

MINUTES OF A MEETING
OF THE
STATE WATER CONSERVATION COMMISSION

Held in the Commission Office, Capitol Bldg., Dec. 18, 1942

The regular meeting of the State Water Conservation Commission was called to order at 10:00 A.M., Friday, December 18, 1942, in the Commission Office in the Capitol Building, Bismarck. Roll was called with Vice Chairman Holt and Comms. Thompson and Dahl present. Governor Moses and Comm. Simons absent. Vice Chairman Holt presided.

Minutes of the last meeting of the Commission, held in Bismarck on November 20, 1942; and the Emergency Meeting of the Commission held in Bismarck on December 15, 1942, having been noted, motion was made by Comm. Dahl and seconded by Comm. Thompson that the minutes be approved and placed on file. Motion carried, all Commissioners voting aye.

The bookkeeper submitted the following reports for the information of the Commissioners, as well as the regular financial reports:

Bank Accounts
Bonds Authorized
Lands owned by the State Water Commission
Status of Notes
Distribution Sheets

Motion was made by Comm. Thompson and seconded by Comm. Dahl that financial statements be approved and placed on file. Motion carried, all Commissioners voting aye.

The Secretary stated that he would have forms printed for the engineers to fill in, stating their expenses, project on which they were working, etc., for the information of the bookkeeper.

Comm. Thompson reported on the results of his attempting to obtain rights of way from Mr. Harke and Mr. McCulloch for the Bismarck Victory Garden Project No. 326. Comm. Thompson contacted Mr. McCulloch, but he was out of town. He felt that the Commission could very probably purchase the right of way from Mr. McCulloch, and stated that on December 15th at the Emergency Commission Meeting it had been voted to offer him \$300.00 an acre for the land (Commission to purchase only four-tenths of an acre) or even higher, rather than cause condemnation proceedings.

Comm. Simons and Mr. Marc Connolly, Assistant Secretary of the Greater North Dakota Association, Fargo, came into the meeting.

Comm. Thompson explained the steps which are necessary to take in connection with the Harke matter. The first step was the passing of the exigency resolution which had been done at the meeting of November 20, 1942; then the filing of the plat of the land; third, evaluation of the land, which was done at the emergency commission meeting held in the Governor's Office, December 15, 1942; and fourth, offer to purchase the land was handed to Mr. Harke. Comm. Thompson explained that Mr. Harke had rejected the offer by letter, and that it was necessary now to adopt a petition to County Commissioners of Burleigh County to proceed with Condemnation Proceedings. Comm. Thompson felt that the notice published by the County Commissioners should include anyone who has a lien on this property - Highway Department - Montana-

Dakota Utilities Company (Gas Company), etc.

Comm. Thompson stated that he had talked to Attorney General Strutz, who seemed willing to appoint Mr. Milton K. Higgins as Special Assistant Attorney General to handle the Harke, McCulloch and Wachter matters for the Commission; and further, that the Attorney General would pay Mr. Higgins for this work.

Motion was made by Comm. Thompson and seconded by Comm. Simons that the Commission ask the Attorney General of the State of North Dakota, to appoint Mr. Milton K. Higgins as Special Assistant Attorney General for the purpose of representing the Water Commission in the negotiations and in the condemnation proceedings, if necessary, with respect to lands to be acquired in connection with the Bismarck Victory Gardens belonging to A. C. Harke, C. S. McCulloch and Wachter interests. Roll was called with Comm. Simons, Comm. Thompson, Comm. Dahl and Vice Chairman Holt voting aye. Motion carried.

Comm. Thompson explained that it was impossible for him to stay on in Bismarck for the purpose of following up these matters, and that Mr. Higgins could handle the matter, prepare notices for the County Commissioners to print, and see that the matter is handled correctly. Vice Chairman Holt suggested that the Secretary check and see that these things are done.

It was Comm. Thompson's opinion that if the Attorney General will not pay for Mr. Higgins' services, the Commission ought to do so. He felt that Mr. Higgins should first give an opinion on the abstract of Mr. Harke's land.

The Secretary read a list of people invited to speak on water conservation over KFJR during the 15-minute period allotted to the State Water Conservation Commission, free of charge, every Friday night. Commissioners suggested names to be added to the list. It was decided that Governor Moses would speak at 9:00 P.M., December 18th - Comm. Simons at 9:00 P.M., December 25th - Lt. Governor Oscar W. Hagen of Watford City on January 1, 1943 - and Bishop Vincent J. Ryan, Bismarck, on January 8th. The Secretary explained that Commissioner John C. Page, Bureau of Reclamation, Washington, D.C., would send transcriptions to be used in place of speakers. It was suggested that the transcript made by Mr. Page should be run off for the members of the senate and house, when it was received here.

With reference to House Resolution 7782, Post-War Planning Bill, Vice Chairman Holt suggested that the Secretary write to Mr. Fred J. Fredrickson and ask that he "get on" this bill.

It was suggested by the Secretary that the Water Commission should ask W.P.A. for records on proposed projects, plans, specifications, surveys and other information. It was suggested that Comm. Simons and Mr. J. J. Walsh should arrange to see Mr. Thomas Mordie, State Director of WPA, on this matter.

The Secretary raised the question as to whether the powers and duties of the State Planning Board were turned over to the Water Commission at the time the State Planning Board was dissolved. Vice Chairman Holt suggested that the Commission ask the Attorney General for an opinion on that question.

Motion was made by Comm. Simons and seconded by Comm. Thompson that the Secretary be directed to ask the Attorney General for an opinion, as to the duties and powers devolving upon the Water Commission by reason of the repeal of the act providing for the State Planning Board; and that the Secretary be further asked to request from the Greater North Dakota Association the minutes of the State Planning

Board which may be in their possession. Motion carried, all Commissioners voting aye.

Vice Chairman Holt explained that the Bois de Sioux project saved the farmers of that area approximately \$500,000 in flood damages during the year 1942, and expressed the thought that it would be a good argument for the Water Commission's proposed budget.

Comm. Simons expressed the thought that the Commission should put in a bill authorizing the Commission to cooperate with the Federal Government if the Post War Planning Bill goes through. "We ought to have authorization to cooperate if the opportunity should arise, and spend any surplus money we have appropriated in other projects", said Comm. Simons.

Honorable Oscar W. Hagen, Lieutenant Governor of North Dakota, came into the meeting.

Discussion followed as to what projects the Commission should put engineers on to work at the present time, and it was decided that Kyes Project would be number one, and Painted Woods Project, number two.

It was moved by Comm. Simons and seconded by Comm. Dahl that the Secretary and Chief Engineer be directed to put engineers to work on the development of final plans and specifications on (1), Kyes Project, and (2), Painted Woods Project. Roll was called with Comms. Simons, Thompson, Dahl and Vice Chairman Holt voting aye. Motion carried.

Lt. Governor Hagen agreed to talk over KFJR on Friday night, January 1st, 1943, at 9:00 P.M., on water conservation.

Meeting recessed at 12:30 P.M., to reconvene at 1:30 P.M.

Meeting reconvened at 1:30 P.M., with Vice Chairman Holt and Comms. Dahl, Thompson and Simons present. Governor Moses absent.

Lt. Governor Oscar W. Hagen and Mr. Marc J. Connolly, Fargo, were also present.

Motion was made by Comm. Thompson and seconded by Comm. Dahl that the Commission accept compromise settlement offered by Mr. V. M. Craven, Project No. 6, and the amount of \$20.35 be charged to profit and loss and that the Chairman and Secretary be authorized to execute Satisfaction of Real Estate Mortgage to Mr. Craven. Roll was called with Comms. Simons, Thompson, Dahl and Vice Chairman Holt voting aye. Motion carried.

With regard to the Interim order received from the International Joint Commission, Comm. Thompson stated that the only thing North Dakota could do would be to see that the order didn't stay permanently. As the agreement stood, the Province of Manitoba was entitled to 10 cubic feet per second of water from the Souris during June, July, August, September and October, whereas, the new Interim Order asks for 20 cubic second feet of water during that time. Vice Chairman Holt suggested that the Secretary write to the International Joint Commission stating that the Water Commission would like to enter protest on the increase in this allotment.

It was moved by Comm. Thompson and seconded by Comm. Simons that the Secretary be directed to write to Jesse B. Ellis, in reply to his letter of November 24th, giving him the facts insofar as the present status of the waters of the Souris River are concerned and enter protest on behalf of North Dakota to amend the Interim Order. It was suggested by Comm. Thompson that before any final order is made, additional hearings be had so that further evidence may be taken with respect to the flow of the Mouse River. Motion carried, all Commissioners voting aye.

The Commissioners passed over the bill for membership in the Association of Western State Engineers.

After considerable discussion, it was decided to ask the Directors of the Greater North Dakota Association to hold a meeting in Bismarck some time during the week of January 12th to 17th, preferably on the 14th, at which time the Water Commission would meet and invite the Board of Directors to meet with the Commission for a short time to discuss problems of mutual interest. The Secretary was asked to get in touch with Mr. Connolly in this regard. It was further decided to invite members of the American Legion and North Dakota Reclamation Association to attend the meeting.

Vice Chairman Holt left the meeting for a time. Comm. Thompson presided.

Lt. Governor Hagen left the meeting.

A discussion of the forthcoming Yellowstone River Compact was held. Motion was made by Comm. Simons and seconded by Comm. Dahl that the Secretary and Assistant Attorney General be authorized and directed to attend the Yellowstone River Compact Commission meeting to be held in Billings, Montana on December 29th. Roll was called with Comms. Simons, Dahl and Thompson voting aye. Governor Moses and Vice Chairman Holt absent. Motion carried.

The Secretary was requested to submit a copy of the proposed Yellowstone River Compact to Attorney General Strutz for his perusal and opinion, and to determine who is authorized to sign the final compact for the State of North Dakota.

Gov. Moses came into the meeting.

The Wachter situation (Section 21) was discussed. It is Comm. Thompson's opinion that the tender should be withdrawn and the matter closed. Comm. Simons felt that time should be given for a thorough search of the files to determine what the Commission had in writing, in an effort to determine if the Commission had a suit against the Wachters. Governor Moses felt that the Commission should not start a suit, unless they had a good chance of winning same. It is Comm. Thompson's opinion that the tender should be withdrawn, as Wachters seem reluctant to act until the tender is withdrawn, and the Commission still hopes to obtain a right of way from them for an irrigation ditch. It was suggested by the Governor that the matter wait until the next Commission Meeting, at which time decision would be made as to what would be done.

Major W. N. Thompson, Accountant, came into the meeting. Major Thompson worked with the Bookkeeper in making a few minor changes in the bookkeeping system.

Discussion followed on the Harke condemnation proceedings. It was agreed to file the Petition to the County Commissioners on the 23rd of December, 1942. The Governor asked that the Commission check as to whether they have a right to condemn all the Harke land, or whether they can condemn only that portion of the land that is actually needed at the present time - not what will be needed in the future. It was explained to the Governor that Mr. Milton K. Higgins, would likely be appointed by the Attorney General to handle this matter, as well as the McCulloch and Wachter matter.

Motion was made by Comm. Dahl and seconded by Comm. Thompson that petition for condemnation of Harke land be handed to the County Commissioners prior to their meeting of January 5th. Roll was called with Governor Moses, Comm. Simons, Comm. Dahl and Comm. Thompson voting aye. Vice Chairman Holt absent. Motion carried.

The Governor suggested that the Commission might get Mr. Page, Commissioner of the Bureau of Reclamation, Washington, D.C., to appear before committees in connection with the Water Commission budget; or if not Mr. Page, perhaps Mr. Harper or Mr. Sloan who are with the Bureau of Reclamation.

Governor Moses left the meeting.

Vice Chairman Holt returned.

Mr. Thompson explained the suggested changes in the bookkeeping system as prepared by Mr. Ferris, Bank Examiner. Major Thompson explained each item in detail and what had been done to accomplish the changes. He further stated that the present bookkeeping system was adequate and should not be changed, and that the Bookkeeper was very competent and certainly able to handle the books once the various small changes were made.

Major Thompson suggested that one person in the office should handle "Notes Payable and Notes Receivable", at least for the present. After accounts have been completed, the Bookkeeper will then be able to keep up that item also.

Major Thompson left the meeting.

Meeting was recessed until 4:15 P.M.

Meeting reopened at 4:20, with Vice Chairman Holt, Comms. Dahl and Simons and Thompson present. Governor Moses absent.

Mr. Marc J. Connolly present.

The matter of status of notes was taken up.

It was moved by Comm. Simons and seconded by Comm. Dahl that the Knute Oss account, Project No. 4-61, balance of \$23.58 be charged to Profit and Loss. Roll was called with Vice Chairman Holt, Comms. Simons, Thompson and Dahl voting aye. Governor Moses absent. Motion carried.

The Secretary was requested to write letters asking for payment on the following accounts:

Project No.	26	-	Henry J. Rix, Mandan.
"	"	33	- Louis Signalness, Croff.
"	"	38	- Osmund Haare, Arnegard.
"	"	76	- Adolph Sprenger, Elgin.
"	"	80	- T. A. Stenehjem, Williston.
"	"	104	- Bruno Upmeyer, Williston.
"	"	118	- Richard Ike, Williston.
"	"	122	- Vernon Soderquist, Columbus.
"	"	146	- Florence Torkelson, Dickinson.
"	"	197	- Pearl Van Allen (Mrs) Williston.

It was suggested that accounts paid up, or marked off on profit and loss should not be carried on the reports.

The Secretary read the letter received from Mr. H. W. Bashore, Acting Commissioner, Bureau of Reclamation, Washington, D.C., dated November 16, 1942, regarding the status of the so-called Reclamation Fund, and the fact that there was no unexpended balance that has been or is allocable to North Dakota.

Vice Chairman Holt suggested that this could be submitted to Mr. Fredrickson, Executive Director of the North Dakota Resources Board, who is being employed part time by the Commission; and suggested that Mr. Fredrickson might be asked to "sound out" some Washington representatives, and find out their attitude toward a special bill.

The Secretary was directed to write a letter to Mr. Fredrickson, requesting him to look into the feasibility of getting some action by our congressional delegates, and to check to see how many other states have had the same experience.

The Secretary suggested that along that line, the Commission should ask Mr. Fredrickson to work on an attempted law change whereby the State could get more non-reimbursable money on Bureau of Reclamation projects.

Comm. Simons suggested that the Commission should ask Mr. Fredrickson to submit detailed reports of his work to this office, and further ask him to submit his own ideas and suggestions on the matters he is handling.

Comm. Simons suggested that invitations should be sent to Mr. Harry Polk, Mr. L. T. Orlady of the North Dakota Reclamation Association and the American Legion, respectively, to attend the next Water Commission Meeting, along with the Greater North Dakota Association representatives.

The Secretary read a letter received from Dean Walster, commenting on the proposed Water Commission budget and legislation. It was suggested by Vice Chairman Holt that the Secretary and Comm. Simons collaborate on a letter to Dean Walster, explaining the various items that Dean Walster questioned. Among other things, it was requested that the Secretary explain to Dean Walster that it was expected that the North Dakota Agricultural College would run the Bismarck Experiment Station, and that it was desirable to have a station here at Bismarck to prove the value of irrigation to the people in this vicinity; and also to explain that the \$100,000 listed for certain projects would be used as a donation to the U. S. Army Engineers for work on those projects listed.

On the matter of writing up the proposed legislation, Comm. Thompson explained that Mr. Iver Acker is very busy at the present time, but in a week or two, would be able to write up the bills in time for submission to the legislature.

Comm. Thompson asked that the Secretary have copies made of the Colorado Conservancy Law for each member of the Commission in order that they may each one make their changes for use in the North Dakota Conservancy District Law.

It was suggested by Comm. Simons that in the law reducing taxes on lands which have dams, reduction be based on the number of acres covered with water, not acre feet. Mr. Connolly suggested that Mr. Horace Young of the North Dakota Tax-payers' Association be consulted in this regard.

Motion was made by Comm. Thompson and seconded by Comm. Simons that in case it is impossible for the Secretary and Mr. Milton K. Higgins, Special Assistant Attorney General, to purchase the four-tenths of an acre from Mr. McCulloch, needed for right-of-way for Bismarck Victory Garden, Project No. 326, ditch, the following resolution be adopted:

EXIGENCY RESOLUTION AND ORDER FOR ACQUISITION OF LAND FOR IRRIGATION PURPOSES

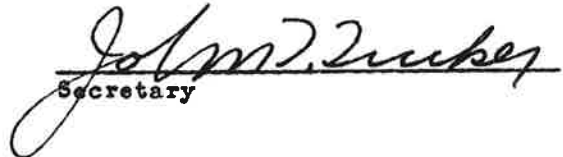
"WHEREAS, it is deemed necessary and of public exigency that lands for irrigation purposes and public use be obtained in order to provide proper location for pumping stations and irrigation ditches for irrigation project, designated as follows: No. 326, Burleigh County, North Dakota.

"THEREFORE, be it, and it is hereby ordered by the State Water Conservation Commission, that all necessary surveys be made and plat thereof prepared, and recorded in the Office of the Register of Deeds of said Burleigh County, in which county said lands are located, and that public exigency requires that every tract of land so needed for the completion of said project be acquired, all in accordance with Chapter 256 of the 1939 Session Laws of the State of North Dakota, and the Secretary of the Commission is hereby authorized and instructed to proceed accordingly."


Roll was called with Comms. Simons, Thompson and Dahl and Vice Chairman Holt voting aye. Motion carried, Governor Moses absent.

Meeting adjourned at 5:30 P.M., to the call of the Chair.

Respectfully submitted,


Secretary

ATTEST:


Chairman

(SEAL)

2-18-42
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NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
MONTHLY REPORT OF ACCOUNTS AS OF 11/30/1942
1941-1943 APPROPRIATION

No.	Name of Account	Total Approp. 24 Mo.	Expend. to 10/31/	November Expenses	Total expense 11/30/42	Total re- funds	Bal. Avail. 11/30/42	$\frac{1}{4}$ approp. to be held until 1-43	Balance Available next month
1	Commissioners Per Diem Administration	3,000.00 25,000.00	1,537.00	84.00	1,621.00		1,379.00	750.00	629.00
2	Administration Bal. due 1937-41	4,696.41	29,756.52	1,527.47	31,283.99	9,125.75	7,538.17	6,250.00	1,288.17
3	Construction Bond Guarantee Fund Bal. due 1939-41 appropriation	40,000.00 35,300.00	1,800.00		1,800.00		73,500.00	10,000.00	63,500.00
4	Maintenance Existing Dams	4,000.00	3,460.58		3,460.58	*932.58	1,472.00	1,000.00	472.00
5	Engineering and Soil Surveys	1,000.00	477.00		477.00		523.00	250.00	273.00
6	Little Missouri, Grand, Cannon- ball, etc.	700.00	517.18		517.18		182.82	175.00	7.82
7	Pembina, Tongue, Park, etc.	250.00	60.00		60.00		190.00	62.50	127.50
8	James, Wildrice Rivers, etc.	150.00					150.00	37.50	112.50
9	Invest., Surveys and Designs, etc.	2,000.00	1,288.35		1,288.35		711.65	500.00	211.65
10	Evaluation Economic Benefits	300.00	57.94		57.94		242.06	75.00	167.06
11	Reports and Attendance at conf.	1,500.00	1,061.74	52.63	1,114.37		385.63	375.00	10.63
12	Tri-State Waters Commission	7,500.00	3,762.59	270.40	4,032.99		3,467.01	1,875.00	1,592.01
13	Indep. Investigations and reports	1,000.00	618.94	32.25	651.19		348.81	250.00	98.81
14	International and Interstate	1,500.00	653.61		653.61		846.39	375.00	471.39
15	Topographic Mapping	3,000.00	2,236.28	1.06	2,237.34		762.66	750.00	12.66
16	Cooperation in Obtaining Water Facil.	3,000.00	1,868.19	131.25	1,999.44		1,000.56	750.00	250.56
17	Designs, Reports and Conf.	500.00	235.64	56.26	291.90		208.10	125.00	83.10
18	Salary State Engineer	4,400.00	2,933.28	183.33	3,116.61		1,283.39	1,100.00	183.39
19	Hydrographic Survey	3,500.00	2,199.69	212.83	2,412.52		1,087.48	875.00	212.48
		142,296.41	54,524.53	2,551.48	57,076.01	10,058.33	95,278.73	25,575.00	69,703.73

* \$582.58 was spent on June 1st, 1942.. Money received from Game and Fish Department for payment of work done on Libson Dam.