



North Dakota State Water Commission

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

**June 20, 2012
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>*
- C. *East Devils Lake Outlet Drain Permit***
- D. Other Business
- E. Adjournment

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

To provide telephone accessibility to the State Water Commission meeting for those people who are deaf, hard of hearing, deaf and/or blind, and speech disabled, please contact Relay North Dakota, and reference ... TTY-Relay ND ... 1-800-366-6888, or 711.

MINUTES

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

June 20, 2012

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 20, 2012. Governor Jack Dalrymple, Chairman, called the meeting to order at 9:00 a.m., and 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 Starkweather
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

STATE WATER COMMISSION MEMBER ABSENT:

Harley Swenson, Member from Bismarck

OTHERS PRESENT:

State Water Commission Staff
Jerod Tufte, Office of the Governor, 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

The agenda for the June 20, 2012 State Water Commission audio conference call meeting was presented; there were no modifications to the agenda.

It was moved by Commissioner Goehring, seconded by Commissioner Berg, and unanimously carried, that the agenda be accepted as presented.

**DEVILS LAKE EAST END OUTLET
DRAIN PERMIT NO. 3863 - AUTHORITY
FOR STATE ENGINEER'S PREPARATION
FOR DRAIN PERMIT APPEAL HEARING
(SWC Project No. 416-15)**

Application to Drain No. 3863 was received in the Office of the State Engineer on August 31, 2011 for the construction of the Devils Lake East End Outlet, located northwest of Tolna, N.D. in Ramsey, Benson, and Nelson

Counties. The State Engineer determined that the project was of statewide and interdistrict significance, and forwarded the application to the Ramsey and Towner Water Resource Districts on October 12, 2011, pursuant to N.D. Administrative Code § 89-02-01-08, which requires the State Engineer to refer the application "to the appropriate district within which is found a majority of the watershed or drainage area of the pond, slough, lake, or sheetwater, or any series thereof."

The Ramsey and Towner Water Resource Districts held a joint hearing on December 1, 2011, approved the application on January 19, 2012, and sent the application back to the State Engineer for further processing. The State Engineer approved the application on April 10, 2012.

Pursuant to North Dakota Administrative Code § 89-02-01-09.6, the Ad Hoc Downstream Group and the People to Save the Sheyenne submitted requests for a State Engineer's hearing on Drain Permit No. 3863 for the Devils Lake East End Outlet. The hearing is scheduled for June 22, 2012, for the purpose to receive evidence that support the petitioners' requests that they were factually aggrieved by the State Engineer's decision, and the material facts or conclusions they believe are in error. In the requests, many questions and concerns were presented regarding the downstream effects, operating plan, and the project design.

In a letter from the Office of the State Engineer, dated June 18, 2012, to the Chairman of the State Water Commission, the following questions were outlined:

- 1) Is there a hydraulic model or study that indicates the natural channel capacity of the Sheyenne River and the effects to the adjacent land from the operation of the Devils Lake East End Outlet (EEO)? What are the downstream effects indicated in the model associated with the additional volume of water from the EEO?
- 2) There is concern by the petitioners that the EEO will adversely affect downstream cities such as Valley City. What conditions would cause the EEO to shutdown (i.e. storm events, flooding levels downstream, etc.)?

- 3) There is concern by the petitioners that the EEO will cause excessive erosion of the Tolna Coulee and the Sheyenne River. Has the State Water Commission evaluated the potential for erosion of the Tolna Coulee and the Sheyenne River? How does the State Water Commission plan to mitigate for possible erosion caused by the EEO?
- 4) There is concern by the petitioners that Devils Lake water discharged by the EEO will negatively affect fish, mussel, and other aquatic organism populations and habitat downstream of the EEO. Is the State Water Commission aware of any studies related to the potential effects on aquatic organisms and, if so, how has this been taken into consideration in the design and operation of the EEO?
- 5) A 2002 study conducted by Peterson Environmental Consulting for the U.S. Army Corps of Engineers lists ways soils could be salinized along the Sheyenne River by Devils Lake water. Has the State Water Commission considered the possibility of salinization of downstream soils and, if so, how will it be handled?
- 6) How are the sulfate levels monitored on the Sheyenne River above and below Baldhill Dam?
- 7) If the sulfate levels exceed water quality standards, how will it affect the operations of the EEO?
- 8) If Devils Lake starts to overflow naturally, how will the EEO be operated?
- 9) In the current operation plan for the EEO, it is stated that the intent is "to remove water from Devils Lake while maintaining river levels and water quality at acceptable levels downstream." Please elaborate on the decision-making process in determining "acceptable levels downstream."
- 10) There is concern by the petitioners that a rock filter will not be effective in filtering Devils Lake water and that a sand filter should be used instead. Please clarify what materials were used in the EEO's rock filter.

It was Governor Dalrymple's recommendation that the State Water Commission instruct the Chief Engineer-Secretary to the State Water Commission to develop responses to the questions outlined in the June 18, 2012 letter from the Office of the State Engineer in preparation for the Devils Lake East End Outlet Drain Permit No. 3863 appeal hearing, scheduled for June 22, 2012.

It was moved by Commissioner Goehring and seconded by Commissioner Berg that the State Water Commission instruct the Chief Engineer-Secretary to the State Water Commission to develop responses to the questions outlined in the June 18, 2012 letter from the Office of the State Engineer in preparation for the Devils Lake East End Outlet Drain Permit No. 3863 appeal hearing, scheduled for June 22, 2012.

Commissioners Berg, Foley, Goehring, Hanson, Olin, Thompson, Vosper, and Governor Dalrymple voted aye. There were no nay votes. Governor Dalrymple announced the motion unanimously carried.

There being no further business to be considered by the State Water Commission, Governor Dalrymple adjourned the audio conference call meeting at 9:10 a.m.



Jack Dalrymple, Governor
Chairman, State Water Commission

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