

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water CommissionDATE December 2, 1980 PLACE Holiday InnBismarck, N.D. PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Norris Peterson	Barnes Co	Barnes W.M.B.
Howard McMullan	Wentwood	Dames W.M.B.
Joseph Harbick	Page	Maple River W.M.B.
Leander Wawers	Fairmount, N.D.	Richland W.M.B.
Robert G. Thompson	Page	RRJWMB
Leah Rogne	Kindred	Sheyenne Valley Association
FRED SCHUMACHER	KINDRED	SHEYENNE VALLEY ASSOCIATION
KENNETH KARLS	BISMARCK	THE NOKOTA CO
Glenn K. Swanson	504 Main St Bottineau ND	ATTY - Secretary Oak Creek W. Mgt. Dist
Jean Swaleson	Hillsboro, N.D.	RRJWMB
Mary Thompson	Page, N.D.	RRJWMB
Norman Cross	Milnor N.D.	Parsons Pump W.M.B.
Charles Stenlund	Ranton ND.	Wahkiakum W.M.B.
R. Joseph Sather	Gardner ND.	North Cass Water Mgt
Dan Twitchell	S.E. Pass	
Norm. Peterson	St. Health Dept	

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
M. H. Werner	Lamoure N.D	State Irrig Assoc
Ralph Thompson	Page N.D	State Irrig Assoc.
Dolan LaPlante	Burford N.D	State Irrig Assoc.
Jim Mongion	Rollette, N.D.	State Irrig. Assoc.
John Leminger	Burford N.D	N.D.I.A
Loren DeWitt	Stappan N.D.	N.D. IRR. ASSN.
Bill Hays		
Wayne Burbank		

MINUTES

North Dakota State Water Commission
Meeting Held In
Bismarck, North Dakota

December 2, 1980

The North Dakota State Water Commission held a meeting on December 2, 1980, at the Holiday Inn in Bismarck, North Dakota. Governor-Chairman, Arthur A. Link, called the meeting to order at 4:15 p.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

Arthur A. Link, Governor-Chairman
Richard Gallagher, Vice Chairman, Mandan
Alvin Kramer, Member from Minot
Arthur Lanz, Member from Devils Lake
Myron Just, Commissioner, Department of Agriculture, Bismarck
Vernon Fahy, State Engineer and Secretary, North Dakota
State Water Commission, Bismarck

MEMBERS ABSENT:

Gordon Gray, Member from Valley City
Arlene Wilhelm, Member from Dickinson

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 25 persons interested in agenda items

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

The proceedings of the meeting were recorded to assist in compilation of the minutes.

CONSIDERATION OF MINUTES OF
NOVEMBER 18 AND 19, 1980 MEETING -
APPROVED

Secretary Fahy reviewed the minutes of the November 18 and 19, 1980 meeting held in Bismarck, North Dakota, and updated the Commission members on various items. There were no corrections or additions to the minutes.

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It was moved by Commissioner Gallagher, seconded by Commissioner Kramer, and unanimously carried, that the minutes of the November 18 and 19, 1980 meeting be approved as presented.

RECOMMENDATION OF JOINT
RED RIVER WATER MANAGEMENT
BOARDS CONCERNING SHEYENNE
RIVER FLOOD CONTROL
(SWC Project No. 1344)

Secretary Fahy indicated that at the last meeting of the Commission during which the Corps of Engineers made a presentation relative to the Sheyenne River Flood Control project, it was decided to request the Joint Red River Water Management

Boards to file a recommendation after they had heard the same Corps presentation. The joint boards will present their report at this meeting of the Commission.

Mr. Robert Thompson, Chairman of the Joint Red River Water Management Board, was introduced. Mr. Thompson indicated that the Boards met, and wished to file the following recommendation with the Commission:

"Leander Wawers, Richland County Water Management Board, made a motion to support continued studying of Plan D-1 or Plan D-2 of the Sheyenne River Study conducted by the Corps of Engineers with the requirement of small upland water retention dams being part of the final plan. The motion was seconded by Maynard Lien, Sargent County Water Management Board. The motion carried.

Respectfully submitted,

Joan Svaieson, Secretary"

After discussion, it was the consensus of the Commission members that a request be made to the Corps of Engineers to also study a combination of alternatives D-1 and D-2 in which small upland water retention dams would be included. Prior to making a final decision on the alternatives, a hearing will be held in the local area.

It was moved by Commissioner Gallagher, seconded by Commissioner Just, and unanimously carried, that a copy of the motion adopted by the Red River Joint Water Management Boards be forwarded to the Corps of Engineers requesting them to include in their continued study of alternatives D-1, D-2 and K-3, a combination of alternatives D-1 and D-2 which would include the requirement of small upland water retention dams.

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CONSIDERATION OF WATER
PERMIT REQUESTS
(SWC Project No. 1400)

Secretary Fahy presented the water permit agenda, labeled as APPENDIX "A", for the Commission's consideration.

It was moved by Commissioner Kramer, seconded by Commissioner Just, and unanimously carried, that the actions of the State Engineer be confirmed. (SEE APPENDIX "A")

The following water permit requests were approved, subject to conditions as stated on each individual permit: No. 3309 - Roy Adolf, Beulah; No. 3318 - Amoco Production Company, Dickinson; No. 3250 - Edwin L. Oster, Hazen; No. 3271 - City of Ross; No. 3273 - Duane Walz, Beulah; No. 3263 - James R. Britton, Fargo; No. 3274 - Tony Belohlavek, Mandan; No. 3287 - The Western Company of North America, Fort Worth, Texas; and No. 3230 - Joe Loh, Manning.

The following water permit applications were deferred: No. 3304 - City of Dazey; Nos. 3315, 3316 and 3317 - Amoco Production Company, Dickinson; and No. 3306 - Ronnie Berry, Cartwright.

REQUEST FOR ASSISTANCE FROM
OAK CREEK WATER MANAGEMENT
DISTRICT IN CLEANOUT OF
LAKE METIGOSHE
(SWC Project No. 330)

Mr. Glen Swanson, Attorney representing the Oak Creek Water Management District, discussed with the Commission members the Lake Metigoshe situation, and requested that the Commission place on their agenda for a future meeting, the

consideration of assisting the Water Management District in developing a plan for the cleanout of the lake.

After discussion, it was the consensus of the Commission members that research could begin immediately on this situation and that the staff should be directed to assist wherever possible to get the preliminary plans underway.

It was moved by Commissioner Kramer, seconded by Commissioner Lanz, and unanimously carried, that the State Water Commission staff be directed to proceed with the preliminary planning for the cleanout of Lake Metigoshe.

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PROPOSED LEGISLATION
FOR 1981 SESSION

Mike Dwyer, legal counsel for the Water Commission, presented and discussed the following bill drafts and resolutions for possible introduction into the 1981 Legislative Session:

PROPOSED LEGISLATION RELATIVE
TO PHASED-TYPE DEVELOPMENT
FOR IRRIGATION PERMITS

Mike Dwyer discussed three alternatives relating to phased-type development for water permit applications for irrigation. Mr. Dwyer indicated that these alternatives

had been reviewed by the Board of Directors of the North Dakota Irrigation Association, and after a great deal of discussion, it was the Board's recommendation that the following proposal would be the most workable and would provide the most flexibility for irrigators and for potential irrigators:

"An applicant may not apply for a permit or permits for irrigation which, if approved, would enable the applicant, at any one time, to hold a conditional permit or permits for more than four hundred eighty acre-feet of water which has not been applied to beneficial use. Applications submitted in violation of this section shall not be assigned a priority date and shall be returned to the applicant by the State Engineer. This section shall not apply to applications for water permits submitted by irrigation districts organized pursuant to title 61."

This recommendation supporting the above-quoted proposal was presented to the Association at its annual meeting held on December 2, 1980 and the members of the Association adopted a resolution supporting the proposal. The resolution adopted by the North Dakota Irrigation Association is attached hereto as APPENDIX "B".

Mr. Loren DeWitz, President of the North Dakota Irrigation Association, shared with the Commission members the Association's views towards phased development for irrigation and their support for the previously-quoted proposal. Mr. DeWitz indicated that the irrigators felt that the proposal they supported was not to limit irrigation, but to provide for orderly and equitable irrigation development.

It was moved by Commissioner Just, seconded by Commissioner Lanz, and unanimously carried, that the State Water Commission supports the proposed legislation endorsed by the North Dakota Irrigation Association.

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PROPOSED LEGISLATION
RELATIVE TO CREATION
OF A STATE WATER BANK

Mr. Dwyer discussed a proposal which would provide for the creation of a state water bank program. Copies of this proposed legislation are available at the State Water Commission office.

It was moved by Commissioner Kramer, seconded by Commissioner Lanz, and unanimously carried, that the State Water Commission supports the proposed legislation for the creation and appropriation of a state water bank program.

PROPOSED LEGISLATION RELATIVE
FOR THE PROTECTION AND
MAINTENANCE OF RIVERS IN
NORTH DAKOTA

Mr. Dwyer presented and discussed proposed legislation relative to the protection and maintenance of rivers in North Dakota. He noted that there is some confusion as to whether or not this is actually a proposal, but that a bill draft has been prepared. He said that he did not know if this proposal would be introduced into the session. No action was taken by the Commission members.

PROPOSED LEGISLATION RELATIVE
TO APPEALS FROM DECISIONS OF
THE STATE WATER COMMISSION AND
THE STATE ENGINEER

Mr. Dwyer presented and discussed a proposed agency bill relative to appeals from decisions of the State Water Commission, and creating a new section of the North Dakota Century Code relating to appeals from decisions of the State Engineer. Copies of this proposed legislation are available at the State Water Commission office.

It was moved by Commissioner Gallagher, seconded by Commissioner Lanz, and unanimously carried, that the State Water Commission supports legislation relating to appeals from decisions of the State Water Commission and the State Engineer.

PROPOSED CONCURRENT RESOLUTION
DIRECTING LEGISLATIVE COUNCIL
TO STUDY POWERS AND AUTHORITIES
OF IRRIGATION DISTRICTS

Mr. Dwyer presented and discussed a proposed concurrent resolution which would direct the Legislative Council to study and review the powers and authorities of irrigation districts, and related statutes pertaining to irrigation as contained in Chapters 61-05 through 61-14 of the North Dakota Century Code. Mr. Dwyer indicated that the North Dakota Irrigation Association will be introducing this resolution. Copies of this proposed concurrent resolution are available at the State Water Commission office.

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by Commissioner Just, and unanimously carried, that the State Water Commission supports a concurrent resolution directing the Legislative Council to study and review the powers and authorities of irrigation districts.

PROPOSED CONCURRENT RESOLUTION
DIRECTING THE LEGISLATIVE
COUNCIL TO STUDY AND REVIEW
THE POWERS, DUTIES, AND
RESPONSIBILITIES OF THE
STATE WATER COMMISSION

Mr. Dwyer presented and discussed a proposed concurrent resolution which would direct the Legislative Council to study and review the powers, duties and responsibilities of the State Water Commission.

It was moved by Commissioner Just and seconded by Commissioner Lanz that the State Water Commission supports a concurrent resolution which would direct the Legislative Council to study and review the powers, duties, and responsibilities of the State Water Commission.

In discussion of the motion, Mr. Dwyer stated that there have been no changes in the statutes since 1937 when the State Water Commission was created and there are areas that need to be updated.

Commissioner Kramer suggested rather than having the Legislative Council do such a study of the powers and duties of the State Water Commission, another alternative would be to exercise the expertise of the State Engineer and his staff to do an in-depth study of the statutes prior to the next Legislative Session. In areas where deficiencies exist, these could be discussed with the Commission members, and an appropriate recommendation could then be made for legislative action. Commissioner Kramer also stated that in the performance audit done of the Commission, it was noted that the staff is capable of performing such work.

At this time, Commissioner Just withdrew his original motion; Commissioner Lanz likewise withdrew his second to the original motion.

It was moved by Commissioner Kramer, seconded by Commissioner Gallagher, and unanimously carried, that the State Water Commission direct the State Engineer and staff to do an in-depth study to review the powers, authorities and duties of the State Water Commission prior to the 1983 Legislative Session.

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Mr. Dwyer noted that there will be two agency housekeeping bills introduced into the Legislature relative to water permits.

It was moved by Commissioner Just, seconded by Commissioner Kramer, and unanimously carried, that the meeting adjourn at 6:00 p.m.



Arthur A. Link
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

December 2, 1980

WATER PERMIT AGENDA FOR DECEMBER 2, 1980 MEETING

* INDICATES PRIOR
PERMIT STATUS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3309	Adolf, Roy - Beulah (Mercer County) Priority: 7-21-80 Hearing: 11-24-80	Knife River, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	3.0 acre-feet 3.0 acres	3.0 acre-feet 3.0 acres
3304	Dazey, City of - Dazey (Barnes County) Priority: 9-25-80 Hearing: 11-24-80	Ground Water * NO PRIOR PERMITS	Municipal	100.0 acre-feet	It is recommended that action be deferred at this time.
3318	Amoco Production Company - Dickinson (Hettinger County) Priority: 10-20-80 Hearing: 11-24-80	Ground Water * The applicant has a number of permits.	Industrial	16.13 acre-feet	16.13 acre-feet
3315	Amoco Production Company - Dickinson (Hettinger County) Priority: 10-20-80 Hearing: 12- 1-80	Ground Water * The applicant has a number of permits.	Industrial	6.13 acre-feet	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3316	Amoco Production Company - Dickinson (Dunn County) Priority: 10-20-80 Hearing: 12- 1-80	Ground Water	Industrial	16.13 acre-feet	It is recommended that action be deferred at this time. * The applicant has a number of permits.
3317	Amoco Production Company - Dickinson (Dunn County) Priority: 10-20-80 Hearing: 12- 1-80	Ground Water	Industrial	16.13 acre-feet	It is recommended that action be deferred at this time. * The applicant has a number of permits.
3306	Berry, Ronnie - Cartwright (McKenzie County) Priority: 9-26-80 Hearing: 12- 1-80	Yellowstone River	Irrigation	746.0 acre-feet 373.0 acres	It is recommended that action be deferred at this time. * NO PRIOR PERMITS
3250	Oster, Edwin L. - Hazen (Mercer County) Priority: 4- 8-80 Hearing: 6-23-80 Deferred: 7-14-80	Ground Water (Knife River Aquifer)	Irrigation	240.0 acre-feet 160.0 acres	240.0 acre-feet 160.0 acres * NO PRIOR PERMITS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3271	Ross, City of - Ross (Mountrail County) Priority: 6-23-80 Hearing: 10-27-80 Deferred: 11-18-80	Ground Water (Unnamed Aquifer) * NO PRIOR PERMITS	Municipal	40.0 acre-feet	40.0 acre-feet
3273	Walz, Duane - Beulah (Mercer County) Priority: 6- 2-80 Hearing: 7-28-80 Deferred: 8-19-80	Ground Water (Antelope Creek Aquifer) * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	240.0 acre-feet 160.0 acres (Remainder of original request to be denied.)
3263	Britton, James R. - Fargo (Emmons County) Priority: 5-19-80 Hearing: 8- 4-80 Deferred: 8-19-80	Missouri River * NO PRIOR PERMITS	Irrigation	600.0 acre-feet 400.0 acres	600.0 acre-feet 400.0 acres
3274	Belohlavek, Tony - Mandan (Morton County) Priority: 6- 4-80 Hearing: 8-25-80 Deferred: 11-18-80	Missouri River * NO PRIOR PERMITS	Irrigation	230.0 acre-feet 115.0 acres	230.0 acre-feet 115.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3287	The Western Company of North America - Fort Worth, Texas (Stark County) Priority: 7-18-80 Hearing: 10-20-80 Deferred: 11-18-80	Ground Water (Fox Hills Formation) NO PRIOR PERMITS	Industrial	241.0 acre-feet	46.0 acre-feet (The remainder of the original application shall be denied.)
3230	Loh, Joe - Manning (Dunn County) Priority: 2-22-80 Hearing: 3-31-80 Deferred: 4- 3-80	Unnamed dry creeks and Knife River, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	108.0 acre-feet 54.0 acres	54.0 acre-feet 54.0 acres (Remainder of original application shall be denied.)

RESOLUTION
OF THE
NORTH DAKOTA IRRIGATION ASSOCIATION

1980

We support legislation which would provide for the phased-development of irrigation water permits by limiting the amount of undeveloped conditional water permits any permittee can hold at one time. Specifically, we propose the following provision be added to Chapter 61-04 of the North Dakota Century Code to implement the phased-development of irrigation water permits:

TIME LIMITATIONS CONCERNING APPLICATIONS.

An applicant may not apply for a permit or permits for irrigation which, if approved, would enable the applicant, at any one time, to hold a conditional permit or permits for more than four hundred eighty acre-feet of water which has not been applied to beneficial use. Applications submitted in violation of this section shall not be assigned a priority date and shall be returned to the applicant by the state engineer. This section shall not apply to applications for water permits submitted by irrigation districts organized pursuant to title 61.

Adopted by the North Dakota Irrigation
Association on December 2, 1980