

MINUTES OF A REGULAR MEETING

of the

STATE WATER CONSERVATION COMMISSION

Held at Williston, N. Dak., Wednesday, July 17, 1940, in the Williston Chamber of Commerce Office.

The regular meeting of the State Water Conservation Commission was called to order by the Chairman, Governor John Moses, at 10 o'clock A. M., July 17, 1940, in the office of the Williston Chamber of Commerce.

On roll call the following members were present: Governor John Moses Chairman; Kenneth W. Simons; Einar H. Dahl; and S. W. Thompson. Absent, Henry Holt, Vice Chairman.

After a discussion of the minutes of the previous meeting of the Commission, held April 18 and 19, 1940, it was moved by Comm. Simons, seconded by Comm. Thompson, that the minutes be approved as corrected. The motion carried, all Commissioners voting aye.

The Secretary presented a report of engineers on the adjudication of the waters of the Mouse (Souris) River. Comm. Thompson gave a supplementary verbal report on the Hearing held in Minot, June 22nd, by the International Joint Commission regarding that subject. It was moved by Comm. Dahl, seconded by Comm. Thompson, that the reports of Mr. Thompson and State Engineer Thomas be accepted and placed on file. The motion carried, all Commissioners voting aye.

The Secretary explained the agreement between the Agricultural Experiment Station, National Youth Administration, Williston High School and the Commission for the operation of the Lewis and Clark Experimental Farm. He stated that the 80 acres provided by the 1939 Legislature for this farm have been traded for 40, 10, and 30 acre pieces, and the original 80 acres purchased by the Commission so that it can be developed.

The Memorandum of Agreement for the Operation and Maintenance of the irrigation experimental farm was read and discussed. It was moved by Comm. Simons, seconded by Comm. Thompson, that the Chairman and Secretary of the Board be authorized to execute the contract covering the operation of the Lewis and Clark Experimental Farm and that this Memorandum of Agreement be used as the contract to be signed, the operation and execution of same to be placed in the hands of the Chairman and Secretary of the Commission. On roll call the motion carried, Comms. Thompson, Dahl, Simons and Governor Moses, voting aye. Absent, Vice Chairman Holt.

The Secretary read a list of Federal Legislation pending, or recently passed, which is of interest to the Water Commission. It was moved by Comm. Simons, seconded by Comm. Thompson, that the Commission, through its Secretary, ask our Congressional representatives in Washington to support the Case-Wheeler Act, Senate Bill 1802, and legislation tending to increase the sugar beet acreage, particularly in the state of North Dakota, and any and all other legislation pending or to be introduced in our National Congress, concerning water use, reclamation, agriculture, flood control or such other interrelated subjects as are of most vital concern to the farmers of this state. The motion carried, all Commissioners voting aye.

A report on the cost analysis of the Lewis and Clark Project, which was recently completed by C. L. Sweet and H. F. McColly, was given by the Secretary. It was moved by

Comm. Dahl, seconded by Comm. Simons, that the report be approved and placed on file. The motion carried, all Commissioners voting aye.

The Secretary gave the Commission information on AAA dams, particularly those over 10' in height and 30 acre feet storage. It was moved by Comm. Simons, seconded by Comm. Thompson, that the Chairman and Secretary be authorized and directed to negotiate and contract for and set up a cooperative system with the AAA, which in their judgment will facilitate the operation of the State Water Conservation Commission in the administration of the law pertaining to the construction of dams containing 10' of water or more or 30 acre feet of water or more. The motion carried, all Commissioners voting aye.

Various requests for water rights were read by the Secretary.

It was moved by Comm. Dahl, seconded by Comm. Simons, that the water right requested by the Soil Conservation Service for the Cartwright Irrigation District, Project #36, from the Yellowstone River, for 2,000 acre feet annually, rate of diversion 18 c.f.s., be granted. The motion carried, all Commissioners voting aye.

It was moved by Comm. Simons, seconded by Comm. Thompson, that Mr. E. R. Fritch, Valley City, be granted the right to divert water from the Sheyenne River, the total annual diversion to be 37½ acre feet and the rate of diversion at 0.31 c.f.s., and that Mrs. Ruth Ackerson, Christine, N. Dak., be granted a water right on the Wild Rice River in an amount not to exceed 40 acre feet at the rate of 0.50 c.f.s., and that Arthur Leno of Mott, be granted the right to divert from the Cannonball River 60 acre feet at the rate of 0.37 c.f.s. The motion carried, Commissioners all voting aye.

The Commission discussed the matter of the advisability and necessity of obtaining dependable data as to water that could be allocated from the various streams of the state without injury to the primary necessity--that is the domestic water supply.

It was moved by Comm. Thompson, seconded by Comm. Simons, that this Commission hereby initiates a right to the water in the Yellowstone River for the Yellowstone Pumping Project #214, in Sections 5 and 6 - 149 - 60 and Sections 19-20-21-28-29-30-31 and 32 - 150 - 60, McKenzie County. The irrigable land is approximately 1810 acres, annual diversion 4525 acre feet, rate of diversion by pumping 25.0 second feet during irrigation season. The Secretary is hereby directed to execute the declaration and make filings in accordance with Section 16, Chapter 256, Session Laws 1939, by which the water right shall vest in this Commission from the date of such filing. On roll call the motion carried, all Commissioners voting aye.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Governor be asked to appoint a North Dakota representative to discuss with the representatives of Montana and Wyoming the allocation of the waters of the Yellowstone River, as contemplated in a recent enactment of Congress, who would be a member of that Commission. The motion carried, all Commissioners voting aye.

At 12:30 P.M. the Commission declared a recess until 1:30 P.M.

At 1:30 P.M. the meeting reconvened with Comms. Thompson, Dahl, Simons and Governor Moses, present. Absent, Vice Chairman Holt.

It was moved by Comm. Thompson, seconded by Comm. Simons, that the Commission cooperate with the Bureau of Geological Survey in its stream gaging efforts by appropriating the

sum of \$200.00 required to meet the Federal monies expended for said purpose, \$100.00 of which shall be taken from the budget of the Tri-State Waters Commission and \$100.00 from such other budget as may legally and properly be available for said purpose, such allocation to be definitely made and designated by the Secretary of the Commission. On roll call the motion carried, Comms. Simons, Thompson, Dahl and Governor Moses voting aye. Vice Chairman Holt, absent.

A progress report on staff activities, State Advisory Board, was read by the Secretary and copies distributed to each Commissioner. The Secretary was directed to place the report on file.

The Secretary read the report of the State Engineer on the Upper Missouri Valley Association convention at Yankton. It was moved by Comm. Thompson, seconded by Comm. Simons, that the report be received and placed on file. The motion carried, all Commissioners voting aye.

Comm. Simons brought up the matter of the Bismarck Irrigation Project. He stated that the Bismarck Chamber of Commerce may be willing to raise some money to aid in negotiating for land. There was a discussion of the project.

The following resolution was presented by Comm. Simons, who moved its adoption, which motion was seconded by Comm. Dahl:

WHEREAS, it is necessary to issue and sell Water Conservation Commission revenue bonds in the principal amount of One Hundred Thousand Dollars (\$100,000.00), or so much thereof as shall be found necessary to pay the purchase price of certain tracts of land situated within the proposed Bismarck Irrigation Project in Burleigh County, North Dakota, and to pay such incidental expenses as may be necessary in acquiring these lands.

NOW, THEREFORE, BE IT RESOLVED By the State Water Conservation Commission: That State Water Conservation Commission Revenue Bonds, Series G, be issued and sold in the aggregate principal amount of One Hundred Thousand Dollars (\$100,000.00) or so much thereof as shall be found necessary to pay the purchase price of certain tracts of land situated within the proposed Bismarck Irrigation Project in Burleigh County, North Dakota, and to pay such incidental expenses as may be necessary in acquiring these lands.

That State Water Conservation Commission Revenue Bonds, Series G, be issued in denominations of \$100.00 or multiples thereof, and that such bonds shall be payable over a period of thirty years as follows, to-wit:

\$ \_\_\_\_\_ on or before January 31, 1951.  
\$1,000.00 on or before January 31 in each of the years 1952 to 1971 inclusive.  
That each of the bonds shall be numbered consecutively, beginning with Bond No. 1, and shall bear interest at the rate of four percent (4%) per annum, provided however, that interest up to and including January 31st, 1943, shall be accrued and shall be payable on or before January 31st, 1943.

That each bond shall be callable at the option of the State Water Conservation Commission upon any interest payment date upon thirty (30) days prior notice which shall be given by publication once in a newspaper of general circulation in Burleigh County, North Dakota, by payment of the par value thereof and interest thereon to the date of redemption. If thus called for redemption, this bond shall cease to bear interest after the date fixed for redemption. That such bonds shall be substantially in the following form, to-wit:

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STATE OF NORTH DAKOTA  
STATE WATER CONSERVATION COMMISSION REVENUE BOND

SERIES G.

No. \_\_\_\_\_ \$ \_\_\_\_\_

The State Water Conservation Commission, a body corporate, created, organized and existing under and by virtue of Chapter 256 of the Session Laws of North Dakota for the year 1939, for value received, hereby undertakes and promises to pay from the special fund herein mentioned to the bearer hereof, or if this bond be registered, to the registered owner hereof, on or before the 31st day of January, 19\_\_\_\_, the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) and interest thereon from the date hereof at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum. Principal and interest on this bond shall be payable at the office of the State Treasurer of North Dakota in any coin or currency of the United States of America, which on the date of payment of principal and interest on this bond is legal tender for the payment of public and private debts.

This bond is one of a duly authorized issue of bonds known as State Water Conservation Commission Revenue Bonds, Series G, limited in the aggregate principal amount to One Hundred Thousand Dollars (\$100,000.00) (except for bonds issued in substitution for bonds lost, stolen or destroyed), all of like tenure. Said bonds are issued to provide funds for the purchase of certain tracts of land situated within the proposed Bismarck Irrigation Project in Burleigh County, North Dakota, and to pay such incidental expenses as may be necessary in acquiring these lands.

The principal and interest of this bond will be payable from a special fund created by payments to the State Water Conservation Commission from the sale of said lands, or parts thereof, and from rent received for the use thereof. This bond is, and will be secured by a trust deed to said land made and delivered to the Bank of North Dakota as Trustee under and by virtue of a Trust Indenture to be entered into between the Commission and the Bank of North Dakota. The State Water Conservation Commission has further secured the payment of the principal and interest of State Water Conservation Commission Revenue Bonds, Series G, by irrevocably pledging and hypothecating to the Bank of North Dakota as such Trustee, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), guaranteeing the payment of principal and interest to that extent under and by virtue of sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939.

The State Water Conservation Commission covenants that revenues derived from the sale of said lands, or any part or portion thereof, and from rents received for the use of said land, will be paid to the Bank of North Dakota as Trustee and deposited by said Trustee in the office of the State Treasurer of North Dakota in a fund known as State Water Conservation Commission Revenue Bond Payment Fund, Series G, that a trust deed has been delivered to the Bank of North Dakota under which said bank will hold said deed in trust for the owners of State Water Conservation Commission Revenue Bonds, Series G, and that the Commission has, under and by virtue of Sub-division 4 of Section 21 of Chapter 256, Laws 1939, irrevocably pledged and hypothecated \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to insure and guarantee the payment to that extent of the principal and interest of said bonds.

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The State Water Conservation Commission reserves, and shall have, the right to redeem this bond on any interest paying date upon at least thirty (30) days prior notice by publication once in a newspaper of general circulation in Burleigh County, North Dakota, by payment of the par value thereof and interest thereon to date of redemption. If thus called for redemption, this bond shall cease to bear interest after the date fixed for redemption.

This bond shall be deemed to be a negotiable instrument under the laws of the State of North Dakota, as declared by Chapter 256 of the Session Laws of 1939, and is issued with the intent that the laws of said state shall govern the construction thereof. The title to this bond shall pass by delivery except when registered at the office of the State Water Conservation Commission, or in the office of the Trustee, and after such registration, no transfer hereof shall be valid unless made at the office of the Secretary of the Commission, or Trustee, by the holder hereof in person or by attorney duly authorized in writing.

This bond is issued and delivered under and by virtue of, and in strict compliance with Chapter 256 of the Session Laws of North Dakota for 1939. The State Water Conservation Commission hereby certifies and declares that all acts, conditions and things required to be done, have been done and happened and do exist, and have been performed in accordance with law.

IN WITNESS WHEREOF, the State Water Conservation Commission has caused this bond to be signed by the Governor of the State of North Dakota, as its ex-officio chairman, and the seal of the State Water Conservation Commission to be affixed, all duly attested to by the Secretary of the Commission.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1940, at Bismarck, North Dakota.

\_\_\_\_\_  
Governor of the State of North Dakota as  
Ex-officio Chairman of the State Water  
Conservation Commission.

(S E A L)

Attest \_\_\_\_\_  
Secretary, State Water Conservation  
Commission.

C O U P O N

No. \_\_\_\_\_

On the 31st day of January, 19\_\_\_\_, unless the bond to which this coupon is attached shall have been called for redemption, as provided therein, the State Water Conservation Commission of North Dakota will pay to the bearer at the office of the State Treasurer in the City of Bismarck, North Dakota, the sum of \$\_\_\_\_\_ in any coin or currency of the United States of America which on said date of payment is legal tender for the payment of public and private debts, solely from the Series G, Bond Payment Fund in payment of the annual interest due at the date hereof upon its State Water Con-

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ervation Commission Revenue Bond, Series G.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1940.

STATE WATER CONSERVATION COMMISSION

By \_\_\_\_\_  
Governor of North Dakota  
Ex-officio Chairman.

ATTEST:

\_\_\_\_\_  
Secretary

BE IT FURTHER RESOLVED: That the Chairman and Secretary of the Commission be, and they are hereby, directed, for an on behalf of the Commission to enter into a Trust Indenture with the Bank of North Dakota for the security and protection of owners of State Water Conservation Commission Revenue Bonds, Series G, and under the terms of such Trust Indenture to make, execute and deliver to the Bank of North Dakota a trust deed to the lands hereinbefore mentioned and described and, under and by virtue of Sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939, to deposit, hypothecate and pledge to the Bank of North Dakota as Trustee the sum of \$ \_\_\_\_\_ to guarantee to that extent the payment, when due, of the principal of and the interest on State Water Conservation Commission Revenue Bonds, Series G.

On roll call the motion carried, Comms. Simons, Dahl, Thompson and Governor Moses voting aye. Vice Chairman Holt, Absent.

It was moved by Comm. Simons, seconded by Comm. Thompson, that bond resolution providing for the issuance of bonds not to exceed \$30,000.00 for the purchase of land on the Kyes Project at Livona, said project to be constructed in cooperation with the Soil Conservation Service, be passed. Following is the resolution:

RESOLVED: That the State Water Conservation Commission issue its negotiable Revenue Bonds, Series H, in the aggregate amount of \$30,000.00, maturing serially over a period of thirty years and bearing interest at the rate of 4 per cent per annum and that proceeds obtained from the sale of such bonds be used to purchase lands situated within the proposed Kyes Irrigation Project in Emmons County, North Dakota, and to develop such lands for irrigation.

On roll call the motion carried, Comms. Thompson, Dahl, Simons and Governor Moses voting aye. Vice Chairman Holt, absent.

It was moved by Comm. Simons, seconded by Comm. Dahl, that if and when it becomes necessary to obtain labor in addition to WPA, or supplementary thereto, on the Lewis and Clark or other projects, that the possibility of obtaining labor from the State Penitentiary be discussed with the Board of Administration and that if it is possible to obtain such labor, that arrangements be made. On roll call the motion carried, Comms. Thompson, Dahl, Simons and Governor Moses voting aye. Absent, Vice Chairman Holt.

Copies of the financial statement for June 1940, were presented to the Commissioners. Following is the financial statement:

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NORTH DAKOTA STATE WATER CONSERVATION COMMISSION  
MONTHLY REPORT JUNE 1 to JUNE 30, 1940  
1930 APPROPRIATION

U Underrun  
O Overrun

	Total Appropriation 24 months	Expended to May 31 1940	Balance May 31 1940	Agreed Reduction	Balance Available	Available Per Month	June Expenses	June Overrun or Underrun	
Commissioners' Per Diem	4,200.00	707.00	3,493.00	1,200.00	2,293.00	176.38	-----	176.38	U
Administration	*30,000.00	12,369.65	17,630.35	1,000.00	16,630.35	1,279.26	*1,127.98	151.28	U
Const. Bond Guarantee	50,000.00	1,280.00	48,720.00	10,000.00	38,720.00	2,978.46	-----	2,978.46	U
Lewis & Clark Exp. Farm	4,000.00	28.15	3,971.85	250.00	3,721.85	286.30	866.11	579.81	O
Sponsor's Share Dams	7,000.00	428.35	6,571.65	2,000.00	4,571.65	351.67	118.39	233.28	U
Engineering & Soil Surveys	1,000.00	117.25	882.75	180.00	702.75	54.06	-----	54.06	U
Designs & Reports-Mo. Riv.	500.00	123.29	376.71	300.00	76.71	5.90	14.92	9.02	O
Goose River Diversion	500.00	375.00	125.00	100.00	25.00	1.92	-----	1.92	U
James River-Lake Traverse	1,600.00	804.21	795.79	750.00	45.79	3.52	-----	3.52	U
Invest. & Survey - Mo. Riv.	3,000.00	528.85	2,471.15	2,000.00	471.15	36.24	4.07	32.17	U
Evaluation Economic Benef.	1,000.00	214.74	785.26	700.00	85.26	6.56	-----	6.56	U
Reports and Conferences	1,000.00	526.64	473.36	300.00	173.36	13.34	-----	13.34	U
Tri-State Water Confer.	5,600.00	2,063.35	3,536.65	600.00	2,936.65	225.90	154.88	71.02	U
Inter. Invest. & Reports	1,600.00	655.23	944.77	600.00	344.77	26.52	-----	26.52	U
<b>TOTALS</b>	<b>\$111,000.00</b>	<b>20,221.71</b>	<b>90,778.29</b>	<b>19,980.00</b>	<b>70,798.29</b>	<b>5,446.03</b>	<b>2,286.35</b>	<b>3,159.68</b>	<b>U</b>

\*This "revolving fund" Expenditures on Projects Repayable  
\*39,145.55 (to May 31)  
\* " " " Collections Received  
\*28,232.47 (to May 31)

\*June Expenses on Projects Repayable \*1903.07

\*June Collections Received \*2355.92

There being no further business, it was moved by Comm. Dahl, seconded by Comm. Thompson, that the meeting adjourn. The motion carried, all Commissioners voting aye.

Respectfully submitted,

W. F. McCollly  
Secretary

APPROVED:

Amey Hobb  
Vice Chairman