mr. Thomas Henderson, Atmospherics Incorporated has applied for license renewal and paid the \$50 fee. Mr. Langerud recommended the license for Atmospherics, Inc. in the name of Thomas Henderson be approved.

Chuck Tompkins moved weather modification licenses be approved for Weather Modification, Inc., in the names of Patrick Sweeney, Hans Ahlness, and Timothy Sedlock; and, for Atmospherics Incorporated in the name of Thomas Henderson. Second by Bob Brewer. Members Chuck Tompkins, Mary Cichos, Hattie Melvin, Judith DeWitz, Dave Schmidt, Bobb Brewer, Dale Frink, Gary Ness, and Steven Schmidt voted aye. There were no nay votes. Motion carried.

APPLICATION FOR WEATHER MODIFICATION PERMITS

Mr. Langerud informed the board Weather Modification, Inc., has submitted permit applications for District I which would include Bowman County and nine townships in Slope County; and, also a permit application for District II which includes McKenzie, Mountrail, Ward, and Williams Counties. Mr. Langerud recommended the board grant the permits for Weather Modification, Inc., for District I and District II contingent upon public response.

Gary Ness made a motion to grant weather modification permits for District I and District II to Weather Modification, Inc., contingent upon public response. Second by Hattie Melvin. Members Chuck Tompkins, Mary Cichos, Hattie Melvin, Judith DeWitz, Dave Schmidt, Bobb Brewer, Dale Frink, Gary Ness, and Steven Schmidt voted aye. There were no nay votes. The motion carried.

MONTANA LICENSE & PERMITS

Mr. Langerud stated since the application for license and permit has been submitted to the Montana Department of Natural Resources (DNR) early in October, 2001, there have been a number of correspondence that have been exchanged regarding some specifics of the application. Everything has been resolved to the satisfaction of the Montana Department of Natural Resources with the exception of proof of financial responsibility. This is in reference to the insurance that the contractor Weather Modification, Inc. holds in relation to conduct of operations of the North Dakota project. Mr. Langerud stated a proposal has been submitted on March 18 that would address this situation and the DNR is reviewing that and will get back to us on the findings. We submitted on the behalf of the contractor (Weather Modification, Inc.) the insurance policy they hold that meets all the requirements of this board and also of other states they are doing business in (e.g. California, Oklahoma, and Texas). We are submitting to Montana that if the insurance policy meets our criteria and that of the other states, that it would meet their requirements also. Montana does have a ten million dollar requirement for liability for effects of weather modification. Weather Modification, Inc. currently maintains a \$5 million policy for consequential loss which fits into that category. The Montana statute also says, "other reasonable proposals will be reviewed by the department".

Regarding costs of the required environmental impact statement (EIS) in Montana, our legal counsel has found conflicting language regarding the DNR requiring North Dakota to pay the costs of the environmental impact statement required to secure a weather modification permit in Montana. One law sets caps on payback for environmental work. Mr. Langerud has inquired of Montana DNR which law takes precedence and how is this viewed by the Montana DNR.

The current estimate from the Montana DNR for the EIS is approximately \$146,000. The fee schedule under the administrative rule would set caps on the amount of money that could be recouped for conducting an environmental study. The law puts thresholds on cost and if that is applied to our situation, the fee for the EIS would be approximately \$3,000. It is unclear how these two laws fit together. At no time during the permitting process has DNR mentioned any conflicting statute. We are waiting a response to this question.

Chairman Sandstrom expressed the importance of this permit to the counties of McKenzie, Williams, and Bowman.

Mr. Langerud reported he had been contacted by a rancher from the Montana area in the southeastern part of that state requesting information about cloud seeding. Mr. Langerud was subsequently contacted by the Montana Farmers Union expressing interest in starting a project in Montana. The Montana environmental requirement was also discussed. Mr. Langerud has been invited to speak at the Montana Farmers Union annual meeting in June. They also intend to hold a public meeting that day with the intent to get something started operationally in Montana as soon as possible. Concern was expressed by the Montana Farmers Union about some of the environmental requirements and what it will take to put in place an operational project in Montana.

PILOT INTERN PROGRAM

LeNor Dollinger reported on efforts to determine, according to the Fair Labor Standards Act, if the NDARB pilot intern program meets criteria as a bonafide intern program. Ms. Dollinger stated that through discussions with legal counsel and the ND Department of Labor (DOL), the criteria used by the DOL to make this determination is being met by the board's intern program. The memorandum of understanding with the University of North Dakota and the statement of involvement for the program have been reviewed and clarified as to intent of the program. Ms. Dollinger stated legal counsel still is of the opinion that the courts would look at the program as an employer-employee relationship and a benefit to the board because of what the students do in the field. ARB staff will further pursue this issue.

NDARB STRATEGIC PLAN

Discussion was held on the NDARB Strategic Plan, prepared by the staff, and previously distributed to the Board for their review.

Dave Schmidt made a motion to approve the Strategic Plan. Second by Mary Cichos. Members Chuck Tompkins, Mary Cichos, Hattie Melvin, Judith DeWitz, Dave Schmidt, Bobb Brewer, Dale Frink, Gary Ness, and Steven Schmidt voted aye. There were no nay votes. The motion carried.

WEATHER DAMAGE MODIFICATION PROGRAM

Mr. Langerud reviewed actions to date to establish a weather damage modification program within the Bureau of Reclamation (BOR). He noted most recently a directive by OMB to the BOR to identify money within their budget for the Klamath Basin. The BOR has done that and one of the programs that was placed in the suggestions for reprogramming was the weather damage modification program. This means the money for the program could go elsewhere. It was noted that in any reprogramming effort in excess of 25% of the funds allocated in any particular program has to be approved by the committee that originally approved the legislation. The states have been assured that this will probably not happen. The North American Interstate Weather Modification Council (NAIWMC) has not heard at this time whether the reprogramming has been approved or defeated.

The NAIWMC recently presented a proposal to Congress to continue the program in FY 2003 at the level of \$3.5 million. The proposal was received very well and the NAIWMC is hopeful the program will be continued for next year.

Mr. Langerud noted the research team for NDARB will be meeting next month to discuss all of the options for research in North Dakota and to determine which ones are the most probable and then prepare a proposal for submission to the BOR.

INSURANCE INDUSTRY

It was noted a number of insurance companies are interested in a possible cloud modification project in North Dakota. This interest is a result of the losses sustained from the hailstorm in the Bismarck-Mandan area in June 2001. NDARB staff have given informational presentations at insurance industry meetings and also prepared estimated costs to carry out a project.

Mr. Chuck Tompkins stated the issues are how to equitably assess insurance companies for the costs of a project, and also concerns for perceived liability for effects of a weather modification project. Mr. Tompkins also expressed there may need to be a mandate to get the insurance companies to pay for a project. He feels the majority of the companies would pay voluntarily.

Mr. Langerud expressed the insurance industry in North Dakota could easily follow the model of the Canadian insurance industry in the Calgary-Red Deer Project.

2002 ARBCON

Aaron Gilstad reported the 2002 Atmospheric Resource Board Cooperative Observer Network will begin recording precipitation on April 1. He noted there are 778 observers for the 2002 recording season which is the 26th year of operation for the totally volunteer network.

OTHER BUSINESS

It was announced the NDCMP Ground School for all project personnel will be held in Bismarck at the State Office Building, May 22, 23 & 24.

Gary Ness complimented the ARB staff on the Strategic Plan that had been developed. He stated the plan is well put together, well tracked, and you can measure outcomes. He felt the staff did a very fine job on the NDARB Strategic Plan.

Mr. Langerud noted the staff will be beginning the process of budgeting for the 2003-2005 biennium. Governor Hoeven has called for submission of budgets at the 95% level of current general fund budgets for all agencies.

Mr. Langerud stated the intention to hold a summer board meeting in one of the operational districts. This would give board members the opportunity to actually see the radar and aircraft and meet the pilots and meteorologists. This would give the board some first-hand information from the people who are doing the work in the field.

Being no further business, Gary Ness made a motion to adjourn. Second by Mary Cichos. Motion carried.

HATTIE MELVIN, SECRETARY

JAY SANDSTROM, CHAIRMAN

Transcribed by LeNor Dollinger