

MINUTES

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

May 28, 2004

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on May 28, 2004. Governor-Chairman, John Hoeven, called the meeting to order at 10:45 AM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Curtis Hofstad, Member from Starkweather
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

STATE WATER COMMISSION MEMBER ABSENT:

Charles Halcrow, Member from Drayton

OTHERS PRESENT:

State Water Commission Staff
Lance Gaebe, Office of the Governor, Bismarck
William Hardy, Chair, Cavalier County Water Resource Board (by telephone)
Fred Stark, Mayor, City of Grafton (by telephone)
Mylo Einarson, City Administrator, City of Grafton (by telephone)
Terryl Williams, Grafton Project Engineer, St. Paul Corps of Engineers (by telephone)
Scott Jutila, St. Paul Corps of Engineers (by telephone)

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 Hoeven announced the agenda approved as presented.

CONSIDERATION OF FINAL DRAFT MINUTES OF APRIL 16, 2004 STATE WATER COMMISSION MEETING - APPROVED

The final draft minutes of the April 16, 2004 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Swenson, seconded by Commissioner Olin, and unanimously carried, that the final draft minutes of the April 16, 2004 State Water Commission meeting be approved as prepared.

**MOUNT CARMEL DAM
PRINCIPAL SPILLWAY
REPLACEMENT PROJECT -
AWARD OF CONTRACT TO
INDUSTRIAL BUILDERS, INC.,
WEST FARGO, ND
(SWC Project No. 1346)**

A contract was executed on January 9, 2004 with GEI Consultants, Inc. to investigate the causes of the March, 2003 partial failure of Mount Carmel Dam in Cavalier county and develop a design to repair the structure. The estimated construction and engineering inspection costs of the repair are \$3.0 million. The

State Water Commission approved funding on April 22, 2003 in the amount of \$320,000 for the initial costs associated with the emergency repairs and consulting engineering services; on February 11, 2004 in the amount of \$30,000 for the final project design costs; and on March 11, 2004 in the amount of \$2,500,000 (with an additional \$400,000 of contingency funding only if no other funding is obtained) for the costs associated with the replacement of the spillway and general repairs to Mount Carmel Dam.

On May 25, 2004, bids were opened for the Mount Carmel Dam Principal Spillway Replacement project. The project was bid with two alternatives associated with the modifications to the existing 66-inch diameter reinforced concrete pipe. One alternative was identified as the outlet works line item in the bid schedule consisting of the construction of a gated structure at the inlet to the reinforced concrete pipe and construction of an impact basin at the outlet of the reinforced concrete pipe. The costs associated with this alternative are \$180,000. The second alternative was identified as the low-level drawdown line item in the bid schedule consisting of the construction of a concrete headwall at the inlet of the reinforced concrete pipe and installation of a low-level drawdown to the concrete chute spillway. The costs associated with the low-level drawdown alternative are \$16,500.

There were five bids received from the following: Industrial Builders, Inc., West Fargo, ND; Industrial Contract Services, Grand Forks, ND; Marcy Construction Company, St. Louis Park, MN; Swingen Construction, Grand Forks, ND; and Wanzek Construction, Inc., Fargo, ND. No bids were rejected for non-compliance with the bidding documents. Based on the bids received, the apparent low bidder for the contract was Industrial Builders, Inc., West Fargo, ND, with a bid of \$2,679,300, which was below the project engineer's cost estimate. The project engineer reviewed the bids received and recommended the award of the Mount Carmel Dam Principal Spillway Replacement project contract to Industrial Builders, Inc., West Fargo, ND. The award of the contract and notice to proceed are dependent on the completion of the contract documents, and concurrence from legal counsel.

The State Water Commission has approved funding in the amount of \$3,000,000 for the principal spillway replacement project. Secretary Frink explained that the low-level drawdown alternative results in construction costs of \$2,499,300, engineering costs of \$342,444, and \$160,000 for contingencies. Secretary Frink explained that the outlet works alternative, which has features that are desirable from a dam safety standpoint, may be recommended at a later time if additional funding is received.

It was the recommendation of the State Engineer that the State Water Commission approve the award of the Mount Carmel Dam Principal Spillway Replacement Project contract, with the low-level drawdown alternative, in the amount of \$2,499,300, to Industrial Builders, Inc., West Fargo, ND. Funding for the contract will be provided from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

It was moved by Commissioner Olin and seconded by Commissioner Hillesland that the State Water Commission approve the award of the Mount Carmel Dam Principal Spillway Replacement Project contract, with the low-level drawdown alternative, in the amount of \$2,499,300, to Industrial Builders, Inc., West Fargo, ND. Funding for the contract will be provided from the funds appropriated to the State Water Commission in the 2003-2005 biennium. This motion is contingent upon the availability of funds.

Commissioners Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

APPROVAL OF REQUEST FROM CITY OF GRAFTON FOR COST SHARE PARTICIPATION OF \$4.8 MILLION FOR GRAFTON FLOOD CONTROL PROJECT (1999 SENATE BILL 2188) (SWC Project No. 1312)

A request from the city of Grafton was presented for the State Water Commission's consideration for state cost participation in the Grafton Flood Control project, which is proposed to reduce the long-term risk of catastrophic flood damages at Grafton. This project was identified

in 1999 Senate Bill 2188 that included a 50 percent non-federal cost share not to exceed \$4.8 million.

The project will consist of permanent improvements designed by the U.S. Army Corps of Engineers to contain a 100-year flood event and will include a dike west of the city, control structure, diversion structure and ditch, a dike north and east of the city paralleling the diversion channel, five road raises, the construction of three new railroad bridges, a new bridge at the U.S. Highway 81 crossing, mitigation for loss of floodplain forest habitat, and miscellaneous interior drainage structures. It is anticipated that construction could begin in September, 2004, with project completion tentatively scheduled for 2008. Construction permit No. 2064 is currently under review.

Under the proposed Project Cooperation Agreement between the Department of the Army and the city of Grafton, the city will be responsible for acquiring all lands, easements, and rights-of-way required for the construction, operation, and maintenance of the project. After a local vote by the citizens of Grafton on June 8, 2004, the Grafton city council will decide whether or not to proceed with the project.

The total estimated construction cost of the project is \$32,700,000, of which the Corps of Engineers will provide a federal cost share of 75 percent. The non-federal cost share (25 percent) for project construction is \$8,175,000, all of which is considered eligible for a 50 percent state cost participation of \$4,087,500. The request before the State Water Commission is for a 50 percent cost share in the amount of \$4,800,000. Funding for the project would come from the funds appropriated to the State Water Commission in the 2003-2005 biennium.

The hydraulic modeling provided by the Corps of Engineers indicates that the completed project will result in increased flood stages during a 100-year event. It is estimated that the 100-year water surface elevation upstream from the project will increase by 0.3 foot, rising to as much as 0.5 foot near the control structure. Downstream from the diversion outlet, it is anticipated that the rise attributable to the project during a 100-year flood would be less than 0.1 foot.

Because this rise has the potential to negatively impact residences outside the protected area, the city has been discussing the potential mitigation of those impacts. Seventeen (17) properties have been identified as most affected by the project. These are properties that are already flooded by a 100-year event without the project in place or where the properties would be inundated by the construction of the project. While the Corps of Engineers does not consider the impacts significant enough to warrant federal cost share of any mitigation measures, a preliminary cost estimate has been developed for providing ring dikes for the impacted residences. The total cost has been estimated at approximately \$1,551,206, although the need for extensive engineering and geotechnical analyses at many of the sites may be eliminated, decreasing the engineering and design costs of the mitigation measures.

Secretary Frink explained that as a condition of state funding, the city of Grafton will be required to execute a Memorandum of Agreement, serving as a mitigation plan for the 17 identified properties. The mitigation plan will outline the measures required for the rural residences that may be negatively affected as a result of the project. Flexibility will be provided in the form of mitigation that could be offered. Pursuant to the State Water Commission's cost share policy, up to 50 percent of the required mitigation may be eligible for state cost participation. Secretary Frink explained that the 50 percent cost share for mitigation for the Grafton Flood Control project would not be limited to the \$25,000 cap typically applied to ring dikes.

Fred Stark, mayor, and Mylo Einarson, administrator, city of Grafton, provided technical information relative to the project, and requested the State Water Commission's favorable consideration for state cost share participation of the non-federal costs. Terry Williams, Grafton project manager, and Scott Jutila, St. Paul Corps of Engineers, were in attendance via telephone. Mayor Stark stated that"The city of Grafton has been plagued by floods in the past that have inundated everything from local neighborhoods to the entire community. Each time the floodwaters rise, we build temporary levees or sandbag our homes. Unfortunately, many times these efforts fall short, as was the case this past spring. Without a flood control project in place, this flooding will continue to drain away the resources of our town and persist as a major obstacle of our economic growth. The prosperity of our community is dependent on preventing these frequent disasters from continuing to destroy our neighborhoods and dampen our spirit. A flood control project will also have benefits beyond the obvious flood protection. While the project being contemplated does have some challenges, it is the only viable alternative we have for a permanent solution to our flooding problems. Grafton now has an opportunity to control one of North Dakota's most commonly occurring natural disasters, and provide a safe place for its residents and businesses to thrive."

It was the recommendation of the State Engineer that the State Water Commission approve a cost share of 50 percent of the non-federal costs, not to exceed \$4,800,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for state cost participation in the Grafton Flood Control project. The \$4,800,000 includes funds for both the non-federal share of the federal project, and for funds associated with mitigation measures for the 17 rural residents impacted by the project. Affirmative action is contingent upon the availability of funds, execution of the Project Cooperation Agreement between the Department of the Army and the City of Grafton, execution of a Memorandum of Agreement between the North Dakota State Engineer and the City of Grafton, and the issuance of a construction permit from the North Dakota State Engineer.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that the State Water Commission approve a cost share of 50 percent of the non-federal costs, not to exceed \$4,800,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for state cost participation in the Grafton Flood Control project. The \$4,800,000 shall include funds for both the non-federal share of the federal project, and for funds associated with mitigation measures for the 17 rural residents impacted by the project. This motion is contingent upon the availability of funds, execution of the Project Cooperation Agreement between the Department of the Army and the City of Grafton, execution of a Memorandum of Agreement between the North Dakota State Engineer and the City of Grafton, and the issuance of a construction permit from the North Dakota State Engineer.

Commissioners Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**MISSOURI RIVER
(SWC Project No. 1392)**

On August 6, 2003, the State Water Commission approved Resolution No. 2003-08-507 requesting the North Dakota congressional delegation to make every effort to withhold all hiring, appointments, promotions, and salary increments within the Corps of Engineers until the Corps releases a new Missouri River Master Water Control Manual (Master Manual). The resolution was intended to serve as encouragement to the Corps of Engineers to release and implement a new Master Manual.

Although the Corps of Engineers has a new Master Manual for the Missouri River for the 2004 operating season in place, Lake Sakakawea and Lake Oahe continue to decline to record low levels. Because res-

ponses to the Commission's resolution have not been received to date from the North Dakota congressional delegation, the State Engineer was directed to send a follow-up letter.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the audio conference call meeting at 11:40 AM.

SEAL

John Hoeven, Governor
Chairman, State Water Commission

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
State Water Commission

