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State Water Conservation Commission
MINUTES OF MEETING
Held in Office of State Water Commission in
Bismarck, North Dakota
May 20, 1959

A regular meeting of the North Dakota State Water Conservation Commission was called to order on May 20, 1959, in the office of the Commission, State Capitol Building, to consider routine business matters. The following were present:

MEMBERS OF THE STATE WATER CONSERVATION COMMISSION

Governor John E. Davis, Chairman, Bismarck
Earle F. Tucker, Vice Chairman, Bismarck
W. W. Corwin, Member from Fargo
Einar Dahl, Member from Watford City
Oscar Lunseth, Member from Grand Forks
Math Dahl, Commissioner of Agriculture & Labor, Bismarck
Milo W. Hoisveen, Secretary & Chief Engineer, State Engineer, Bismarck

OTHERS PRESENT

Herman Joos, Board of Administration
Walter Berringer, Hunter
Mr. Howel, Hunter
John Klingenberg, Jamestown
John Bell, Ellendale
Ralph Redding, Ellendale
Loren Boekelheide, Ellendale

The meeting was called to order by Vice Chairman Earle F. Tucker at 9:35 A.M. with Commissioners W. W. Corwin, Einar Dahl, Oscar Lunseth, Math Dahl and Secretary Hoisveen present.

APPROVAL OF MINUTES It was moved by Commissioner Einar Dahl and seconded by Commissioner Math Dahl that the Minutes of the April 10, 1959, meeting be approved and filed in the office of the State Water Commission. All members voted aye and said motion carried.

APPROVAL OF FINANCIAL STATEMENT Commissioner Lunseth made a motion which was seconded by Commissioner Math Dahl that the Financial Statement for April, 1959, be approved. All members voted aye and said motion carried.

Governor John E. Davis entered the meeting at 9:45 A.M. and assumed the chair.

SOURIS RIVER REFERENCE Secretary Hoisveen stated that in 1939 it became obvious that the waters of the Souris River, an international stream, were over-appropriated and that this stream was made the responsibility of the International Joint Commission. The International Joint Commission has held hearings throughout the years and it has now been definitely established that the Souris River is over-appropriated. The Canadians have expressed a desire to retain a considerable portion of the water that originates on their side of the boundary. North Dakota has resisted such action in view of the

fact that we have had first priority on much of the stream flow which has been established through our water right filings. In 1934 the Federal government, through the U. S. Biological Survey, made a declaration for the use of 126,000 acre feet of water on the Souris River in connection with duck nesting and resting grounds. The State of North Dakota made the award. With the reduction of Canadian waters, there will be less water available in the Souris River and will not be sufficient to meet the needs of the Federal Fish and Wildlife. The International Joint Commission has granted Canada the right to retain 50% of the waters in that country. North Dakota will be required to permit a return flow to Canada of 20 cfs or a total of 6,069 acre feet during the season. A copy of the report of the International Joint Commission to the governments of the United States and Canada is attached hereto as Appendix A.

SANBORN GROUND WATER REQUEST Secretary Hoisveen stated that he has received a letter from Sanborn, North Dakota, indicating a desire for a ground water survey. Said request will not be considered until such a time as the \$1500 required to be on deposit is received in the office of the State Water Conservation Commission. The Commissioners unanimously agreed on this decision.

In discussing ground water surveys, Secretary Hoisveen stated that \$10,000 is usually involved on an average survey. The U.S.G.S. contributes \$5,000, the Commission \$3,500 and the locality \$1,500. He stated that the U.S.G.S. is now requested to provide an interim report which can be supplied local people immediately after each survey has been completed. Previously it has taken approximately seven years to obtain a complete report. The Commissioners urged that Secretary Hoisveen obtain these interim reports shortly after the surveys are completed in order that the findings can be made available to the public.

ASHLEY, HOOPLE AND TIOGA GROUND WATER SURVEY REQUESTS. Requests for ground water surveys from Ashley, Hoople and Tioga, with accompanying checks in the amount of \$1500 are on file in the office of the State Water Conservation Commission. It was moved by Commissioner Oscar Lunseth and seconded by Commissioner Math Dahl that the above cities be placed on schedules for ground water surveys to be conducted by the U.S.G.S. and the State Water Commission. All members voted aye and said motion carried.

TEMVIK DAM A request for repairs on a WPA dam at Temvik, Emmons County, has been received by the Commission. The estimated cost of repairs is \$6,500. The cost of said repair work is to be borne by the Game and Fish Department, the County and the State Water Conservation Commission. It was moved by Commissioner Math Dahl and seconded by Commissioner Earle Tucker that the Commission cooperate in said repair program by contributing one-third of the cost thereof but not to exceed \$2200. All members voted aye and said motion carried.

PAULSON AND HOOPLE DAM REPAIR A request for repairs to the Paulson and Hoople Dams from the Walsh County Water Conservation and Flood Control District was considered by the Commission. The dams are principally for recreational purposes. The estimated cost of repair to Hoople Dam is \$2,000 and \$6,000 to Paulson Dam. The State Water Conservation Commission has never made a previous commitment of funds to these dams. It was moved by Commissioner Math Dahl that the Commission

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contribute \$1,000 towards the repair of the Hoople Dam and \$3,000 towards the repair of the Paulson Dam. Commissioner Einar Dahl seconded said motion. All members voted aye and said motion carried.

TRUCK PURCHASE IN CON- Secretary Hoisveen stated that it would be desirable to
JUNCTION WITH WELL have a truck to use in conjunction with well drilling
DRILLING EQUIPMENT equipment. He indicated that a truck mounted unit would
be much more satisfactory. A one unit set up such as
this would be more flexible and efficient. It was moved by Commissioner Earle
Tucker that Secretary Hoisveen be authorized to spend \$10,832.50 on the well
drilling equipment. Commissioner Math Dahl seconded said motion. All members
voted aye and said motion carried.

YPSILANTI DAM REQUEST A letter from Mr. George Whitney, County Auditor of
Stutsman County, requesting assistance in the repair
of Ypsilanti Dam was read by Secretary Hoisveen. The estimated cost of said
repair job is \$8,400. In view of the fact that it does have fish potential,
it is anticipated that the Game and Fish Department and the Jamestown Park
Board will cooperate. Commissioner W. W. Corwin moved that the State Water
Conservation Commission contribute one-third, or approximately \$2,800 of the
cost of said repair. Said motion was seconded by Commissioner Lunseth. All
members voted aye and said motion carried.

DRAIN #17 Richland County has requested cost participation in the
repair of Drain #17. Secretary Hoisveen stated that said
RICHLAND COUNTY drain will be checked to determine whether or not it is
eligible for participation and is not maintenance work.
A report of said inspection will be made available at the next meeting of the
State Water Conservation Commission.

DRAINS #1 and #2 Request for cost participation in Drains #1 and #2,
Grand Forks County, has also been received. Secretary
GRAND FORKS COUNTY Hoisveen stated that the drains were constructed in the
early 1900's and no work has been done on them since.
The total estimated cost of said work is \$46,163. The Commission's share would
approximate \$15,400. It was moved by Commissioner Lunseth and seconded by
Commissioner Math Dahl that in view of the fact that Secretary Hoisveen plans to
check on said drains, that action be deferred until the inspection has been
made.

TURNBOW-BOARD OF Secretary Hoisveen stated that a meeting had been held
with Mr. S. E. Turnbow and his attorney, Mr. Jim Austin;
ADMINISTRATION LEASE Mr. Herman Joos of the Board of Administration;
Commissioner Math Dahl and himself relative to the Missouri
River bottomlands leased by Mr. Turnbow. The State Board of Administration
indicated a desire to lease said land in view of the dire need of the same for
the State Penitentiary. At said meeting Mr. Turnbow agreed to terminate the
lease if he could retain one-half of the alfalfa grown on the land this year
and was refunded \$150 of the \$300 rental previously paid. All members had
agreed and an Assignment of the Farm Lease was prepared.

Mr. Herman Joos appeared before the Commission and indicated that the State
Board of Administration was interested in purchasing the land from the State
Water Conservation Commission for the State Penitentiary. The Commissioners

unanimously agreed to sell the same, if said proposed sale were approved by Mr. I. A. Acker, Special Assistant Attorney General for the State Water Conservation Commission. Said deed shall state that 15 acres of the land shall be dedicated to research in the event the State Water Conservation Commission finds it necessary to promote irrigation. Secretary Hoisveen was instructed to have Mr. Acker check the original deed and report on the same at the next meeting of the State Water Conservation Commission.

DRAYTON DAM

A letter from Mr. John Holler, City Auditor of Drayton, was read by Secretary Hoisveen. The City of Drayton

SURVEY REQUEST

requests the State Water Conservation Commission to determine the feasibility of a dam in the Red River near

Drayton for use in giving them an adequate water supply. The Commissioners felt that the cost of a dam would be prohibitive; however, it was moved by Commissioner Einar Dahl and seconded by Commissioner Oscar Lunseth that a preliminary survey, not to exceed \$200 to \$300 be conducted, unless local participation is made available on a matching basis. This will enable Secretary Hoisveen to have something more concrete in cost determinations to present. All members voted aye and said motion carried.

NESSON FLATS SURVEY

A petition from residents of the Nesson Flats area south of Ray requesting a survey for irrigation possibilities

in the area was presented by Secretary Hoisveen. It was moved by Commissioner Einar Dahl and seconded by Commissioner Math Dahl that the State Water Conservation Commission conduct a ground water and surface contour survey of the Nesson Flats area. All members voted aye and said motion carried.

WESTHOPE WATER

In reviewing the Westhope water situation, Secretary Hoisveen stated that the city received a water right in 1955 but International Joint Commission approval had never been received. In the meantime, this city continued to

PROBLEM

develop a ground water supply and has spent \$60,000 attempting to locate ground water. At the present time there is an acute water shortage in the city. The Federal Fish and Wildlife has resisted the city's desire to obtain water from their refuge by refusing to grant the city an easement for their pipe line and water treatment plant. This matter has been taken up with Senator Young, Assistant Secretary of the Interior Aandahl and Mr. Fred Fredrickson. Telegrams to and from Senator Young regarding this situation and urging him to obtain a right-of-way over and use of such refuge land as the city may need for the construction of pipe lines, water treatment plant, pumping and other facilities in connection with withdrawing water from the river were read by Secretary Hoisveen. No action was taken as the Commissioners thought it best to wait and see what transpires in Washington, D. C.

DEVILS LAKE BRACKISH

Secretary Hoisveen stated that Devils Lake is displaying an interest in the brackish water plant and that they have filed the proper petition with the Office of Saline Water Washington, D. C. A letter from Dr. A. L. Miller, Director

WATER PLANT

of the Office of Saline Water, in which he thanked the Commission for courtesies extended Mr. E. H. Sieveka during his recent visit was read. The Commissioners were pleased to know that Devils Lake had filed the petition.

HUNTER DAM REQUEST FOR MUNICIPAL WATER SUPPLY Mr. Walter Berringer and Mr. Howel of Hunter entered the meeting at 11:00 A.M. Secretary Hoisveen stated that a survey had been conducted in connection with a dam just south and west of the City of Hunter. The cost of the survey was borne equally by the City of Hunter and the State Water Conservation Commission. It was tentatively scheduled for use in connection with their municipal water supply. It would also afford some recreation. Originally it was anticipated that the Game and Fish Department would participate. However, in view of the fact that it is to be largely for municipal use, and this would reduce the reservoir level frequently below what is the proper depth to maintain fish life, the Game and Fish Department will not contribute funds. The estimated cost of such a dam is \$31,000 to \$34,000. In view of the fact that the costs will not be borne on a one-third basis, the gentlemen from Hunter have requested a larger allocation of funds to make up this difference. Commissioner Math Dahl moved that the State Water Commission cooperate with the City of Hunter in said project by contributing 50% but not to exceed \$16,500 in the construction of said dam. Said motion was seconded by Commissioner W. W. Corwin. All members voted aye and said motion carried.

ELLENDALE DAM REQUEST FOR MUNICIPAL WATER SUPPLY A delegation from Ellendale consisting of Consulting Engineer John Klingenberg, Mayor John Bell, Ralph Redding and Loren Boekelheide entered the meeting at 11:15 A.M. It was reported by Secretary Hoisveen that the State Water Conservation Commission in cooperation with the U.S.G.S. conducted a survey of water possibilities in and about Ellendale. The city has obtained a satisfactory supply of water from that area. However, in looking to the future they desire to build a dam downstream in order to impound some of the water that runs off in the spring, heavy rainfall and water that moves out as an underground flow. It would also serve as a cut-off to hold the water which they feel is now moving and flows down to South Dakota. This additional water supply is desirable for future expansion of the City of Ellendale. Mr. Klingenberg, City Engineer, stated that the present well pumps 100 gallons per minute. He stated that this is not adequate and it is necessary to supplement the same with water from the Dakota sandstones. Commissioner Math Dahl moved that the Commission spend not to exceed \$1500 for additional survey work in the Ellendale area, assuming that the city contributes a like amount. Said motion was seconded by Commissioner Corwin. All members voted aye and said motion carried. Chief Engineer Hoisveen was requested to check on a rumor that the Soil Conservation Service was reportedly constructing a dam upstream from the city's intake. Soil Conservation Service officials have implied that a dam was considered in connection with a watershed project three years ago. This proposal has been withdrawn because of no interest.

CORRESPONDENCE RE MISSOURI RIVER BANK STABILIZATION Secretary Hoisveen read a letter from Senator Young dated April 23, 1959, in which the Senator stated that the Public Works Committee passed a resolution requesting the Corps of Engineers to make the survey of the bank stabilization problem on the Missouri River between Garrison and Oahe Dams. He further indicated his continued support in obtaining funds for such an investigation.

SENATE RESOLUTION 48 Secretary Hoisveen stated that the State Water Conservation Commission desires to hold hearings throughout the State of North Dakota to determine immediate and future water problems of the area. These hearings would be principally outside of the diversion area and

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should be conducted throughout the State. In conjunction with this it was moved by Commissioner Math Dahl and seconded by Commissioner Oscar Lunseth that Secretary Hoisveen and Mr. Fred Frédrickson be authorized to prepare a resolution requesting the Senate Committee to come to North Dakota at the time the water investigation study is inaugurated, and as authorized in said resolution. The resolution would be cleared through Senator Young. All members voted aye and said motion carried.

HEITZMANN LETTER RE A letter from Mr. B. F. Heitzmann of Ashley, North Dakota, was read to the Commissioners by Secretary Hoisveen. Mr. **COMMISSION ACTIVITIES** Heitzmann stated that the residents of the area did not feel that the State Water Commission was interested in advancing water programs in that area. Secretary Hoisveen replied to said letter by stating the Commission was not permitted to promote projects and if a request for work is not received, it is difficult to do anything. He further stated that an engineer would be in Ashley to discuss the matter with Mr. Heitzmann.

FARGO DAM REQUESTS Requests for participation in Fargo Dam #2, the Hickson Dam and the Christine Dam, all in Cass County, were presented to the Commission. The total cost estimate on these three dams is \$42,700. It was moved by Commissioner Corwin and seconded by Commissioner Einar Dahl that the Commission participate in 30% of the city of Fargo's costs in the repair of these various dams. All members voted aye and said motion carried.

WILDWOOD LAKE For some time the Commission has shown a great deal of interest in reviving the Wildwood Lake project. Interested **PROJECT** proponents were most enthused over the project but for some unknown reason, the interest has dropped. In order to expedite action, the Commissioners unanimously agreed that they would withdraw their financial support for the Wildwood Lake project unless interest is shown within the next two months.

WATER RIGHTS The following water rights were considered:

#787. The North Dakota Agricultural College requests the right to divert 1185 acre feet of water from wells in Foster County to irrigate 592.5 acres of land. It was moved by Commissioner Lunseth and seconded by Commissioner Corwin that said request be granted. Motion carried.

#788. Loren Oliver, Fargo, requests the right to divert 1 acre foot of water from Rose Coulee and the Red River of the North to irrigate 6.5 acres of land. It was moved by Commissioner Corwin and seconded by Commissioner Lunseth that said request be approved but that said applicant must recognize that Fargo has a prior water right and can at any time request him to shut down operations. All members voted aye and said motion carried.

#789. Ben T. Nordell, Williston, requests the right to divert 366.8 acre feet of water from the Missouri River to irrigate 183.4 acres of land. It was moved by Commissioner Einar Dahl and seconded by Commissioner Corwin that said request be granted.

#790. Manfred Cain of Bottineau requests the right to divert 128 acre feet of water from an Unnamed Lake to irrigate 64 acres of land. It was moved by Commissioner Oscar Lunseth and seconded by Commissioner Einar Dahl that he be granted the right to divert 96 acre feet of water to irrigate 64 acres of land.

#791. Elvin Njos, Williston, requests the right to divert 160 acre feet of water from an Unnamed Creek, tributary of Blacktail, to irrigate 160 acres of land. It was moved by Commissioner Einar Dahl and seconded by Commissioner Oscar Lunseth that action on said request be deferred pending a field investigation. Motion carried.

#792. Lloyd Njos, Williston, requests the right to divert 400 acre feet of water from an Unnamed Creek, tributary of Blacktail, to irrigate 240 acres of land. It was moved by Commissioner Einar Dahl and seconded by Commissioner Oscar Lunseth that action on said request be deferred pending a field investigation. Motion carried.

#793. Thelma Houston requests the right to divert 388 acre feet of water from the Sheyenne River in Griggs County to irrigate 194 acres of land. It was moved by Commissioner Corwin and seconded by Commissioner Lunseth that Thelma Houston be granted the right to divert 33 acre feet of water to irrigate 22.5 acres of land. More water can be used during high flow periods. At such a time as the use of water on the part of the applicant deprives Cooperstown, the plant shall be closed.

#794. Maurice P. O'Connell, New England, requests the right to divert 2 acre feet of water from the Cannonball River to irrigate 41.9 acres of land. It was moved by Commissioner Einar Dahl and seconded by Commissioner W. W. Corwin that Mr. O'Connell be granted the right to divert 33 acre feet of water to irrigate 22 acres of land. Motion carried.

A request for a prescriptive water right for Mr. Alvin O. Foss of Renville County is on file. Mr. Foss requests the right to divert 75 acre feet of water from the Souris River to irrigate 50 acres of land. It was moved by Commissioner Lunseth and seconded by Commissioner Einar Dahl that said request be honored.

Letters of appreciation from various County School Superintendents for water resources maps supplied them were read by Secretary Hoisveen.

The meeting adjourned at 12:10 P.M.

Respectfully submitted,

Milo W Hoisveen
Secretary

Attest:

John E. Lutz
Governor

Appendix A

INTERNATIONAL JOINT COMMISSION

REPORT

**OF THE
INTERNATIONAL JOINT COMMISSION**

**TO THE GOVERNMENTS OF THE UNITED STATES AND CANADA
ON THE SOURIS RIVER, WITH SPECIAL REFERENCE TO THE
INTERIM MEASURES RECOMMENDED IN ITS REPORT OF
2 OCTOBER, 1940**

**Ottawa - Washington
19 March 1958**

**STATE WATER CONSERVATION COMMISSION
BISMARCK, NORTH DAKOTA**

REPORT
OF THE
INTERNATIONAL JOINT COMMISSION

TO THE GOVERNMENTS OF THE UNITED STATES AND CANADA
ON THE SOURIS RIVER, WITH SPECIAL REFERENCE TO THE
INTERIM MEASURES RECOMMENDED IN ITS REPORT OF
2 OCTOBER, 1940

1. The purpose of this report is to present recommendations for amending certain of the interim measures which were recommended in the Commission's report dated 2 October 1940; were accepted by the Governments of the United States and Canada on 28 March 1941 and 25 April 1941, respectively; and which, with changing times and altered circumstances, have now been found to require modification to meet the needs of those concerned.

ORIGINAL REFERENCE ON SOURIS RIVER

2. Under date of 15 January 1940, the governments of the United States and Canada submitted a reference to this Commission reading in part as follows:

"I have the honour to inform you that the Governments of Canada and the United States have agreed to refer to the International Joint Commission, under the provisions of Article IX of the Boundary Waters Treaty, 1909, for investigation, report, and recommendation, the following questions with respect to the waters of the Souris (Mouse) River and its tributaries which cross the International Boundary from the Province of Saskatchewan to the State of North Dakota and from the State of North Dakota to the Province of Manitoba: -

"Question 1

In order to secure the interests of the inhabitants of Canada and the United States in the Souris (Mouse) River drainage basin, what apportionment should be made of the waters of the Souris (Mouse) River and its tributaries, the waters of which cross the international boundary to the Province of Saskatchewan, the State of North Dakota, and the Province of Manitoba?

"Question 2

What methods of control and operation would be feasible and desirable in order to regulate the use and flow of the waters of the Souris (Mouse) River and of the tributaries, the waters of which cross the international boundary, in accordance with the apportionment recommended in the answer to Question 1?

"Question 3

Pending a final answer to Questions 1 and 2, what interim measures or regime should be adopted to secure the foregoing objects?"

1940 INTERIM REPORT UNDER THE REFERENCE

3. On 2 October 1940, the Commission submitted a report under the foregoing reference recommending the following interim measures pending completion of the additional investigations necessary for settlement of the questions in the reference:

"1. The Province of Saskatchewan shall be permitted to continue its present use of the waters of the Souris River, and, in addition, to construct a reservoir with usable capacity not exceeding 4,000 acre feet, for the purpose of providing an adequate water supply for the town of Weyburn and the mental hospital at Weyburn.

"2. The State of North Dakota shall be permitted to continue its present use of the waters of the Souris River, and, in addition, to construct a small reservoir on Long Creek, with capacity of 200 acre feet, to provide an adequate water supply for the town of Crosby, North Dakota.

"3. A regulated flow of not less than 10 cubic feet per second shall be released from the State of North Dakota to the Province of Manitoba during the months of June, July, August, September and October of each year.

"4. In the event that the State of North Dakota or the Province of Saskatchewan should desire to construct any additional storage works, or otherwise make additional use of the waters of the Souris River basin, application shall be made to the International Joint Commission for authority to construct the desired storage works or otherwise to make use of additional water.

"5. The interim measures for which provision is hereinbefore made shall remain in effect unless subsequently qualified or modified by the Commission prior to the adoption of permanent measures in accordance with the requirements of questions (1) and (2) of the reference."

APPROVAL OF 1940 REPORT BY THE TWO GOVERNMENTS

4. The above recommendations were approved by the governments of the United States and Canada on 28 March, 1941, and 25 April, 1941, respectively.

5. On 17 November 1942, the Commission issued an Order modifying paragraph 3 of the Interim Measures recommended in the report of 2 October 1940, by increasing the regulated flow to be released to the Province of Manitoba from 10 cubic feet per second to 20 cubic feet per second.

ACTION OF THE COMMISSION UNDER THE
APPROVED RECOMMENDATIONS

6. By resolution dated 26 May, 1943, the Commission clarified item 4 of the above recommendations as follows:

"It was also decided that the Province of Saskatchewan and the State of North Dakota should be informed that the words 'storage works, or otherwise make additional use of the waters of the Souris River basin' are intended to include dugouts and small domestic stockwatering dams or other projects approved by the appropriate Provincial or State authorities; and that the Province of Saskatchewan and the State of North Dakota may at any time make application for approval of dugouts and small domestic stock-watering dams or other projects approved by the appropriate Provincial or State authorities, of a total capacity in Saskatchewan and a similar capacity in North Dakota, of 1000 acre feet annually and that as a matter of convenience such applications should cover substantial groups."

7. To date, the Commission has approved a number of applications for small projects which now aggregate 603.7 acre feet in Saskatchewan and 710.82 acre feet in North Dakota.

8. On 7 October, 1947, the Commission approved an Application by the Prairie Farm Rehabilitation Administration of Canada for the diversion of water from Long Creek to Maxim Lake for stock-watering purposes, subject to operation regulations to be recommended by the International Souris River Board of Control. Such recommendations were subsequently submitted by the Board and were approved by the Commission on 13 October, 1949.

9. By an Order of Approval dated 26 January 1949, the Commission authorized the Northern States Power Company, subject to stated conditions, to erect a dam in the Souris (Mouse) River at Minot, N. D., to provide cooling water for a small steam-electric power plant, the consumptive use of water to be not more than 430 acre feet annually. The dam has not been constructed.

1952 INTERIM REPORT RE CITY OF MINOT, N. D.

10. In an Interim Report to the Governments of the United States and Canada, dated 9 October, 1952, the Commission recommended that it be authorized to adopt an Order approving an application by the City of Minot, N. D. to divert water from the Souris River for domestic and municipal water-supply purposes, subject to certain conditions. The Commission also recommended that the application of the City of Minot and any future applications for diversion of water from the Souris River, other than for water supply dugouts, small stockwatering pools and small irrigation projects, which the State of North Dakota or the Province of Saskatchewan may specify, be considered outside of the one thousand (1000) acre foot limitation specified in the Commission's resolution of 26 May, 1943.

11. The two Governments duly approved the Commission's recommendations and on 26 January, 1956, the Commission issued an Order of Approval authorizing, subject

to stated conditions, the City of Minot to divert water from the Souris River, for domestic and other municipal purposes, at a rate not exceeding 9.25 cubic feet per second and not exceeding 6,700 acre feet per year; a high percentage of the water to be returned to the stream as return flow.

SUBSEQUENT APPLICATIONS TO THE COMMISSION

12. On 30 May, 1955, the Province of Saskatchewan applied to the Commission for authority to construct a dam on Long Creek, a tributary of the Souris River, which would create a reservoir having a capacity of 48,470 acre-feet. The impounded water would be used for municipal and industrial purposes, including cooling purposes in the new thermal power plant of the Saskatchewan Power Corporation at Estevan.

13. On 30 June, 1955, the Town of Radville, Saskatchewan, applied to the Commission for authority to construct a reservoir to store 480 acre-feet of water from a tributary of Long Creek and to use therefrom 108 acre-feet per annum for domestic and municipal water supply purposes.

14. At its executive session in Washington on 6 April, 1956, the Commission was informed of Saskatchewan's plans to proceed with construction of the dam on Long Creek and the dam at Radville.

15. On 24 September, 1955, the City of Minot, N. D., in order to provide for present and estimated future municipal water supply requirements to the year 1970, applied to the Commission for authority to increase the diversion of water from the Souris River, up to an additional 6,700 acre-feet annually at a maximum additional rate of 9.25 cubic feet per second and subject to the return to the stream of an estimated 75 per cent of the diverted water. The application has not as yet been recommended by the Commission.

16. The Secretary of State for External Affairs for Canada addressed a communication to the Commission under date of 6 August, 1957, with which was enclosed a letter dated 10 June, 1957, from the Minister of Agriculture of the Province of Saskatchewan. Copies of these letters are attached hereto as Appendix A and Appendix B respectively.

VIEWS OF THE COMMISSION

17. Application of the interim measures recommended in the Interim Report of 2 October 1940 has enabled the Commission to accumulate the more dependable and informative stream flow data and other information contemplated in that report as being required in order that the Commission might reach final answers to the questions asked by the Governments in the Reference of 15 January 1940. The extensive and comprehensive stream flow data and other information which has since been secured is believed to now present an adequate and proper basis from which to derive a solution to these questions before the Commission. Further consideration of other factors will be required, however, before the Commission can make a final report to the two Governments under the 1940 Reference.

18. The Commission has concluded that the continued application of the interim measures recommended in 1940 may well constitute an obstacle to the development of Saskatchewan and North Dakota.

19. The evidence obtained by the Commission in the course of its studies under the Reference indicates that the meager water supply of the Souris River basin is insufficient to satisfy the demands which already exist.

20. The interim measures for apportionment hereinafter recommended recognize as a first objective the importance of making water available for human and livestock consumption and for household use. These measures also recognize that once they are in effect the use of water within a Province or State will be under the exclusive jurisdiction of that political entity and that each Province or State may then utilize its share of the water in accordance with its own laws governing the use of water.

21. The Commission proposes to appoint a joint board of engineers, consisting of two members, one from the United States and one from Canada, to be officially designated as the International Souris River Board of Control; the board to be charged, during the intervening period prior to the adoption of permanent measures, with the responsibility of ensuring compliance with the interim measures set out hereinafter, and of submitting to the Commission such reports as the Commission may require, or as the board in its discretion may desire to file.

RECOMMENDATIONS

22. The Commission recommends that it be authorized to create the Board referred to in para. 21 above and that the two Governments approve the following interim measures in substitution for the interim measures which were recommended in the report dated 2 October 1940 and heretofore approved:

1. The Province of Saskatchewan shall have the right to divert, store, and use waters which originate in the Saskatchewan portion of the Souris River basin, provided that such diversion, storage and use shall not diminish the annual flow of the river at the Sherwood Crossing more than fifty percent of that which would have occurred in a state of nature. For the benefit of riparian users of water between the Sherwood Crossing and the upstream end of Lake Darling, the Province of Saskatchewan shall so far as practicable regulate its diversions, storage, and uses in such manner that the flow in the Souris River channel at the Sherwood Crossing shall not be less than four (4) cubic feet per second when that much flow would have occurred under the conditions of water use development prevailing in the Saskatchewan portion of the Souris River basin prior to construction of the Long Creek dam referred to in paragraphs 12 and 14 above.

(2) Except as otherwise provided herein with respect to delivery of water to the Province of Manitoba, the State of North Dakota shall have the right to divert, store, and use the waters which originate in the North Dakota portion of the Souris River basin together with the waters delivered to the State of North Dakota at the Sherwood

Crossing under Recommendation (1) above; Provided, that any diversion, use or storage of Long Creek water shall not diminish the annual flow at the eastern crossing of Long Creek into Saskatchewan below the annual flow of said Creek at the western crossing into North Dakota.

(3)(a) In addition to the waters of the Souris River basin which originate in the Province of Manitoba, that Province shall have the right, except during periods of severe drought, to receive for its own use and the State of North Dakota shall deliver from any available source during the months of June, July, August, September, and October of each year, six thousand and sixty-nine (6,069) acre-feet of water at the Westhope Crossing regulated so far as practicable at the rate of twenty (20) cubic feet per second except as set forth hereinafter: Provided, that in delivering such water to Manitoba no account shall be taken of water crossing the boundary at a rate in excess of the said 20 cubic feet per second.

(3)(b) In periods of severe drought when it becomes impracticable for the State of North Dakota to provide the foregoing regulated flows, the responsibility of the State of North Dakota in this connection shall be limited to the provision of such flows as may be practicable, in the opinion of the said Board of Control, in accordance with the objective of making water available for human and livestock consumption and for household use. It is understood that in the circumstances contemplated in this paragraph the State of North Dakota will give the earliest possible advice to the International Souris River Board of Control with respect to the onset of severe drought conditions.

(4) In event of disagreement between the two sections of the International Souris River Board of Control, the matters in controversy shall be referred to the Commission for decision.

(5) The interim measures for which provision is herein made shall remain in effect until the adoption of permanent measures in accordance with the requirements of questions (1) and (2) of the Reference of 15 January, 1940, unless before that time, these interim measures are qualified or modified by the Commission.

Signed this nineteenth day of March, 1958.

(Signed) A. G. L. McNaughton
 Douglas McKay
 J. Lucien Dansereau
 Roger B. McWhorter
 D. M. Stephens
 Eugene W. Weber

APPENDIX "A"

THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS

CANADA

Ottawa, August 6, 1957

Dear Madam:

I am enclosing a copy of a letter dated June 10, 1957, from the Minister of Agriculture for the Province of Saskatchewan concerning the Souris River Reference of January 25, 1940.*

The Government of Saskatchewan states that the interim measures recommended by the Commission in 1940 are delaying development in the Souris River watershed in Saskatchewan. Accordingly, it does not wish to be inhibited any longer by these interim measures. At the same time, the Provincial Government is willing to permit for the present the continued passage of fifty per cent of the natural flow of the water at Sherwood Crossing to allow the International Joint Commission a further opportunity to reach agreement upon recommendation for a permanent settlement of the matters contained in the 1940 Reference.

The Canadian Government considers that the application of the interim measures during the past 16 years has provided opportunity to extend the period of stream flow data beyond that contemplated by the Commission or the governments and believes that the accumulation of further records is not essential to a solution of the questions before the International Joint Commission.

The Canadian Government agrees with the view expressed by the Government of Saskatchewan that the interim measures of 1940 are an obstacle to the development of southeast Saskatchewan. Furthermore, the statement by the Province of Saskatchewan that it intends to permit fifty per cent of the natural flow of Souris water in Saskatchewan into North Dakota at Sherwood Crossing is a generous offer. In consequence, the Government of Canada requests that the interim measures recommended by the Commission be modified in accordance with paragraph 7 of the enclosed letter from the Province of Saskatchewan.

Miss E. M. Sutherland,
Secretary, Canadian Section,
International Joint Commission,
Ottawa, Ontario

Note: *25 January 1940 should read 15 January 1940.

APPENDIX "A"
Page 2

Relaxation of the restrictions imposed on Saskatchewan by the interim measures will not, of course, affect materially the substance of the Reference of 1940. It is therefore the hope of the Canadian Government that the Commission will be able to reach early agreement on a recommendation for the apportionment of the waters of the Souris River Basin among the three political entities involved.

Yours sincerely,

/s/ J. G. Diefenbaker

APPENDIX "B"

MINISTER OF AGRICULTURE

Saskatchewan

June 10, 1957.

Mr. J. Leger,
Under-Secretary of State for External Affairs,
Ottawa, Ontario.

Dear Mr. Leger:

RE: Souris River Reference of 25 January 1940*
to the International Joint Commission

The International Joint Commission's Report of 2 October 1940 recommended that, in view of the incompleteness of available stream flow data, certain "interim measures" should be adopted which would restrict the use of Souris River waters, pending permanent settlement of the questions presented in the above reference.

After consultation with the Government of Saskatchewan, the Canadian Government approved the Commission's recommendations. Although the effect of the recommendations was to restrict future uses of Souris River waters, in Saskatchewan, to 1000 acre feet annually for dug-outs and small domestic stockwatering dams, the Government of Saskatchewan agreed with the Canadian Government that it would accept this temporary restriction on the development of its own water resources because of the inference in the Commission's report that by 1945 more dependable and informative flow records would enable the Commission to recommend a permanent settlement of the questions presented in the reference.

During the past sixteen years, the Commission has accumulated the more dependable and informative flow records contemplated in its report and has made exhaustive studies of water supply and demand in the Souris Basin, but has not reached agreement on the terms of a permanent settlement which might be recommended. It is doubtful if a mutually acceptable solution can be found, because of the apparent opinion of the United States Commissioners with respect to existing water uses in North Dakota for Wild Life Refuges. Under Article II of the Boundary Waters Treaty of 1909, these uses could not be successfully maintained in the Province of Saskatchewan.

Note: *25 January 1940 should read 15 January 1940.

Saskatchewan has always considered that the waters in Saskatchewan belong to Saskatchewan while they are within the boundaries of the province and this view is consistent with the terms of Article II of the 1909 Treaty.

Development of the Souris River Basin in Saskatchewan makes it necessary that this Province have the unrestricted use of the water flowing within its boundaries, which the interim measures referred to now prohibit. In an endeavor to facilitate a fair and just settlement of the matter under reference the Province of Saskatchewan has made the following offer to the Commission; that it was prepared to pass 50% of the natural flow of the Souris River where it crosses the international boundary at Sherwood Crossing to take care of the requirements of the State of North Dakota, provided the State of North Dakota would, for its part, pass sufficient water to Manitoba to take care of that Province's requirements.

Unfortunately, Saskatchewan's offer has not been accepted and no progress whatsoever appears to have been made towards a permanent solution. A reference to the Commission should not be used to defeat the rights of Saskatchewan under the Treaty of 1909. Saskatchewan has been very patient and has made a most generous offer to facilitate a settlement. The Saskatchewan Government is prepared to stand by that offer, but is unwilling to delay further the development of its own natural resources in the Souris basin.

Accordingly, the Government of Saskatchewan considers itself no longer inhibited by the restrictions contained in the interim measures recommended by the Commission. The Government of Saskatchewan is reluctant to take this stand but the continued delay in settling this matter, with the resultant retarded development within the Souris River Watershed in Saskatchewan, leaves it no alternative. However, the Government of Saskatchewan intends to permit the continued passage for the present of 50 percent of the natural flow at Sherwood Crossing, in order to allow a further opportunity for the International Joint Commission to agree upon a recommendation for a permanent settlement.

It is respectfully requested that the contents of this letter be brought to the attention of the International Joint Commission.

The support of the Government of Canada in this matter will be appreciated.

Yours faithfully,

/s/ I. C. Nollet
Minister of Agriculture

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
 MULTIPLE PURPOSE FUND
 June 19, 1959

Balance, June 19, 1959 \$188,548.30

Anticipated Refunds:

Pembina Drain #13 (Pembina Co.)	1,272.52
Spring Lake #486 (Williams Co.)	<u>1,204.63</u>

TOTAL ANTICIPATED REFUNDS 2,477.15
 \$191,025.45

Less Outstanding Invoices:

Soo Line Railroad(Freight on Casing)	86.72
Larsen's Blacksmithing(Tank for Drill Rig)	40.00
Stude's Mill Works(Truck box)	260.50
W. W. Wallwork, Inc.(Truck)	9,127.00
Ted McManigle(Materials Rich. Dr. #2)	36.00
Richland Co. Dr. #2 Pr. 6/7-13/59	332.82
Ames Ready-Mix(Materials Rich. Dr. #2)	<u>560.00</u>

TOTAL OUTSTANDING INV. 10,443.04

BAL. BEFORE COMMITMENTS \$180,582.41

Commitments made by SWCC to date:

Bottineau Co.-Overgaard Lateral	12,000.00
Bowman Co.-Scranton Flood Control	15,000.00
Cass Co.-Drain #12-Lateral #1	1,107.34
Cass Co.-Drain #19	1,320.42
*Cass Co.-Drain #45	1,368.00
Cass Co.-Drain #49	4,000.00
McHenry Co.-Oak Willow Creek Clearing	3,000.00
McHenry Co.-Eaton Drainage Ditch #2	432.80
McKenzie Co.-Lewis & Clark Irrigation	17,500.00
McKenzie-Williams Co.-Ancient Mo. River	13,900.00
*Pembina Co.-Drain #43	1,041.47
Pembina Co.-Rhineland Drain	2,882.88
Pembina Co.-Walhalla Park Cutoff	2,000.00
Richland Co.-Drain #2	2,880.00
Slope Co.-Marmarth Flood Control	15,000.00
Stutsman Co.-Jamestown Flood Control	8,800.00
Traill Co.-Drains #4 & 14	8,366.91
Traill Co.-Drain #35	8,632.00
General Investigations	3,500.00
Steel	13,396.40
Hydrographic Surveys, Coop. w/U.S.G.S.	2,916.69
Engr. & Geol. Surveys, Coop. w/U.S.G.S.	<u>6,000.00</u>

TOTAL COMMITMENTS . . . 145,044.91

UNENCUMBERED BALANCE .. \$ 35,537.50

*Pending further investigation by SWCC.

6/18/59

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
MONTHLY REPORT OF APPROPRIATIONS AS OF MAY 31, 1959
1957-1959 APPROPRIATIONS

Fund No.	Available July, 1957	Expended To Apr 30, 1959	Expended May, 1959	Balance May 31, '59
1. Commissioners' Per Diem and Expenses	6,000.00	4,929.72	86.81	983.47
2. Administration	47,000.00	39,094.46	1,598.90	8,292.16
Refunds and Deposits	1,985.52			
3. Maintenance of Dams.	105,000.00	172,454.03	5,767.70	17,044.13
Refunds and Deposits	90,265.86			
4. International and Interstate Commissioners' Conference Expenses.	8,000.00	7,693.92	175.26	145.67
Refunds and Deposits	14.85			
5. Topographic Surveys, Cooperation with U. S. G. S.. . . .	30,000.00	24,961.67	2,191.80	2,846.53
6. Hydrographic Surveys, Cooperation with U. S. G. S. . . .	27,500.00	23,949.26	3,481.44	69.30
7. Engineering and Geological Surveys and Demonstrations .	37,500.00	37,607.62	949.79	4,249.40
Refunds and Deposits	5,306.81			
8. Cooperation with U. S. Departments and for Organizing Conservation and Irrigation Districts.	50,000.00	39,516.40	2,608.40	7,885.20
Refunds and Deposits	10.00			
9. Small Projects, Investigations, Surveys, Etc..	118,000.00	107,223.70	4,297.60	8,853.68
Refunds and Deposits	2,374.98			
10. Administration of Water Laws	6,000.00	5,775.30	- -	224.70
11. OASIS Refunds.	3,800.00	7,458.52	- -	882.72
Transfer from Contingency Fund	4,541.24			
	<u>\$543,299.26</u>	<u>\$470,664.60</u>	<u>\$21,157.70</u>	<u>\$51,476.96</u>

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
 MONTHLY REPORT OF APPROPRIATIONS AS OF MAY 31, 1959
 1955-1957 APPROPRIATIONS

Fund No.	Available July, 1955	Expended To Apr. 30, '59	Expended May, '59	Balance May 31, '59
1. Commissioners' Per Diem and Expenses	6,000.00	6,390.63		270.40
Collections and Refunds.	661.03			
2. Administration	40,000.00	42,453.03		41.19
Collections, Refunds, Transfers	2,494.22			
3. Maintenance of Dams.	100,000.00	220,556.13		38.53
Collections and Refunds	120,594.66			
4. International and Interstate Commissioners' Conference Expenses	8,000.00	8,040.42		.18
Collections and Refunds.	40.60			
5. Topographic and Conservation Cooperation with U.S.G.S.	30,000.00	30,000.00		NIL
6. Hydrographic and Conservation Cooperation with U.S.G.S..	25,000.00	25,000.00		NIL
7. Engineering and Geological Surveys and Demonstrations	35,000.00	35,223.93		NIL
Transfer from Number 1	223.93			
8. Cooperation with U. S. Departments and For Organizing Conservation and Irrigation Districts.	40,400.00	40,374.92		25.08
9. Small Projects and Investigations and Surveys.	106,000.00	125,994.37		NIL
Collections and Refunds	19,994.37			
10. Water Right Investigations	12,000.00	11,994.23		5.77
	<u>\$546,408.81</u>	<u>\$546,027.66</u>		<u>\$381.15</u>

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
 MONTHLY REPORT OF APPROPRIATIONS AS OF MAY 31, 1959
 (CONTINUING APPROPRIATIONS)

Appropriation Title	Balance July, 1957	Expended To Apr. 30, '59	Expended May, 1959	Balance May 31, '59
Construction Bond Guaranty Fund	70,541.00	NIL	NIL	77,019.14
Deposit of Income from Investments and Retirement	6,478.14			
Multiple Purpose Fund	384,892.93	199,670.15	16,266.99	196,758.44
Collections, Refunds, Transfers	27,802.65			

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
 DEPOSITS IN THE BANK OF NORTH DAKOTA
 MAY 31, 1959

Source of Deposits	Transit Number	Amount Deposited	Expended To May 31, '59	Balance May 31, '59
Collections on Yellowstone Pumping Irrigation District \$3,500 Warrant. Tax collections for partial payment of interest and principal to April, 1958.	501-118	2,451.22		2,451.22
Contributions to January 1, 1957: \$35,600.10				
Contributions for Ground Water Surveys:				
Ashley		\$1,500.00		
Berthold		1,500.00		
Drake		750.00		
Ellendale		500.00		
Gackle		1,500.00		
Hatton		1,000.00		
Hillsboro		1,000.00		
Hoople		1,500.00		
Jamestown		1,500.00		
Lehr		1,000.00		
Leeds		1,000.00		
Linton		1,500.00		
Max		1,500.00		
Medina		1,000.00		
Michigan		1,500.00		
Minot		3,500.00		
Strasburg		1,000.00		
Stutsman County		1,500.00		
Tioga	501-128	66,151.66	62,966.03	<u>3,185.63</u>
TOTAL OF ALL BANK OF NORTH DAKOTA DEPOSITS AS OF MAY 31, 1959				<u><u>\$5,636.85</u></u>

PAYROLL
NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
MAY 31, 1959

PERMANENT EMPLOYEES

Name	Position	Pay Grade	Salary May	With. Tax	Soc. Sec.	Hosp. Ins.	Savings Bonds	Net Pay	Remarks
Hoisveen, Milo W.	State Engineer	O-6	881.67	132.00	22.04	12.60	18.75	696.28	Inc Apr'59
Baesler, Gordon	Draftsman	F-2	326.17	48.30	8.15	-	-	269.72	Inc Mar'59
Cooper, Vernon S.	Ass't Secretary	1/2M-4	363.84	71.00	9.10	12.60	-	271.14	Inc Mar'59
Fredrickson, Fred	Coordinator	F-7	375.00	37.00	9.38	-	-	328.62	Inc May'59
Gehring, Edna	File Clerk	B-10	211.67	37.80	5.29	5.45	-	163.13	Inc Jan'59
Grindberg, Alan	Engineer	H-5	466.67	74.60	11.67	-	-	380.40	Inc Dec'58
Krebsbach, Joseph	Instrumentman	F-8	383.17	28.40	9.58	12.60	-	332.59	Inc May'59
Putz, Roy	Material Expert	A-9	185.00	13.50	4.63	5.45	-	161.42	Inc Dec'57
Reiter, Daniel	Const. Foreman	F-9	392.67	31.30	9.82	12.60	18.75	320.20	Inc Mar'59
Sackman, Eugene	Instrumentman	F-5	354.67	14.00	8.86	12.60	-	319.21	Inc Mar'59
Sandwick, Hazen	Engineer	K-5	634.67	61.60	15.87	12.60	37.50	507.10	Inc Mar'59
Schulz, Jim	Bookkeeper	E-5	298.67	44.00	7.47	-	-	247.20	Inc Jan'59
Schweigert, Luella	Chief Steno	F-5	354.67	64.10	8.87	-	-	281.70	Inc Jan'59
Schwinkendorf, Donald	Rodman	B-8	201.67	26.40	5.04	-	-	170.23	Sta Apr'59
Schwinkendorf, Glenn	Rodman	A-9	185.00	23.50	4.63	-	-	156.87	Sta Apr'59
Silbernagel, Jacob	Rodman	A-9	185.00	23.50	4.63	-	-	156.87	Sta Apr'59
Silbernagel, Joseph	Rodman	A-9	185.00	23.50	4.63	-	-	156.87	Sta Apr'59
Timm, Robert J.	Asst. St. Engr.	K-7	668.67	68.80	16.72	12.60	-	570.55	Inc Mar'59
Walterson, Howard	Const. Foreman	F-9	392.67	61.30	9.82	12.60	-	308.95	Per Mar'59
Walterson, Jean	Clerk-Typist	D-3	238.50	12.80	5.96	-	18.75	200.99	Inc Jan'59
Ziegler, Victor	Engineer	J-3	547.67	79.00	13.69	12.60	-	442.38	Inc Dec'58

TEMPORARY EMPLOYEES

Burkhardtmeier, Albert	Operator	1.85	370.00	57.30	9.25	-	-	303.45	Hourly Pay
Cleveland, Thomas	Operator	1.75	127.75	1.20	3.19	-	-	123.36	" "
Johnson, George T.	Operator	1.75	441.00	68.20	11.03	-	-	361.77	" "
Knutson, Lewis	Driller	1.95	214.50	33.70	5.36	-	-	175.44	" "
Lauinger, Anton B.	Operator	1.80	334.80	51.50	8.37	-	-	274.93	" "
McMaster, George	Driller	2.50	275.00	39.50	6.88	-	-	228.62	" "
Urness, Joseph G.	Operator	1.80	367.20	57.70	9.19	-	-	300.31	" "
TOTALS			<u>9,962.97</u>	<u>1,285.50</u>	<u>249.12</u>	<u>124.30</u>	<u>93.75</u>	<u>8,210.30</u>	