

MINUTES OF A REGULAR MEETING

30

of the

STATE WATER CONSERVATION COMMISSION

Held Thursday and Friday, April 18 and 19, 1940 in  
the office of the Commission at Bismarck, N. Dak.

The regular meeting of the State Water Conservation Commission was called to order at 10 A. M., Thursday, April 18, 1940 in the office of the Commission. Roll was called with Commissioners Simons, Dahl and Thompson present. Absent, Governor Moses, Chairman, and Henry Holt, Vice Chairman. In the absence of the Chairman and Vice Chairman, Comm. Simons presided.

It was moved by Comm. Dahl, seconded by Comm. Thompson, that the minutes of the last meeting, held January 10, 1940, be approved. The motion carried, all Commissioners voting aye.

The Secretary explained that the contract for natural gas for the Sioux Irrigation Project #213 had been revised postponing any minimum charge to 1941. The minimum of \$150.00 will provide 11.7 inches of water over the project. He stated that the contract is now satisfactory.

It was moved by Comm. Dahl, seconded by Comm. Thompson, that the Governor and Secretary be authorized and directed to sign the power contract for the Sioux Irrigation Project #213. On roll call the motion carried, Comms. Simons, Thompson and Dahl voting aye. Governor Moses and Comm. Holt, absent.

Regarding the Lewis and Clark Irrigation Project contract for electrical energy, the Secretary explained that the contract provides a minimum charge and a 5-year term beginning at the time energy is first taken. He stated that a postponement of the minimum charge to 1941 has been requested, to which Montana-Dakota has agreed, provided the 5-year term also begins in 1941. He stated that engineers of the Farm Security Administration agree.

It was moved by Comm. Dahl, seconded by Comm. Thompson, that the revision of the power contract on Lewis and Clark Irrigation Project #175, to provide to delay the application of the minimum charge and the beginning of the 5-year term to 1941, be approved. The motion carried, Comms. Thompson, Simons and Dahl voting aye. Governor Moses and Comm. Holt, absent.

Vice Chairman Holt arrived at the meeting and took the Chair.

There was a discussion of various requests for water rights.

It was moved by Comm. Simons, seconded by Comm. Dahl, that this Commission hereby initiates a right to the water in the Cedar River for Blackhawk Gardens Incorporated, Project #187, in Sections 8 and 17, Township 130 North, Range 85 West, Sioux County. The irrigable land is approximately 30 acres, annual diversion 60 acre feet, rate of diversion by pumping 0.375 second feet during irrigation season. The Secretary is hereby directed to execute the declaration and make filings in accordance with Section 16, Chapter 256, Session Laws 1939, by which the water right shall vest in this Commission from the date of such filing. The motion carried, All Commissioners voting aye.

State Engineer E. J. Thomas was called into the meeting to discuss the water right requests.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the application of W. S.

Peshek of Gorham, North Dakota, for 67.04 acre feet of water, subject to prior appropriators, to be diverted from the Little Missouri River, be granted. The motion carried, all Commissioners voting aye.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the request of the Minot Country Club to divert 250 acre feet of water from the Mouse (Souris) River for irrigation purposes including sprinkling and watering of lawns, trees, shrubs, in Ward County, be granted. The motion carried, all Commissioners voting aye.

After further discussion, it was decided to defer the matter of the other requests for water rights pertaining to diversion of water from the Maple River, until the Governor could attend the meeting.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the request of the Mandan Park Board of Mandan, North Dakota to divert 134 acre feet of water from the Heart River for irrigation purposes in Morton County, be granted, subject to the rights of prior appropriators. The motion carried, all Commissioners voting aye.

At noon, the meeting was recessed until 1:30 P. M.

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

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the Commission give \$100.00 membership per year to the National Rivers and Harbors Congress, to be paid as funds permit and from budget items allowing such expenditures. On roll call the motion carried. Comms. Holt, Dahl, Thompson voting aye. Absent, Governor Moses and Comm. Simons.

There was a discussion of the annual meeting of the Upper Missouri River Valley Association, which has been set for May 17.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the Commission request a travel authorization outside the state to attend the annual meeting of the Upper Missouri Valley Association, on or about May 17, for one representative of the Commission as it may be designated by the Secretary. On roll call the motion carried, Comms. Holt, Thompson and Dahl voting aye. Governor Moses and Comm. Simons, absent. When Comm. Simons returned to the meeting a short time later, he asked to be recorded as voting aye to this motion.

Attention was called to the Penal Code, Section 9440, which defines false writing by a public official as a misdemeanor. A commissioner may therefore not be shown present unless actually at the meeting.

Comm. Simons entered the meeting at this time.

The Secretary presented to the Commission an annual project report prepared by W. H. Farmer, Extension Irrigationist.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Extension Irrigationist's report be received and placed on file and that Mr. Farmer be commended on the complete analysis furnished for each irrigation project. The motion carried, all Commissioners voting aye.

There was a discussion of the statewide WPA project, maintenance of existing dams, in connection with work relief projects. The Secretary reported that this project was

approved February 28, 1940, and although a number of dam projects had been considered, none are definitely progressing. There was further discussion of specific projects, especially the Park River and Warwick Dams.

It was moved by Comm. Thompson, seconded by Comm. Simons, that it be the sense of this Commission and a policy to be hereinafter followed until otherwise revised, that the maximum amount to be spent for engineering and material on the repair of small dams within the state, shall be the sum of \$300.00. On roll call the motion carried, Comms. Holt, Thompson, Dahl and Simons, voting aye. Governor Moses, absent.

It was stated by the Secretary that bids for wasteways and corrugated metal culverts had been received by the Commission for the Lewis and Clark Irrigation Project #175. The bids were as follows:

Northwest Sheet & Iron - - - - -	\$5,682.08	Dakota Culvert & Pipe - - -	\$5,697.12
North Dakota Metal Culvert - - - - -	\$5,697.24	McGray-Phillips - - - - -	\$5,697.12

The consensus was that there had been collusion. Judge Christianson came into the meeting and there was further discussion of the bids.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the matter of the bids for wasteways and corrugated metal culverts for the Lewis and Clark Project #175, be referred to the Irrigation Committee and Secretary with power to act, subject to the approval of Judge Christianson, President of the North Dakota Rural Rehabilitation Corporation. On roll call the motion carried, Comm. Holt, Simons, Dahl and Thompson voting aye. Governor Moses, absent.

The Secretary brought up the matter of an agreement with the Montana Water Board for the construction of the Yellowstone Pumping Project #214. He told of a meeting in Sidney, March 20, with members of the Montana Water Board.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Governor be asked to see to it that proper representations are made to the Reconstruction Finance Corporation in Washington with a view to opening a market for North Dakota irrigation bonds and that he be authorized to designate anyone who, in his opinion, can best serve the Commission, to go to Washington and discuss the matter with the R.F.C. and that the expenses of such delegate be paid by this Commission, if the same becomes necessary. On roll call the motion carried, Comms. Holt, Simons, Dahl, and Thompson voting aye. Governor Moses absent.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the Chairman and Secretary of the Commission be authorized to enter into the proposed contract with the Montana Water Board covering engineering and other developments upon Project #214, known as the Yellowstone Pumping Project and located near Sidney, Montana, provided: (1) That said contract shall not become effective until bonds have been issued by the district and a sufficient amount thereof has been turned over or delivered to the North Dakota State Water Conservation Commission to cover the cost of expenditures made or immediately to be made in said district for the construction of an enlarged intake and for engineering; (2) That right-of-way by deed be provided by the District and title thereto directed to the State Water Conservation Commission for ditches and other structures necessary to the proposed development; (3) That said contract be signed with the proviso and subject to the condition that the North Dakota State Water Conservation Commission be able to finance same by the sale of its bonds; and (4) That the District agree and contract to levy taxes annually to provide for interest upon, and a sinking fund for, the bonds to be delivered to this Commission immediately and such bonds as hereafter may be issued by the District and delivered to the Commission in payment for additional work done by the State Water Conservation Commission in the district. On roll call the motion carried, Comms. Holt, Thompson, Dahl and Simons voting aye. Governor Moses, absent.

It was moved by Comm. Thompson, seconded by Comm. Simons, that the rebuilding of the Park River Dam, Project #217, at a site only about 400 feet from the site of the present dam is held by this Commission to be maintenance and coming under our Statewide WPA Dam Project which provides for the improvement of dams, and the Secretary and Chief Engineer is hereby instructed to arrange for such work as soon as possible. On roll call the motion carried, Comms. Dahl, Thompson, Simons and Holt voting aye. Governor Moses, absent.

The Secretary called the attention of the Commission to various items of Federal Legislation including S 1777 which grants consent of Congress to the State of Montana, North Dakota, South Dakota and Wyoming to agree on the diversion of the waters of the Little Missouri River; E. R. 8746 which amends the sugar control act of 1937; S 3429 which requires cooperation between Federal agencies contemplating use or control of water to cooperate with other Federal agencies and the states; S 3136 authorizing an appropriation of \$5,000,000.00 from the Reclamation fund for small storage reservoirs; S 1759 which grants consent to Montana, Wyoming and North Dakota to compact for division of waters of the Yellowstone River; and H. R. 8652 which provides in 17 westerly states, before the expenditure of federal money on reservoirs, notice must be given to all interested

1. Federal agencies,
2. State agencies,
- and 3. Interstate Commission.

The Secretary called the attention of the Commission to an opinion of the Attorney General advising that the Board of University and School Lands may not invest in Water Commission bonds since they are not bonds of the State of North Dakota.

The Secretary presented reports of the delegates to the National Rivers and Harbors Congress at Washington, D. C., and after further discussion by Comms. Holt and Thompson, it was suggested by Comm. Simons that the reports be filed.

The Secretary presented a report on the Red River of the South for the information of the Commissioners, particularly on the irrigation feature in a humid section.

It was moved by Comm. Dahl, seconded by Comm. Simons, that the Secretary be authorized to issue to Boyce Brothers a 1940 hay cutting permit on the N $\frac{1}{2}$  Section 16-153-101 in the Lewis and Clark Irrigation Project, for an advance payment of Twenty Dollars (\$20.00), such agreement to contain the necessary clauses permitting construction and development work to proceed. On roll call the motion carried, Comms. Holt, Simons, Thompson and Dahl voting aye. Governor Moses, absent.

There was a general discussion of the Bismarck, Eyes and Painted Woods Irrigation Projects.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Chairman and Secretary of the Commission be authorized to purchase Section 21 in Township 138, Range 80 West, Burleigh County, North Dakota, at the price of \$13,600.00, same to be a part of the Bismarck Irrigation Project and with the intention of reselling said land to the Farm Security Administration at the price listed provided that the said arrangement and the payment of said money be subject to the approval of the Attorney General as to the legality thereof. On roll call the motion carried, Comms. Holt, Thompson, Dahl and Simons voting aye. Governor Moses, absent.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the Irrigation Committee and the Secretary be authorized and directed to arrange for optioning land located in the so-called Bismarck Irrigation Project on behalf of the Commission and/or the FSA, that they be authorized to pay such monies as may be necessary to bind the option and also that they be authorized to employ such person or persons as may be necessary to negotiate for the aforesaid options, said authority to include an option on the land now owned in said project by the Dullam estate. On roll call the motion carried, Comms. Holt, Simons, Dahl and Thompson voting aye. Governor Moses absent.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the Chief Engineer and Secretary

be authorized and directed to investigate the advisability and feasibility of the Commission constructing on its own motion any one or all of the following three projects (1) the Bismarck Irrigation Project, (2) the Kyes Project at Livona, (3) the Painted Woods Project. On roll call the motion carried, Comms. Holt, Dahl, Thompson and Simons voting aye. Governor Moses, absent.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Commission direct its engineering staff that the policy of the Commission, where it is feasible to do so from an engineering standpoint, where the quality and prices are comparable, and other factors are satisfactory, that preference be given to purchases which use the greatest quantity of North Dakota material and give the greatest possible employment to North Dakota labor. The motion carried, all Commissioners voting aye.

At 5:45 P. M. the meeting was recessed until 9:30 A. M., Friday morning.

At 9:30 A. M., Friday morning the meeting was called to order by Vice Chairman Henry Holt. Roll was called with Comms. Holt, Thompson, Dahl and Simons present. Governor Moses, absent.

State Engineer Thomas was called into the meeting to give a verbal report to supplement his written report, on the International Joint Commission. He stated that pending the settlement of matters pertaining to the Souris River, there is to be no more diversion or any construction work on the Souris (Mouse) River. He stated that this had been recommended to the Commission by the Secretaries of State of the two countries, the United States and Canada. He stated that the two groups of engineers of the two countries were now working on reports to be submitted to the Commission about the first week in June. These are preliminary in character and will not contain any recommendations advising the Joint Commission as to what the solution of the problems should be. A second report will be made by the engineers after hearings are held.

It was moved by Comm. Thompson, seconded by Comm. Simons, that the report of the State Engineer regarding the activities of the International Joint Commission on the Mouse River Basin be approved and placed on file and that it be the policy of the Commission not to grant further water rights on the Mouse River in North Dakota until such time as the International Joint Commission has come to an agreement and made its report and the same has been adopted by the contracting parties. The motion carried, all Commissioners voting aye.

The Secretary presented copies of the financial statement to March 31, 1940, under the 1939 Legislative appropriation. It was moved by Comm. Simons, seconded by Comm. Dahl, that the financial statement be received and placed on file. The motion carried, all Commissioners voting aye.

The Governor came into the meeting and there was a discussion of requests for water rights along the Maple River.

It was moved by Comm. Simons, seconded by Comm. Thompson, that action upon the applications for water rights made by Emil Piper, Davenport, North Dakota; Mr. M. G. Kittel, Attorney in fact for the Frank Lynch estate of Casselton; Mr. A. L. Eggert of Mapleton; and Allan M. Houd of Fargo, be postponed and that the Secretary and/or Vice Chairman of the Commission or some other member of the Commission, be instructed to hold a hearing at Casselton, North Dakota, with reference to these applications, and that the Secretary be further instructed to make a preliminary survey of the available water, possibilities of irrigation and the possible water users in the district. On roll call the motion carried, Comms. Holt, Simons, Dahl, Thompson and Governor Moses voting aye. Voting no, none.

The Secretary read a letter from Dean H. L. Walster of the North Dakota Agricultural College regarding the Secretary's return to the College July 1, 1940. The matter of the Secretary's leaving was taken up with the Governor. Comm. Simons was directed to prepare a special resolution to the Agricultural College and presented the following:

WHEREAS, H. F. McColly has faithfully served the North Dakota Water Conservation Commission during the last year as Secretary and Chief Engineer, and

WHEREAS, his services have been extremely valuable in a critical period of the life of this Commission, and

WHEREAS, his continued service to this Commission for at least another year is vital to the development of a sound water conservation program in this state,

NOW, THEREFORE, BE IT RESOLVED, by the North Dakota Water Conservation Commission that the North Dakota Agricultural College and the Experiment Station thereof be requested to extend the leave of absence heretofore given to Mr. McColly for a period of one year, beginning July 1, 1940, that he may continue with the work of the North Dakota Water Conservation Commission until it can safely be left to other hands.

In adopting this resolution the North Dakota Water Conservation Commission wishes to make it clear that it fully understands the sacrifice which it is asking the North Dakota Agricultural College and the Experiment Station thereof to make in this matter but it feels that the broad interests of the state, dealing with both the general welfare and the welfare of agriculture will enable Mr. McColly to be of particular value in water conservation work during the next year.

His personality, executive ability, understanding of the problems to be solved and his attention to technical detail are of the highest order and it will handicap the water conservation program almost irreparably to lose his services at this time.

It was moved by Governor Moses, seconded by Comm. Holt, that the foregoing resolution be adopted and a copy sent to the North Dakota Agricultural College and Experiment Station. The motion carried, all Commissioners voting aye.

The Governor reported on a talk with CCC officials and stated that while they admitted North Dakota should have more camps, they stated it was very hard to take camps away from states that already had them.

The Commission reported to the Governor the status of bids on wasteways and metal culverts for the Lewis and Clark Project #175.

The Governor was called out of the meeting.

The Secretary read the Operation and Maintenance Agreement between the State Water Commission and the Lewis and Clark Irrigation District. It was moved by Comm. Dahl, seconded by Comm. Simons, that the operation and maintenance agreement be approved. On roll call the motion carried, Comms. Holt, Thompson, Dahl and Simons voting aye. Governor Moses, absent.

It was moved by Comm. Dahl, seconded by Comm. Simons, that the contract by and between the Lewis and Clark Irrigation District and the State Water Conservation Commission be approved, such contract being for the construction of a drainage system, and furnishing funds for operation and maintenance until taxes levied and assessed for operation and maintenance have been collected and made available for the District. On roll call the motion carried, Comms. Holt, Thompson, Dahl and Simons voting aye. Governor Moses, absent.

Vice Chairman Holt reported that there had been no recent meeting of the Tri-State Waters Commission. He stated that the activities of the Tri-State Waters Commission were held up by reason of the completion of the report on Missouri River Diversion. He presented a notice of a Public Hearing on diversion of water from the Little Minnesota River from Browns Valley into Lake Traverse, the hearing to be held in Ortonville, April 23.

It was moved by Comm. Simons, seconded by Comm. Thompson, that Col. E. E. Howard, Vice Chairman of the Tri-State Waters Commission be authorized to represent the State Water Conservation Commission at the public hearing to be held by the District Engineer of St. Paul regarding the diversion of water from the Little Minnesota River from Browns Valley into Lake Traverse, said hearing to be held at Ortonville, Minnesota, April 23, 1940. The motion carried, all Commissioners voting aye.

There was a discussion of the coming of the Corps of Engineers, who will have headquarters in Bismarck and do further investigation work on Missouri River Diversion. It was suggested that suitable newspaper publicity be given out regarding this matter.

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

WHEREAS, the State Water Conservation Commission has entered into an agreement with the Lewis and Clark Irrigation District of McKenzie County, North Dakota for completing the system of irrigation established therein by constructing adequate drainage canals for the drainage of surplus waters from the irrigated lands in order that such lands shall not become waterlogged, and

WHEREAS, the estimated cost of constructing such drainage canals is \$15,000.00 and the estimated amount required for the operation and maintenance of the irrigation system, until sufficient taxes assessed and levied for operation and maintenance needs have been collected and have been made available for such purposes, is ten thousand dollars (\$10,000.00), and

WHEREAS, the State Water Conservation Commission has undertaken and agreed to control and direct the operation and maintenance of said irrigation system, including drainage canals, until said irrigation system has been tested and tried out and until taxes assessed, levied and collected are sufficient for operation and maintenance requirements, and

WHEREAS, it is necessary that the State Water Conservation Commission issue and sell its Water Conservation Commission Revenue Bonds, Series E., in order to raise sufficient funds to construct such drainage canals and to raise funds sufficient for the operation and maintenance of the irrigation system in Lewis and Clark Irrigation District under the control and supervision of the Commission until said system has been tested and tried out, and until special assessments against the lands benefited by the system have been levied and collected and have been made available for operation and maintenance requirements;

NOW, THEREFORE, BE IT RESOLVED by the State Water Conservation Commission:

That the State Water Conservation Commission Revenue Bonds, Series E., to be issued and sold in the aggregate principal amount of twenty-five thousand dollars (\$25,000.00) (except for bonds issued in substitution for bonds lost, stolen or destroyed), shall be in denominations of \$100.00 and that such bonds shall be payable serially as follows:

\$5,000.00 on or before January 31st, 1951.

\$1,000.00 on or before January 31st, in each of the years 1952 to 1971,

inclusive.

That each of the bonds shall be numbered consecutively, beginning with Bond No. 1, and

shall bear interest at the rate of three per cent (3%) per annum provided, however, that interest up to and including January 31st, 1944, shall be accrued and shall be payable on or before January 31st, 1944. That each bond shall be callable at the option of the State Water Conservation Commission upon any interest payment date upon thirty (30) days prior notice which shall be given by publication once in a newspaper of general circulation in Burleigh County, North Dakota, and in a newspaper of general circulation in McKenzie County, North Dakota, by payment of the par value thereof and accrued interest thereon to the date of redemption. If thus called for redemption, this bond shall cease to bear interest after the date fixed for redemption and that such bonds shall be in substantially the following form, to-wit:

United States of America.

Number \_\_\_\_\_

State of North Dakota

\$ \_\_\_\_\_

STATE WATER CONSERVATION COMMISSION BOND

SERIES E.

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

This bond is one of a duly authorized issue of bonds known as State Water Conservation Commission Revenue Bonds, Series E., limited in the aggregate principal amount to Twenty-five Thousand Dollars (\$25,000.00) (except for bonds issued in substitution for bonds lost, stolen or destroyed), all of like tenure. Said bonds are issued to provide funds for the payment of the cost of constructing a system of drainage canals for the drainage of irrigated lands situated in the Lewis and Clark Irrigation District of McKenzie County, North Dakota, and to provide funds for the operation and maintenance of the system of irrigation works including drainage canals, until sufficient funds have been obtained from the collection of assessments levied against the lands within said irrigation district and from other sources.

The principal and interest of this bond will be payable from a special fund created by payments to the State Water Conservation Commission or the State Treasurer of North Dakota from revenues derived by Lewis and Clark Irrigation District of McKenzie County, North Dakota, from the sale of water for irrigation, and by assessments against the lands within said irrigation district. This bond will be secured by bonds of Lewis and Clark Irrigation District, issued by said district to cover the cost of construction of drainage canals, and by the agreement of the district pledging revenues derived from the operation of the system of irrigation works established therein and from assessments levied against the lands in said district.

The State Water Conservation Commission covenants that the revenues derived from Lewis and Clark Irrigation District of McKenzie County, North Dakota, will be deposited in the office of the State Treasurer in a fund known as the State Water Conservation Commission Revenue



Bond Payment Fund, Series E., and that bonds of the Lewis and Clark Irrigation District issued and delivered to the Commission in payment of the cost of constructing a system of drainage canals in said district, and to provide funds for the operation and maintenance of the system of irrigation works established in said district, until revenues obtained from the collection of assessments levied against the lands of the district, and from other sources, will be sufficient for operation and maintenance requirements, will be irrevocably pledged to the Bank of North Dakota under a trust agreement under which said bank will hold said irrigation district bonds in the aggregate principal amount of Twenty-five Thousand Dollars (\$25,000.00) in trust for the owners of State Water Conservation Commission Revenue Bonds, Series E., and will collect the principal of, and interest on, such irrigation district bonds and will deposit the proceeds with the State Treasurer of North Dakota to the credit of said Revenue Bond Payment Fund, Series E.

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

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

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

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

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

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

Attest \_\_\_\_\_  
Secretary of the State Water Conservation Commission of North Dakota.

COUPON

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

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

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

ATTEST:

STATE WATER CONSERVATION COMMISSION

\_\_\_\_\_  
Secretary

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

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

The Secretary explained the situation regarding the School and Bank land. He stated that bonds were sold to the Bank of North Dakota in the amount of \$12,800.00 out of a required total of \$27,000.00 necessary to take care of land purchase, development and construction costs. The \$12,800.00 takes care of purchasing land and developing it. The balance of \$14,200.00 is the construction cost of the irrigation and drainage system. A six months note was signed for an advance of \$5,800.00, which was the amount of money needed to buy land. A bond guarantee deposit of 10% (\$1,280.00) of the bond sale was filed with the Bank.

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

R E S O L U T I O N

WHEREAS, the State Water Conservation Commission has acquired the following described lands situated in the Lewis and Clark Irrigation District of McKenzie County, North Dakota, to-wit The Southwest Quarter (SW $\frac{1}{4}$ ) of Section 9, and the North Half (N $\frac{1}{2}$ ) and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$ ) of Section 16, all in Township 153, Range 101, McKenzie County, North Dakota, for the purpose of leveling and fully developing said premises for irrigation, and

WHEREAS, it is necessary to issue and sell Water Conservation Commission Revenue Bonds in the principal amount of Twenty-seven Thousand Dollars (\$27,000.00), or so much thereof as shall be found necessary, to pay the purchase price of said lands, to fully prepare and develop same for irrigation, and to pay the construction costs of the system of irrigation works which will be apportioned and assessed against said lands, and to pay any other expenses incurred by the Commission in connection with such lands, including the sale and/or lease thereof,

NOW, THEREFORE, BE IT RESOLVED By the State Water Conservation Commission:

That State Water Conservation Commission Revenue Bonds, Series F., be issued and sold in the aggregate principal amount of Twenty-seven Thousand Dollars (\$27,000.00) or so much thereof as shall be found necessary to pay the purchase price of the Southwest Quarter

(SW $\frac{1}{4}$ ) of Section 9, and the North Half (N $\frac{1}{2}$ ) and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$ ) of Section 16, all in Township 153, Range 101, McKenzie County, North Dakota, to fully prepare and develop said lands for irrigated farming, to pay the cost of constructing the irrigation system apportioned and assessed against said lands and to pay any other expenses in connection with said lands, including expenses incurred in connection with the sale or lease thereof.

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

\$7,000.00 on or before January 31st, 1950.

\$1,000.00 on or before January 31st in each of the years 1951 to 1970 inclusive.

That each of the bonds shall be numbered consecutively, beginning with Bond No. 1, and shall bear interest at the rate of four percent (4%) per annum, provided, however, that interest up to and including January 31st, 1942, shall be accrued and shall be payable on or before January 31st, 1942.

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

STATE OF NORTH DAKOTA

STATE WATER CONSERVATION COMMISSION REVENUE BONDS

No. \_\_\_\_\_ Series F. \$ 500.00

The State Water Conservation Commission, a body corporate, created, organized and existing under and by virtue of Chapter 256 of the Session Laws of North Dakota for the year 1939, for value received, hereby undertakes and promises to pay from the special fund herein mentioned to the bearer, hereof, or if this bond be registered, to the registered owner hereof, on or before the 31st day of January, 19\_\_\_\_, the principal sum of Five Hundred Dollars (\$500.00) and interest, as evidenced by interest coupons attached, payable annually thereon from the date hereof at the rate of four per cent (4%) per annum. Principal and interest on this bond shall be payable at the office of the State Treasurer of North Dakota in any coin or currency of the United States of America, which on the date of payment of principal and interest on this bond is legal tender for the payment of public and private debts

This bond is one of a duly authorized issue of bonds known as State Water Conservation Commission Revenue Bonds, Series F., limited in the aggregate principal amount of Twenty-seven Thousand Dollars (\$27,000.00) (except for bonds issued in substitution for bonds lost, stolen or destroyed), all of like tenure. Said bonds are issued to provide funds for the purchase and development for irrigation of certain lands situated in the Lewis & Clark Irrigation District of McKenzie County, North Dakota, which lands are described in a Trust Indenture entered into between the State Water Conservation Commission and the Bank of North Dakota securing the payment of said bonds.

The principal and interest of this bond will be payable from a special fund created by payments to the State Water Conservation Commission, or Trustee, from the sale of said lands, or parts thereof, and from rent received for the use thereof. State Water Conservation Commission Revenue Bonds, Series F., will be secured by a Trust Indenture to said lands made and delivered to the Bank of North Dakota as Trustee and by the sum of Five Thousand Four

Hundred Dollars (\$5,400.00) irrevocably pledged and hypothecated to the Bank of North Dakota as such Trustee, guaranteeing the payment of principal of said bonds to that extent under and by virtue of Sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939.

The State Water Conservation Commission covenants that revenues derived from the sale of said lands, or any part or portion thereof, and from rents received for the use of said lands, will be paid to the Bank of North Dakota as Trustee and deposited by said Trustee in the office of the State Treasurer of North Dakota in a fund known as State Water Conservation Commission Revenue Bond Payment Fund, Series F., that a mortgage and Trust Indenture has been delivered to the Bank of North Dakota under which Indenture the said bank will hold said mortgage in trust for the owners of State Water Conservation Commission Revenue Bonds, Series F., and that the Commission has, under and by virtue of Sub-division 4 of Section 21 of Chapter 256, Laws 1939, irrevocably pledged and hypothecated Five Thousand Four Hundred Dollars (\$5,400.00) to insure and guarantee to the extent of twenty per cent (20%) the payment of the principal of said bonds.

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

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

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

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

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

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

ATTEST \_\_\_\_\_  
Secretary, State Water  
Conservation Commission

C O U P O N

No. \_\_\_\_\_ of Bond No. \_\_\_\_\_, Series F. \$ \_\_\_\_\_

On the 31st day of January, 19\_\_, unless the bond to which this coupon is attached shall have been called for redemption, as provided therein, the State Water Conservation Commission of North Dakota will pay to the bearer at the office of the State Treasurer in the City of Bismarck, North Dakota, the sum of \$ \_\_\_\_\_ in any coin or currency of the United States of America which on said date of payment is legal tender for the payment of public and private

debts, solely from the Series F., Bond Payment Fund in payment of the annual interest due at the date hereof upon its State Water Conservation Commission Revenue Bond, Series F.

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

STATE WATER CONSERVATION COMMISSION

ATTEST:

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

\_\_\_\_\_  
Secretary

REGISTRATION CERTIFICATE

The within bond is registered, as to principal, at the office of the Bank of North Dakota as Trustee, in the City of Bismarck, North Dakota, in the name of the owner and the principal of this bond shall be payable only upon the written order of such registered owner or duly authorized attorney.

<u>Date of Registration</u>	<u>Name of Owner</u>	<u>Signature of Bond Registrar.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

BE IT FURTHER RESOLVED: That the Chairman and the Secretary of the Commission be, and they are hereby, authorized and directed, for and on behalf of the Commission, to sell and deliver to the Bank of North Dakota, State Water Conservation Commission Revenue Bonds of the aggregate par value of \$12,800.00 to evidence the amount received from said Bank to enable the Commission to purchase the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 9, and the North Half (N $\frac{1}{2}$ ) and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$ ) of Section 16, all in Township 153, Range 101, McKenzie County, North Dakota, and to level and prepare said lands for irrigation.

That the Chairman and Secretary of the Commission are also authorized and directed to offer for sale and to sell and deliver to the purchaser or purchasers at not less than the par value thereof, State Water Conservation Commission Revenue Bonds, Series F., of the total par value of \$14,200.00 or so much thereof as shall be found necessary to pay in full the construction costs of the irrigation works apportioned to and assessed against said lands.

Upon roll call, Comms. Dahl, Simons, Thompson and Holt voted aye, Governor Moses absent and not voting, and the motion was declared carried and the foregoing resolution duly adopted.

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

WHEREAS, it is necessary to insure or guarantee the payment of twenty per cent (20%) of the principal of State Water Conservation Commission Revenue Bonds, Series F., issued by the Commission in the aggregate amount of Twenty Seven Thousand Dollars (\$27,000.00) for the purpose of acquiring and developing for irrigation the following described premises situated in the Lewis and Clark Irrigation District of McKenzie County, North Dakota, to-wit: the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 9, and the North Half and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$ ) of Section 16, all in Township 153 North, Range 101, in order to sell or market said bonds;

THEREFORE BE IT RESOLVED: That the Chairman and Secretary of the Commission be, and they are hereby, directed, for and on behalf of the Commission: To enter into a Trust Indenture with the Bank of North Dakota as Trustee for the protection and security of owners of State Water

Conservation Commission Revenue Bonds, Series F., and in and under such Trust Indenture, to make, execute and deliver to the Bank of North Dakota a trust deed to the lands hereinbefore mentioned and described, and any other lands subsequently acquired by the Commission under the terms of such Trust Indenture, and, under and by virtue of Sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939, to deposit, pledge and hypothecate to the Bank of North Dakota as Trustee twenty per cent of the aggregate par value of such bonds, namely, \$5,400.00 to guarantee and to insure to that extent the payment, when due, of the principal of said State Water Conservation Commission Revenue Bonds, Series F.

Upon roll call, Comms. Dahl, Simons, Thompson and Holt voting aye. Governor Moses absent and not voting. The motion was declared carried and the foregoing resolution duly adopted.

Mr. Iver Acker, Treasurer of the Rural Rehabilitation Corporation, spoke, regarding Sioux Irrigation bonds. He suggested the wisdom of attempting to open a market for the Commission's bonds and stated, "It would appear that if we can sell any bonds at all, the Commission bonds for the project could be sold".

Thereupon Comm. Dahl moved the adoption of the following resolution, which motion was seconded by Comm. Simons.

WHEREAS, the State Water Conservation Commission has authorized the issuance of State Water Conservation Commission Bonds, Series D., in the aggregate amount of \$25,000.00, payable serially over a period of thirty years, in order to defray the cost of establishing, constructing and completing a system of irrigation works for the irrigation of approximately 1020 acres of land situated in the Sioux Irrigation District of McKenzie County, N. Dak., and

WHEREAS, the Commission has agreed to transfer and convey said system of irrigation works to the Sioux Irrigation District of McKenzie County, North Dakota, and to accept in payment therefor bonds of the district payable serially and bearing interest at the rate of three per cent (3%) per annum, and

WHEREAS, it is advisable and desirable that said State Water Conservation Commission Bonds, Series D., be sold at not less than the par value thereof in order that funds may be made available from the proceeds of such sale for the establishment of other irrigation projects;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Secretary of the Commission be, and he is hereby, authorized and directed, for and on behalf of the Commission, to offer for sale, and to sell, at not less than the par value thereof State Water Conservation Commission Revenue Bonds, Series D.
2. That the Chairman and Secretary of the Commission be, and they are hereby, authorized and directed to enter into a Trust Indenture with the Bank of North Dakota for the security and protection of holders of State Water Conservation Commission Bonds, Series D., and to pledge and hypothecate under such Trust Indenture the bonds of the Sioux Irrigation District of McKenzie County, North Dakota, as security for the payment of said State Water Conservation Commission Bonds, and

BE IT FURTHER RESOLVED: That the Chairman and Secretary of the Commission be, and they are hereby, authorized and directed, pursuant to the provisions of Sub-Division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for the year 1939 to pledge and hypothecate the sum of \$5,000.00 out of the moneys appropriated by the Legislature to insure and guarantee to that extent the payment of the principal of, and the interest on, said State Water Conservation Commission Bonds, Series D., as same shall become due and payable.

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

