

MINUTES OF A MEETING
OF THE
STATE WATER CONSERVATION COMMISSION

Held in Room #712, Patterson Hotel, Bismarck, March 17, 1943
Held in Commission Office, State Capitol, March 18, 1943.

The regular meeting of the State Water Conservation Commission, which was called for March 16th, 1943, was not held on that date due to inclement weather, but was called to order in Room #712, Patterson Hotel, at ten o'clock a.m. Wednesday morning, March 17th, 1943. Roll was called with Commissioners Simons, Dahl and Thompson present. Governor Moses was absent. Upon motion of Commissioner Dahl, seconded by Commissioner Thompson, Commissioner Simons acted as Chairman.

It was moved by Commissioner Thompson and seconded by Commissioner Dahl that the minutes of the January 22nd, 1943 meeting be adopted as corrected. The resolution which was to have been furnished by Mr. Higgins as a part of those minutes was not included. Motion carried, all commissioners voting aye.

The Secretary called attention to the Certificate covering Commissioner Dahl's expense account for February 14th to 18th, 1943 inclusive, incurred while performing special work for the Commission in connection with legislative matters. It was agreed that the wording after "State purpose of Travel", should be "Work in Bismarck for the Water Commission".

The Secretary stated that on January 13th he took the liberty of ordering a spray of flowers to be sent to the Sam Groth funeral from the Water Commission and inquired the wishes of the Commission relative to payment of the \$4.06 account. It was agreed that the Secretary and the three Commissioners present should pay the bill pro rata.

The Secretary reported having received a statement from the Western Union Telegraph Company covering three wires, totaling \$3.66, sent in February, signed "Associated Press" and charged to the Water Commission. Commissioner Simons stated that he had sent the wires in an effort to secure passage of the Yellowstone Compact Bill. The Secretary was instructed to ask the Western Union for copies of the wires for the Commission files and pay the account.

The Secretary read a letter from the Tri-States Water Commission, dated March 1, 1943, enclosing warrant for \$43.10, representing salary of J. J. Walsh for the last half of February, less 5% Victory Tax and \$6.00 Retirement, the latter computed at 6% of salary retroactive to November 1, 1942. The letter went on to state that two months at a time would be deducted until adjustment had been made. The Secretary was directed to write Mr. Robert L. Bard, Secretary of the Tri-State Waters Commission, requesting him to contact the Attorney General or proper Minnesota authorities to ascertain if such deduction is obligatory when salary is paid to a man living outside of the state and who will never receive any benefits from the Retirement Fund. As an alternative, it was suggested that Mr. Walsh's salary might be deducted from the monies paid the Tri-States Water Commission out of North Dakota funds.

The Secretary reported that the Commission had an exhibit at the Valley City Winter Show March 10th to 12th, 1943 and that sufficient interest had been manifested to make it worth while.

There was a lengthy discussion relative to the Bismarck Victory Gardens Project #326. The Secretary stated he would like to see a contract entered into between the Bismarck Association of Commerce and the Water Commission relative to the payment of monies to the Commission and the operation of the project. Commis-

sioner Simons expressed the opinion that trees should be planted to protect the investment and prevent blowing of the soil and that fertilizer should be spread to increase the fertility of the land. The Secretary presented a report showing a capital investment to date of \$5,051.58, advising that approximately \$1,500.00 additional would be required to prepare the new lots for 1943 planting and it was estimated that the income for the season would be between \$1700 and \$2000. He also stated that planting trees and shrubs at this time would interfere with the farming operations to some extent and curtail the manipulation of agricultural equipment; also that additional land leveling and preparation was necessary before any permanent tree planting operations should be undertaken, including the location of ditches and laterals with regard to these leveling operations; also that the trees would be of insufficient size for a number of years to come to prevent the blowing of soil. Commissioner Simons reported a balance from the 1942 season still in the hands of the Association of Commerce of \$519.06. Commissioner Dahl expressed the opinion that only expenses appertaining exclusively to the Victory Gardens Project should be allocated to it and that the balance should be rightfully allocated to the Bismarck Project #215. Commissioner Thompson stated he felt someone should definitely assume the responsibility for the capital investment of \$5,051.58 and whoever did that was entitled to receive the income and any profits. The Secretary was instructed to have Iver Acker prepare a contract between the Association of Commerce and the Water Commission along the lines of the terms and conditions set forth in the minutes of the October 5th, 1942 meeting of the Commission, to be presented to the Association of Commerce for acceptance and execution. It was moved by Commissioner Dahl, seconded by Commissioner Thompson, that the Secretary be instructed to ask the Association of Commerce to turn over to the Commission the balance of the monies on hand from the 1942 operation of the Victory Gardens. Roll was called with Commissioners Dahl, Thompson and Simons voting aye. Motion carried.

The Secretary was requested to advise Mr. George Snyder that if he would care to plant a cover crop on the Victory Garden area south of the garden plots and the ditch, he may have the use of that land without any payment.

The Secretary advised that the Commission had been approached by representatives of the Rural Electrification Association to lend assistance in every way possible in the procurement of power in the state; that on February 27th, 1943 the Attorney General's office was asked for an opinion as to the Commission's authority to promote and encourage the fullest possible use of electrical energy and whether or not the present law authorizes the Commission to buy, sell and distribute electrical energy and to construct or otherwise acquire systems for the generation, transmission and distribution of electrical energy. A letter from the Attorney General's office, dated March 6th, 1943, states that under the law as it now stands the powers inquired about are not conferred upon the Water Commission. The Secretary was instructed to inform the Rural Electrification Association that the Commission has no authority, under the law, to act.

The Secretary advised that a contract had been signed with the U.S. Geological Survey and arrangements made to pay the bills until July 1st, 1943.

With reference to a Quit Claim Deed covering NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20 and S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 17, Township 153 North of Range 101 West, 5th Principal Meridian, requested from the Commission by the Rural Rehabilitation Corporation, it was moved by Commissioner Thompson as follows:

"It appearing that the State Water Conservation Commission owns the bare legal title to 120 acres in Sections 20 and 17, Township 153 North of Range 101 West, in McKenzie County, North Dakota, for which land the Water Commission was not obliged to pay any money, and that such lands have now been acquired by the Rural Rehabilitation Corporation as part of the Lewis and Clark Irrigation Project, I move that, in order to clear the record to said lands, the Chairman and Secretary of this Commission be authorized to execute Quit Claim Deed(s) to clear the situation."

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The motion was seconded by Commissioner Dahl and passed, all Commissioners voting aye.

The Secretary presented statements, totaling \$87.28, from McKenzie County covering taxes for the years 1940, 1941 and 1942 on: N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 16 and SW $\frac{1}{4}$ Section 9, Township 153 North of Range 101, West of the 5th P.M. The Secretary was instructed to contact Iver Acker relative to the ownership of this land and the Attorney General's office to ascertain if the Commission is liable for general taxes and not to pay the taxes without authorization from the Commission.

A resolution, passed by the Huron Chamber of Commerce on February 15th, 1943, urging a program of Missouri River Basin development with major consideration to the construction of irrigation projects and impounding and diversion of waters for municipal and industrial needs, was read.

The following legislative bills were briefly gone over:

H.B. #78 - "An Act requiring the teaching of the Conservation of natural resources in the public schools of the State of North Dakota." It was suggested that the Board of Higher Education be asked to implement the matter by having installed in the institutions of higher education a course on "Conservation" for prospective teachers. The Secretary advised he had talked to several Board members and heads of institutions, all of whom appeared to be intensely interested. C. W. Leifur's book, containing a chapter on "Conservation", was mentioned as a good source of information and possible textbook. It was suggested that the Commission might get out supplementary pamphlets from time to time. The Secretary was instructed to ask the Board of Higher Education to send a representative to the next Commission meeting to discuss the subject. In this connection, the Secretary stated that Dr. Seymour of Valley City Teacher's College would like to have a relief model map for his department and had asked what the Commission would charge to furnish one. Dr. Seymour also suggested that the other educational institutions in the state might be interested in such a map. The Secretary was instructed to write Dr. Seymour that the Commission is taking this matter up with the Board of Higher Education. The Secretary was also asked to write all the other colleges in the state asking if they would like to have such a map.

H.B. No. 69. "An Act to repeal Section 8270 providing for the appropriation of water by the proper officers of the United States, and declaring an Emergency."

H.B. #165 - "An Act to amend and re-enact Sections 2486 of the 1925 Supplement relating to repairs of existing drains and providing for the abandonment and dissolution thereof."

H.B. #159 "An Act prescribing the method of investing the various funds of the State."

S.B. #173 "An Act authorizing and relating to contracts by certain cities and villages for obtaining a supply of water for public and domestic uses."

H. B. #29 - "An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department". That Department received an appropriation of \$20,000 for "construction of dams."

Senate Concurrent Resolution "1-A" relative to the transfer of water from Fort Peck Dam to the control of the Bureau of Reclamation.

Senate Concurrent Resolution "T" Memorializing Congress to make no further extension of game reserves in the State of North Dakota.

H. B. No. 77 - "Commission's Administration Bill for \$146,600.00."

S.B. No. 121 - "Commission's Post-War Planning Bill for \$300,000.00."

It was suggested that all these bills be studied carefully and in detail as soon as possible and it would be a good idea to employ someone to correlate and bring up to date all the legal phases of the Commission's activities.

Mr. Charles T. Hinze, Resident Associate Engineer of the Bureau of Reclamation, came into the meeting at 10:30 a.m. March 17th upon the invitation of the Commission to discuss the Bureau's participation in the Post-War Planning program for North Dakota. Mr. Hinze was asked to reduce to writing his remarks on the subject, which report is made a part of these minutes (attached hereto). After a lengthy discussion, it was decided that the Commission, by letters signed by the Governor, should formally advise the Bureau of Reclamation and the U.S. Army Engineers that the 1943 Legislature had appropriated \$200,000 to be used in co-operation with them in the preparation of Water Conservation and Irrigation Projects for post-war construction and development and ask these two agencies for their suggestions and advice as to the best program involving the expenditure of these funds. The consensus was that time is an important element and these agencies should be requested to present their reports at as early a date as possible. Commissioner Thompson suggested that the legislators and, in fact, the people of the state should be kept informed of the Commission's negotiations with the federal agencies. Comm. Simons suggested that the National Reclamation Association and Mississippi Valley Association be contacted and kept informed also.

Comm. Thompson suggested it might be a good idea to have a meeting, in Bismarck, of the Governors of Montana, South Dakota and North Dakota to discuss the proposed "Eight State Compact" on the Missouri River Basin - preferably at the time of a regular Commission meeting. Mention was made that at the last legislative session of South Dakota \$25,000 was appropriated for the promotion of water development. It was suggested that the State Engineer from South Dakota or a committee of three interested persons - appointed by the Governor - together with the State Engineer also attend this meeting. The Secretary was instructed to discuss this suggestion with Governor Moses to get his views:

The Commission adjourned at 12:00 o'clock.

The Commission re-convened at 1:45 p.m. with Commissioners Simons, Dahl and Thompson present. Governor Moses absent.

Commissioner Thompson suggested that as soon as the Commission has formulated some plans in connection with the Post-War Planning Program, it invite all the organizations in the state, which co-operated with it on legislative matters, to send representatives - either the same ones or others, as they may designate to attend a meeting in Bismarck, at which the Commission may present its plans and receive suggestions from those present. It was suggested that this meeting be held at a time when

Governor Moses and Mr. John W. Haw can be present. After discussion, the above suggestion was made a motion by Commissioner Dahl, seconded by Commissioner Thompson and carried, all Commissioners voting *ye*.

The Commission adjourned at 6:30 p.m. to re-convene at the Commission office at the Capitol at ten o'clock Thursday, March 18th, 1943.

The Commission re-convened at the Commission office at the Capitol at ten o'clock a.m. Thursday morning, March 18th, 1943 with Commissioners Dahl, Thompson and Simons present. Governor Moses absent.

A resolution, dated at Velva, North Dakota March 9th, 1943, passed by the North Prairie Farmers Union Local #663 Resolution Committee, relative to further investigation of the Missouri River Diversion Project out of Garrison, North Dakota was read.

Attention was called to "H.R. No. 1898", now pending in Congress, which, if passed, will appropriate \$25,000,000 for post-war planning by Federal agencies and \$75,000,000 to be advanced to state agencies for the same purpose. Such bill would allow the federal government to match our funds for post-war planning three to one.

It was decided to leave the discussion of legislation and formulation of policies of the Commission in connection therewith until the next meeting.

The matter of employing legal talent, either full or part time, was discussed. It was suggested that an Attorney versed in water laws might be loaned temporarily by the Bureau or the Bureau might be able to suggest one who would be available. The Secretary was instructed to write a letter, to be signed by the Governor to the Bureau of Reclamation on this subject.

A letter, dated March 4th, 1943, from Bottineau County, enclosing petitions from Bottineau and Holette Counties relative to the lowering of Willow Lake Dam, was read. The Secretary was instructed to contact the Boards of County Commissioners and inform them that the Commission will be glad to send a representative to meet with them when in session and made an estimate of the cost of doing the work.

The Secretary stated that he had received an application from the Mayor of Devils Lake for a "Permit to divert water for the restoration of Devils Lake and other purposes". It was the opinion of the Commission that Devils Lake should decide the exact amount of water it will need, taking into consideration the ultimate growth of the city and that the city will be asked to make payment on the basis of the amount of water asked. Commissioner Thompson suggested it might be a good idea if the Secretary asked all the towns and counties in the state to file applications for water rights desired, such application to be filed and water rights granted in order received.

The Secretary informed the Commission that Project #37 - Anton Bolte of Regent, North Dakota - had been paid in full and that he had now asked for a water right on the Cannonball River. The Secretary was directed to ascertain how many acres Mr. Bolte planned to irrigate, how many second feet of water he will want, and to take the matter up with the Commission again at a later meeting. The opinion of the Commission was that the request would undoubtedly be granted.

The Secretary called attention to a water right apparently awarded to Mr. M. G. Ward on October 22, 1936 but never registered nor delivered. Upon investi-

gation, it was found there were four water rights outstanding as follows: To George Gussner, dated July 25, 1911 for 1.95 second feet; to A. W. Gussner, dated June 9th, 1937 (2 p.m.) for 1.5 second feet; to Logan Ward, dated June 9th, 1937 (3 p.m.) for 1.4 second feet and the above mentioned one to M. G. Ward for approximately 1.5 second feet. The Secretary was instructed to make formal filing for M. G. Ward as of October 22nd, 1936. Then it was suggested it might be well to have a meeting with all the landowners in that valley to discuss the water rights. The Secretary was instructed to ask Mr. Walter Sellens to contact Commissioners Simons on the subject.

The Secretary informed the Commission that he had written letters to all the Counties in the eastern part of the state which would be affected by the recently passed drainage legislation and appropriation, inquiring what assistance, if any, the Commission might lend them and that he had received replies only from Richland, Traill, and Sargent Counties. The Secretary was instructed to write again in two or three weeks and also to write to the proper officials of all the drainage districts in the area, offering the co-operation of the Commission. It was suggested that the Grand Forks Herald and the Fargo Forum might run stories/get in touch with the Water Commission. Commissioner Thompson suggested that copies of all these letters be sent to Representatives Johnson of Cass County and to the legislators in the various counties affected.

It was reported by the Secretary that Mr. I. P. McCoy, Officer in Charge of the Internment Camp at Fort Lincoln, had contacted him relative to the feasibility of irrigating land in Section 16 for food production. Mr. McCoy was told in 1942 that the Commission would be willing to build the ditches and laterals for \$1,100. After consideration of estimated costs, the Secretary was directed to inform Mr. McCoy that the Commission will build the ditch to Section 16 at a cost of \$1,100.00, payable in advance - water to be delivered for the irrigation season of 1944. Authorization was also granted for the acquisition of necessary rights-of-way.

Relative to the Mouse River Controversy, concerning which a policy was laid out by the Commission at its January 22nd, 1943 meeting, the Secretary advised that a letter had been addressed to Mr. Gabrielson by the Governor and that word had been received from Washington to the effect that Mr. McBride will be available for a meeting any time after March 21st. Commissioner Thompson suggested that Mr. McBride and all other interested persons be requested to meet in Bismarck on the day following the next Commission meeting in an endeavor to arrive at some solution of this problem.

The Secretary read a letter from Governor Moses, dated March 13, 1943, inquiring if Mr. Higgins had prepared the resolution which was supposed to have been passed at the January 22nd meeting of the Commission. Mr. Higgins was invited to come to this meeting and he advised the Secretary that he was busy in Federal Court and could not come. The Secretary was instructed to explain to the Governor that Mr. Higgins was acquired to handle the Harke deal through the Attorney General's office, at the suggestion of Judge Christiansen, for the reason that Mr. Higgins was familiar with all the details from the very beginning, had the abstract in his office, had been attorney for the gas company, etc. The Secretary was directed to keep after Mr. Higgins in an effort to bring this matter to an early conclusion.

In the above mentioned March 13th letter the Governor also inquired what action, if any, had been taken relative to the Bismarck Irrigation Farm and with what results. Since apparently no action had been taken since the January 22nd meeting, it was again suggested that our Congressional delegation be contacted to interest the federal government in this project.

The matter of the \$13,570 check in the Bank of North Dakota, which was tendered to Wachter Brothers for Section 21, was again brought up and discussed at length.

Judge Christiansen was invited to come into the meeting.

The Judge was asked if the Commission was obligated to pay interest on this tender to the Bank of North Dakota inasmuch as the funds had never left the bank. The Judge stated that he did not believe the Commission would have to pay interest, however, to be certain he offered to contact the Industrial Commission on the subject and report his findings to the Secretary. It was the consensus of the Commission that if interest on the tender is waived, it might be a good idea to leave the check undisturbed in the bank until the matter of right-of-way for Project #215 has been settled.

Judge Christiansen left the meeting.

Commissioner Thompson moved: "I move that the Secretary be authorized and directed to contact the Industrial Commission of the state with a view to having cancelled accrued interest on the money loaned from the Bank of North Dakota as a tender on the purported purchase of the Wachter land in the Bismarck Irrigation District." Motion seconded by Commissioner Dahl. Roll call was taken, Commissioners Dahl, Thompson and Simons voting aye. Motion carried.

Attention was called to Resolution No. 9 of the National Reclamation Association, providing for the appointment of a committee to confer with western governors for the purpose of devising machinery for the preservation of the integrity of the state water laws, and that House Concurrent Resolution "J" (N.D.) clears the situation as far as North Dakota is concerned.

The Secretary was instructed to write the National Resources Planning Board at Omaha substantially as follows: "We note from the newspapers that there is a possibility that the National Resources Planning Board may be discontinued July 1st, 1943. We wish to compliment you on your fine work on the Great Plains Report. Possibly Congress feels now that the Board has accomplished its purpose."

The Secretary presented bills from Mr. Fredrickson, totaling \$285.00. The Commission unanimously voted the payment of the bills.

With reference to the Louis Signalness Project #33, the Secretary was requested to write Mr. Signalness that unless his account is paid in full within ten days Commissioner Dahl is authorized to repossess the equipment.

The matter of purchase or rental of a truck for the use of the Commission was brought up. The Secretary was instructed to contact the Highway Department to see if it is possible to buy a second-hand truck and, if so, at what price. This subject is to be further considered at the next meeting.

The Secretary informed the Commission he had been approached to employ Einar Berge as publicity man at a salary of \$200.00 a month. After discussion, it was decided to ask the Governor for his views and to leave final decision until the next meeting.

At the request of Judge Christiansen, Commissioner Thompson moved as follows: "I move that the Secretary be instructed to ask the Attorney General to furnish assistance in clearing up the bond issues in connection with the Sioux, Lower Yellowstone and Grantier Projects." Motion seconded by Commissioner Dahl. Roll call was taken, Commissioners Dahl, Thompson and Simons voting aye. Motion carried.

A letter dated March 10th, 1943 from the IMPROVEMENT BULLETIN, Minneapolis, asking for an article on the Missouri River Development Project to be published in an

early number of that Bulletin, was read. It was decided best to wait until a program had been definitely developed with the federal agencies before complying.

In connection with the Bismarck Project #215, there was some discussion relative to the possibility of obtaining internee labor from Fort Lincoln. It was reported there would be none available.

There being no further business, the meeting adjourned at 4:00 o'clock p.m. to the call of the Chair.

Respectfully submitted.

John J. Tucker
Secretary

ATTEST Plummer
Chairman

S E A L

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Bismarck, North Dakota
March 23, 1943.

Mr. John T. Tucker
Secretary and Chief Engineer
North Dakota State Water Conservation Commission
Bismarck, North Dakota

Dear Mr. Tucker:

Reference is made to your letter of March 20, 1943 requesting a brief statement in regards to the activities, present and future, of the Bureau of Reclamation.

The activities of this office at the present time are concentrated on the detail of four irrigation projects along the Missouri River in North Dakota, two in the state of Montana and power and storage studies on the Missouri River in South Dakota. The present personnel of this office consists of approximately forty men divided among six field parties and our office force.

The future activities of this office depend entirely on the action of the Water Commission in regards to their participation in our investigational program. Carrying on as we have done in the past, our work will consist of the detailed investigation of pumping projects along the Missouri River below Fort Peck, Montana to Sanish, North Dakota, the continuation of our storage studies in detail in South Dakota, and other small jobs in this district. However, should the Commission choose to participate in our investigational program by making available in the neighborhood of \$150,000 matched by an equal amount federal funds, our program would become quite extensive. Under such a program it is proposed to study in detail the possibilities of large scale irrigation development in the State of North Dakota; namely, the Missouri-Souris Project. This project involves the potential irrigation of approximately one million acres of lands in the state as well as the restoration of Devils Lake and the furnishing of municipal water supply for cities along the Shyenne, Red and James River valleys.

The future of any and all of our Bureau work in this and the other reclamation states depends, of course, upon unpredictable conditions of a nation at war.

Very truly yours,

/s/ Charles T. Hinze

Charles T. Hinze
Associate Engineer