

STATE WATER CONSERVATION COMMISSION
MINUTES OF MEETING
Held in Bismarck, North Dakota
December 18, 1962

MEMBERS PRESENT:

William W. Corwin, Member from Fargo
Einar Dahl, Member from Watford City
Henry Steinberger, Member from Donnybrook
Richard P. Gallagher, Member from Mandan
Math Dahl, Commissioner, Agriculture & Labor, Bismarck
Fred Fredrickson, Planning Coordinator, Valley City
Milo W. Hoisveen, Chief Engineer and Secretary, State Engineer, Bismarck

Others Present:

Oscar N. Berg, Secretary, North Dakota Water Users Association, Minot
Don Reeder, Associated Press, Bismarck
L. H. Stemen, Burlington, Well Drillers Association
K. T. Thompson, Dickinson, Well Drillers Association

Secretary Hoisveen informed the Commissioners he had been designated to sit in on the meeting in the absence of Governor Guy who has authority to appoint a representative to act for him in his absence.

Commissioner Corwin was elected acting chairman of the State Water Commission.

OCTOBER AND NOVEMBER
1962 MINUTES APPROVED

be adopted as circulated.

It was moved by Commissioner Steinberger and seconded by Commissioner Einar Dahl that the minutes of the October 15 and November 15 meetings Motion carried.

FINANCIAL STATEMENT FOR
OCTOBER AND NOVEMBER
1962

Mr. Hoisveen pointed out that indications are that the Commission will be able to function in its regular manner and there will be funds sufficient to meet the obligations of the Commission. One item of concern is the budget of the State Water Conservation Commission for the coming biennium. The Budget Board approved an increase of \$8,000 in the administrative fund. They also approved a \$10,000 increase for engineering and geological survey. That is the work that is conducted with the U. S. Geological Survey. The Commission, in view of the great number of counties interested in projects of this type, requested an increase of \$70,000 which would be adequate to meet the demands of the Commission. Mr. Hoisveen explained the way the work could be carried on with a limited budget. Commissioner Corwin requested that data and facts be made available to the Commission members so they could aid in this matter. Secretary Hoisveen stated he would prepare a statement for the use of the Commissioners to aid in securing the necessary budget to carry on the work of the Commission, especially groundwater surveys. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that the financial statements for October and November be approved. Motion carried.

**DISSOLUTION OF FREMONT
TOWNSHIP WATER CONSER-
VATION AND FLOOD CONTROL
DISTRICT - Resolution
Project #707**

Last August the Water Commission received a petition from Cavalier County to create a water conservation and flood control district. Hearings were delayed until after election to avoid confusion that might otherwise occur. Fremont Township, which is covered by such district, is located in that county. The Board of the Fremont Township Water Conservation and Flood Control District was contacted relative to affiliating with a county-wide conservation district. They expressed a desire to affiliate with the county-wide district and forwarded to the Commission office a resolution requesting the dissolution of the Fremont Township Water Conservation and Flood Control District, which is signed by the board. A hearing was held in Fremont Township on November 30 at which time the board agreed to the dissolution of the district. The district has approximately \$1,200 on hand and expressed a desire to have the money available to them for use in the township in view of the fact that the tax money was raised in that particular township. The county would be agreeable to giving this money to the township. A resolution authorizing Issuance of an Order Permitting Dissolution of Fremont Township Water Conservation and Flood Control District of Cavalier County was read by Secretary Hoisveen. It was moved by Commissioner Steinberger and seconded by Commissioner Einar Dahl that the Resolution Authorizing Issuance of an Order Permitting Dissolution of Fremont Township Water Conservation and Flood Control District be adopted. Motion carried. The Resolution is attached as Appendix A.

**RESOLUTION ESTABLISHING
CAVALIER COUNTY WATER
CONSERVATION AND FLOOD
CONTROL DISTRICT
Project #987**

Hearings were held at Calvin and Langdon on November 29, 1962 relative to the establishment of the Cavalier County Water Conservation and Flood Control District. At the hearing held in Calvin, all voted favorably for the establishment of the district. At the Langdon hearing some persons appeared who were not in favor of the establishment of the district. Considerable information came out at this hearing and as a result all present, with the exception of one person who did not vote, voted in favor of the formation of the district. No one voted against the formation of the district. The county auditor is mailing the required resolution to the Commission to accompany the petition submitted earlier. Commissioner Corwin suggested that to maintain legal status the Commission pass on the matter now and that each one have an opportunity to object to the resolution upon receipt of same. The Commission's resolution Authorizing the Establishment of the Cavalier County Water Conservation and Flood Control District was read. It was moved by Commissioner Math Dahl and seconded by Commissioner Gallagher that the resolution Authorizing the Establishment of the Cavalier County Water Conservation and Flood Control District be adopted. Motion carried. The resolution is attached and marked Appendix B.

**PRESENTATION OF RESOLUTIONS
PASSED BY N. D. WATER USERS
ASSN. AT VALLEY CITY**

Mr. Oscar Berg, Secretary of the North Dakota Water Users Association commented on the enthusiasm exhibited at the 4th Annual Convention of the North Dakota Water Users Association held in Valley City in November. Thirty-five county water users councils have been formed and the people at the grass roots are being informed as to the gravity of the water programs in the State of North Dakota. The Water Users Association adopted a set of resolutions. Resolution 1 commended the Water Commission and

other organizations for their contributions. Resolution 2 was in support of the budget as presented by the Water Commission to the Budget Board. Resolution 3 endorses early hearings on the Garrison Diversion Unit. Another resolution was relative to the Sweetbriar project in Morton County. As a result of this resolution Governor Guy has called a meeting for December 21st of the Sweetbriar project proponents. Resolution 4, attached as Appendix C, relates to the establishment of an Outdoor Recreation agency and Resolution 5, attached as Appendix D, relates to Financial Participation in water projects on the part of the State. Mr. Berg stated that he was here to obtain the concurrence of the Commission to these two resolutions. Mr. Udall, Secretary of the Interior, has set up an Outdoor Recreation Committee. Mr. Berg stated that an outdoor agency should be established in North Dakota that would be ready to serve this program, if and when it becomes a reality. Resolution 4 proposes that a bureau or department be created and designates the State Water Commission as the outdoor recreation agency in North Dakota. It was moved by Commissioner Steinberger and seconded by Commissioner Einar Dahl that the Commission concur in Resolution 4 of the North Dakota Water Users Association for submission to the State Legislature. Motion carried.

Resolution 5 provides for financial participation on the part of the State in the development of water resources and that a continuing special fund, totalling 2 million dollars, be established by the Legislature to enable the State, its departments, agencies, political subdivisions, local interests and entities to cooperate and participate financially with each other and with the U. S. of America or any department, agency, or instrumentality thereof, in undertaking, conducting and pursuing an orderly and practicable program of activities for the conservation, development, protection, wise utilization and equitable distribution of the water resources of North Dakota. To raise this amount of money it was proposed to 1. Increase the cigarette tax; 2. place a sales tax on alcoholic beverages. The Water Users Association appointed a bipartisan committee composed of Senators Trenbeath and Redlin, Representatives Mueller, Vendsel and Schnell, and Messers. DePuy and John Rouzie to implement Resolution 5. There was considerable discussion on ways to raise the 2 million dollars. It was moved by Commissioner Math Dahl and seconded by Commissioner Gallagher that the Commission concur in Resolution 5 adopted by the North Dakota Water Users Association for submission to the Legislature. Motion carried.

LEGISLATION-NORTH DAKOTA Mr. Stemen and Mr. Thompson appeared before the
WELL DRILLERS ASSOCIATION Commission, representing the North Dakota Well Drillers Association. The Well Drillers Association would like to have a law passed by this session of the Legislature for the preservation of public health through the regulation of the business of well drilling, creating a state board of water well contractors, licensing of water well contractors, providing for bonds and empowering the board to adopt rules and regulations governing the practices of water well drilling and fixing a penalty. Mr. Stemen stated that it was proposed to have well logs available at three places and the value of the license would be that the logs would be available to anyone. Mr. Stemen suggested that the logs be filed with Dr. Laird and the county auditor - that there should be two or three permanent locations. Commissioner Gallagher was of the opinion that a well drillers act should be in conjunction with the Water Commission and that water rights should be issued for the wells that were drilled. The data received from the well drilling would be of immense value to the Water Commission.

There was discussion relative to having material on all wells drilled within the state filed with the Commission. It was recommended that Mr. Fredrickson, Mr. Gallagher and Secretary Hoisveen collaborate with Mr. Murray of the Legislative Research Committee relative to the well drillers law, and that the Commission would go along with a law that included the Water Commission in the Act. A copy of such bill is to be circulated among the Commission members for their consideration. If the Water Commission is made a part of the Act the Commission would recommend its passage otherwise the Well Drillers Association would have to introduce the bill without the recommendation of the Water Commission.

The meeting adjourned until 1:30 p.m.

The meeting convened at 1:30 p.m. with the same Commissioners in attendance as at the morning session.

**RESOLUTION - REQUESTING
HEARINGS TO ESTABLISH
WATER CONSERVATION AND
FLOOD CONTROL DISTRICT
IN OLIVER COUNTY
Project #991**

A resolution has been filed in the office of the State Water Commission by the Board of County Commissioners of Oliver County requesting the Water Commission to set a date of hearing on the establishment of a water conservation and flood control district. It was moved by Commissioner Gallagher and seconded by Commissioner Einar Dahl that the

Commission accept the resolution to set a date of hearing relative to the establishment of a water conservation and flood control district in Oliver County. Motion carried.

It was suggested that the hearings be held after the petition is filed by the Board of County Commissioners of Oliver County.

**RESOLUTION - BUFORD-
TRENTON IRRIGATION
PROJECT #222**

A resolution, adopted by the Board of Directors of the Buford-Trenton Irrigation District on November 14, 1962 was forwarded to the State Water Commission. Two or three years ago the Corps of

Engineers provided flood protective works for the Buford-Trenton Project. At that time the abutment was down along the bank. They had also put in a channel cutoff. Because of the degradation of the river bottom in the vicinity of the pump site it was impossible to use the pumps. The Corps has requested an approval of the project from the District. No approval will be granted until the project has gone through a trial period. It was moved by Commissioner Steinberger and seconded by Commissioner Einar Dahl that the Commission accept the resolution and endorse the action set forth therein. Motion carried.

**POLLUTION STUDIES
FOR BISMARCK AND
MANDAN**

A letter from Mr. Fred J. Fredrickson, relative to pollution in the Missouri River, was read by Mr. Hoisveen. Mr. Gallagher expressed the opinion that he didn't believe the City of Mandan should

have to pay for a survey since they had already had one. Mr. Fredrickson stated that the representatives of the Missouri River Basin should get together, since they all have a similar problem relative to pollution. It was moved by Commissioner Gallagher and seconded by Commissioner Steinberger that the Commission go on record as authorizing the State Engineer to take whatever action is appropriate in connection with water pollution in Mandan and Bismarck. Motion Carried.

**DRAIN #3 - PEMBINA
COUNTY BOWESMONT
AREA**

A request has been received for participation in Drain #3 in Pembina County. No previous clean out has been performed in this drain by the Commission. The drain was constructed many years ago. It is located about one and a half miles north of Bowesmont and has a drainage area of approximately 8 miles. The total cost would be \$22,007. The Commission's participation would be on the basis of 40%. The drain also needs a drop structure. The cost to the Commission would approximate \$8,800. The drain would be increased about 300%. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that the Commission participate not to exceed \$8,800 in Drain #3. On Roll Call all Commissioners voted in favor of the motion.

**LAKE ALICE - LAKE IRVINE
CORPS OF ENGINEERS'
SURVEY - FISH AND WILDLIFE
WATER RIGHT REGULATIONS
Project #416**

A letter was received from the Corps of Engineers relative to the hydraulic studies of the Lake Alice and Lake Irvine area. The Commission was advised that a report could be expected within the next two months. The Fish and Wildlife Service is objecting to the plan for flood control because it may induce increased drainage of upstream potholes. Commissioner Gallagher suggested that a special regulation be made with regard to water rights issued to the Fish and Wildlife Service. It was moved by Commissioner Gallagher and seconded by Commissioner Steinberger that the State Engineer be instructed to draft appropriate regulations to be used when granting water rights to the Federal Fish and Wildlife Service. Motion carried.

**MAPLE RIVER FLOOD
CONTROL DISTRICT
REQUEST Project #710**

A request was received from the Maple River Water Conservation and Flood Control District requesting a survey of the Maple River Basin. There has been considerable flooding in this area. The Commission is being invited to the preliminary planning meetings of the Soil Conservation Service. The Commission will be in a much better position to volunteer help and better serve the interests of the state. It was moved by Commissioner Steinberger and seconded by Commissioner Gallagher that the Commission make a survey of the Maple River Basin to determine the feasibility of constructing dams or other installations for control of waters on the Maple River. Motion carried.

**NATIONAL GIRL SCOUT
JAMBOREE-MEDORA**

Representatives of the Girl Scouts are requesting assistance in obtaining water in the Medora area. They are attempting to get the National Girl Scout Jamboree for this area, which would mean ten to fifteen thousand girls. It is necessary that there be ample water available for the period the Girl Scouts will be camping. They are requesting technical assistance in the location of a water site. Secretary Hoisveen recommended that the Water Commission furnish technical assistance, such as a geologist and prepare the well specifications, if necessary. It was moved by Commissioner Gallagher and seconded by Commissioner Einar Dahl that the State Water Commission furnish the geologist and technical assistance necessary to determine the proper location, with sufficient water, for the National Girl Scout Jamboree. Motion carried.

**SOIL LABORATORY
EQUIPMENT**

Secretary Hoisveen stated that the Commission does not have the proper laboratory equipment for constructing 50 to 60 foot dams. It is not possible to determine the safe loads that can be used, and without proper equipment the crews can go beyond the limitation of safety. For the soil test equipment it would cost approximately \$1,000. It was moved by Commissioner

Steinberger and seconded by Commissioner Einar Dahl that the Commission spend up to \$1,000 on soil test equipment. On Roll Call all members voted aye. Motion carried.

**FLOOD CONTROL BOARD
FOR LAMOURE COUNTY
Project #995**

The County Auditor of LaMoure County on behalf of the County Commissioners, has requested information regarding the organization of a flood control district. It was moved by Commissioner Steinberger and seconded by Commissioner Gallagher that the State Engineer hold a hearing relative to the creation of a water conservation and flood control district for LaMoure County. Motion carried.

**PNEUMATIC CONCRETE
REPAIRS TO SENTINEL
BUTTE DAM (#574),
SPRING LAKE DAM (#388)
ODLAND DAM (#394)**

Secretary Hoisveen stated that the Water Commission has been successfully applying pneumatic concrete on some of the old WPA dams, which are mostly rock and mortar. There needs to be some repair work done on these dams and Mr. Hoisveen was requesting permission to replace the concrete where needed on three dams. The total cost for the three projects would approximate \$5,000. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that the State Engineer be authorized to repair three dams at a total cost of \$5,000. On Roll Call the motion carried.

**PARK RIVER SNAGGING
AND CLEARING -
Project #662**

The matter of snagging and clearing on the Park River below Homme Dam was brought to the attention of the Commission. It was also pointed out that the Commission had given the Corps of Engineers assurances at the time the Homme Dam was built that the Park River Channel would be maintained. Last year the Commission did some snagging and clearing. The Commission and the Board of County Commissioners worked out an agreement whereby each would participate in this endeavor to the extent of 50% of the cost. It will require an additional \$4,000 to complete the job, \$2,000 of which would be chargeable to the State Water Commission. Word has been received from the Board of County Commissioners that they were successful in raising their \$2,000. It was moved by Commissioner Gallagher and seconded by Commissioner Steinberger that the State Water Commission participate to the extent of an additional \$2,000 for clearing the channel of the Park River. On Roll Call all members voted aye. Motion carried.

**WATER COMMISSION
LEGISLATION AS
PROPOSED BY THE
LRC**

Mr. Fred J. Fredrickson reviewed the proposed amendments to the Water Laws. A resume is attached and marked Appendix E.

**ATTORNEY GENERAL'S
OPINION - ISSUANCE
OF WATER RIGHTS**

Secretary Hoisveen read a letter from Attorney General Burgum relative to restricting the amount of water granted to an applicant for a water right in the Garrison Diversion Unit area. According to the opinion of the Attorney General, the State Engineer can grant water rights in so-called restricted areas.

**PUBLIC LAW 566
SOIL CONSERVATION
SERVICE**

Secretary Hoisveen stated that he had considered inviting Mr. Lyness Lloyd of the Soil Conservation Service, or a representative, to discuss PL 566 and the progress they are making, but in view of the lengthy agenda he thought it advisable to invite him at another time.

GOLDEN LAKE PROJECT #475 In November the construction of a natural waterway was completed to the extent that water could be drained from Golden Lake into North Golden Lake. Total cost of the work was \$5,145.69 with the Golden Lake Restoration Corporation paying \$100; the State Game and Fish Department \$1,200; and the Commission \$3,845.69. In addition Steele County provided \$925 worth of culverts.

WATER RIGHTS Cecil Metcalf of Beach requests the right to divert
948 42 acre-feet of water from a dry run which is tributary to Yellowstone River to irrigate 21 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Cecil Metcalf be granted the right to divert 21 acre-feet of water from dry run tributary to Yellowstone River to irrigate 21 acres, subject to maintenance of flows required by downstream riparian owners. Motion carried.

1012 Arnold Jorgenson of Powers Lake requests the right to divert 150 acre-feet of water from White Earth Creek to irrigate 150 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Arnold Jorgenson be granted the right to divert 22 acre-feet to irrigate 22 acres, plus other restrictions. Motion carried.

1032 James T. Adams, McKenzie, requests the right to divert 300 acre-feet of water from a well to irrigate 156.8 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that James T. Adams be granted the right to divert 235 acre-feet of water from a well to irrigate 156.8 acres. The maximum pumping (withdrawal) rate to be 600 GMP, subject to revision depending on test pump data furnished at the cost of the applicant. Motion carried.

1033 John E. Adams, Driscoll, requests the right to divert 300 acre-feet of water from a well to irrigate 146.4 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that John E. Adams be granted the right to divert 219 acre-feet of water from a well to irrigate 146.4 acres. Maximum pumping (withdrawal) rate to be 600 GPM. Motion carried.

1040 Roy Robertson, Sidney, Montana, requests the right to divert 20 acre-feet of water from Dry Run Creek, tributary of the North Fork of Smith Creek (tributary of the Yellowstone) to irrigate 15.8 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Roy Robertson be granted the right to divert 15.8 acre-feet of water from Dry Run Creek to irrigate 15.8 acres. Motion carried.

1042 Vincent Koch, Mandan, requests the right to divert 36.8 acre-feet of water from Unnamed Coulee, tributary to Square Butte Creek, to irrigate 18.4 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Vincent Koch be granted the right to divert 18.4 acre-feet of water from the Unnamed Coulee to irrigate 18.4 acres. Motion carried.

1043 Elvin F. Maxwell, Fessenden, requests the right to divert 160 acre-feet of water from the James River to irrigate 688.5 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Elvin F. Maxwell be granted the right to divert 60 acre-feet of water from the James River to irrigate 40 acres; no diversion when flow over Schultz Dam is 5 cfs or less. Motion carried.

1044 A hearing was held on the application of the State Game and Fish Department for a permit to divert water from Snake Creek a tributary of the Cannonball River. The State Engineer has held off issuing a water right on this stream until some regulation is available on the stream. Secretary Hoisveen recommended that water right #1044 be deferred at this time. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that the application of the State Game and Fish Department be deferred. Motion carried.

1045 Walsh County Water Conservation and Flood Control District requests the right to divert 708.1 acre-feet of water for storage from the North Branch of the Forest River. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that the Walsh County Water Conservation and Flood Control District be authorized to divert 180 acre-feet of water from the North Branch of the Forest River for annual use or amount required to maintain 708 acre-feet storage. Motion carried.

1047 Matt Boehm of Mandan requests the right to divert 154 acre-feet of water from Square Butte Creek tributary to the Missouri River to irrigate 77 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Matt Boehm be granted the right to divert 20 acre-feet of water from Square Butte Creek to irrigate 20 acres, subject to prior appropriation; also subject to maintenance of flow for downstream riparian owners. Motion carried.

1048 Roy and Charles Gowan, Oslo, Minnesota request the right to divert 165 acre-feet of water from the Red River to irrigate 87.9 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Roy and Charles Gowan be granted the right to divert 87.9 acre-feet of water from the Red River to irrigate 87.9 acres subject to the needs of downstream municipalities. Motion carried.

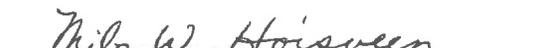
1049 Robert D. Gwyther of Fort Rice, requests the right to divert 2140 acre-feet of water from the Missouri River to irrigate 1070.9 acres. It was moved by Commissioner Einar Dahl and seconded by Commissioner Steinberger that Robert D. Gwyther be granted the right to divert 2140 acre-feet of water from the Missouri River to irrigate 1070.9 acres. This permit is granted subject to the provision -- may be withdrawn from lands appropriated by U. S. Government (for Oahe Reservoir). Motion carried.

There being no further business the meeting adjourned at 3:30 p.m.

Respectfully submitted,

ATTEST:


William L. Guy, Governor


Milo W. Hoisveen, Secretary

APPENDIX A

**RESOLUTION AUTHORIZING ISSUANCE OF AN ORDER PERMITTING
DISSOLUTION OF FREMONT TOWNSHIP WATER CONSERVATION AND
FLOOD CONTROL DISTRICT OF CAVALIER COUNTY**

WHEREAS, the Board of Commissioners of Fremont Township Water Conservation and Flood Control District of Cavalier County, on the 15th day of October, 1962, filed with the State Water Conservation Commission, its petition requesting that the district be dissolved in order that Fremont Township may be included in a proposed district embracing Cavalier County; and

WHEREAS, the petition of the Board of Commissioners of said district was accompanied by a resolution of the board directing the chairman and secretary thereof to file with the State Water Conservation Commission the petition requesting dissolution of the district; and

WHEREAS, after notice had been published, as prescribed by Section 61-16-42 of the North Dakota Century Code, a hearing on the petition to dissolve the district was held on the 30th day of November, 1962, in the Fremont Township Hall at which any interested person could show cause why the petition should or should not be granted. No one opposed granting the petition; and

WHEREAS, it appears to the Commission that permission to dissolve Fremont Township Water Conservation and Flood Control District should be granted in order that Fremont Township may be a part of the proposed Cavalier County Water Conservation and Flood Control District.

NOW, THEREFORE, BE IT RESOLVED: that the Board of Commissioners of Fremont Township Water Conservation and Flood Control District be permitted to dissolve the district when its obligations, if any, have been paid and reports to that effect have been filed with this Commission and with the County Auditor of Cavalier County, North Dakota.

BE IT FURTHER RESOLVED: that the order of the Commission, permitting dissolution of Fremont Township Water Conservation and Flood Control District, be issued as directed by the provisions of Section 61-16-42 of the North Dakota Century Code.

APPENDIX B

**RESOLUTION
AUTHORIZING THE ESTABLISHMENT OF
CAVALIER COUNTY WATER CONSERVATION AND FLOOD CONTROL DISTRICT**

WHEREAS, Cavalier County, North Dakota, acting by and through its Board of County Commissioners, on the 21st day of August, 1962, filed with the State Water Conservation Commission its petition requesting the establishment of a water conservation and flood control district embracing the territory within Cavalier County; and

WHEREAS, the resolution adopted by the Board of Commissioners authorizing the filing of such petition, and requesting the establishment of a Cavalier County Water Conservation and Flood Control District is being forwarded to the Commission; and

WHEREAS, the report of the Chief Engineer of this Commission and the facts adduced at a public hearing held in the City of Langdon and the City of Calvin on the 29th day of November, 1962 disclosed that adequate relief from flood waters through improvement of watershed areas in Cavalier County, and investigations of water bearing aquifers, can best be accomplished by a water conservation and flood control district in cooperation with state and federal agencies;

NOW, THEREFORE, BE IT RESOLVED that the State Water Conservation Commission, in meeting duly assembled this 18th day of December, 1962, in Bismarck, North Dakota, do hereby authorize and direct the Chairman and Secretary of this Commission to execute an Order establishing a water conservation and flood control district embracing the territory within Cavalier County and designated the Cavalier County Water Conservation and Flood Control District.

APPENDIX C

R E S O L U T I O N - 4

Urging the Establishment by the Legislature of an
Outdoor Recreation Agency, Adopted by North Dakota
Water Users Association, November 14, 1962

WHEREAS many North Dakotans in both urban and rural areas are deprived from fully sharing in many outdoor recreation activities and opportunities in the State because of the long travel distances involved; and

WHEREAS there is a variety of potential sites in every region of the State suitable for development for outdoor recreation to augment the limited number of public recreation areas now available, which are in various stages of development; and

WHEREAS in carrying out President Kennedy's instructions regarding the coordination of Federal outdoor recreation programs, Secretary of the Interior Stewart L. Udall on April 2, 1962 issued an order establishing a Bureau of Outdoor Recreation in his Department; and

WHEREAS the orientation of the Bureau under such order is weighed heavily on the side of cooperation with states and local governments in the discharge of its responsibilities, which include -

coordination of related federal programs; stimulation of and provision for assistance to the states; sponsorship and conduct of research; encouragement of interstate and regional cooperation; conduct of recreation resources surveys; and formulation of a nationwide recreation plan on the basis of state, regional and federal plans; and

WHEREAS a statement by Senator Anderson of New Mexico, in the Senate on April 14, 1962, is precisely in point when applied to the recreation situation in North Dakota in which he said that the Outdoor Recreation Resources Review Commission had found -

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"that water is a key element in recreation. People like to swim in it, fish in it, and to boat and ski on it. Other people, who have no desire to get wet, nonetheless like to camp, to picnic, to walk, and just to sit and meditate beside a body of water"; and

WHEREAS the said Review Commission, approved and appointed by former President Eisenhower and reappointed by President Kennedy, composed of two Senators and two Representatives from each political party, after three years of study and research, unanimously recommended that:

"Each State should establish within its government a focal point for the consideration of outdoor recreation"

and suggested that such focal point could be either a single agency, a commission, or some other arrangement for statewide consideration of recreation problems and given the responsibility for coordinating the outdoor recreation activities of state and local agencies that have land management responsibilities; and

WHEREAS, it would appear to be advantageous to, in the best interest and for the general welfare of all the people of North Dakota to designate an existing agency to serve as a focal point within the State for the many activities related to outdoor recreation; and

WHEREAS water-based recreation constitutes a preponderance of all recreational activities and it would therefore be most logical and appropriate that the State Water Conservation Commission be designated as such agency; and

WHEREAS in order to bring together a cross-section of views on and experiences in various phases of outdoor recreation activities it would be helpful to provide for an advisory council to the designated outdoor recreation agency;

NOW, THEREFORE, BE IT RESOLVED by the North Dakota Water Users Association, Inc., in annual convention in Valley City, North Dakota, this 14th day of November, 1962, that, with the concurrence of the State Water

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Conservation Commission, the 38th Legislative Assembly of the State of North Dakota be, and it hereby is, most respectfully petitioned and urged to

- 1) study and consider the need for providing and promoting the orderly development of suitable, useful and needed recreation areas and facilities,
- 2) designate the State Water Conservation Commission as the outdoor recreation agency in the State, and 3) provide the necessary funds for such agency to perform the duties imposed upon it; and

BE IT FURTHER RESOLVED that any outdoor recreation agency either designated or established should be vested with appropriate power and authority, among which, without limiting the generality thereof, should be the authority to undertake-

1. The development of broad recreation policies for the State as a whole and a long-range plan to implement them;
2. A continuing appraisal of the total State recreation resources and needs and the adequacy of current efforts to meet the demands;
3. The coordination and appraisal of related programs administered by all levels of government and by private enterprise;
4. Cooperation with the Federal Bureau of Outdoor Recreation, particularly in connection with the distribution and use of Federal aid funds to which the State may become eligible to receive;
5. The encouragement of cooperation among public, voluntary, and commercial agencies and organizations; and

BE IT FURTHER RESOLVED that all State funds made available to existing departments, agencies or instrumentalities for developing or providing public outdoor recreation facilities and opportunities, all grants-in-aid made to them from Federal allocations to the State, and any and all other moneys or funds contributed or matched for such purposes shall be expended through such departments, agencies or instrumentalities using their established procedures; and that direct State construction activities shall be conducted only by

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agencies having basic authorization for such work; and

BE IT FURTHER RESOLVED that the State Engineer, Commissioner of State Game and Fish Department, Superintendent of State Historical Society, Commissioner of State Highway Department, and Director of State Department of Public Health shall constitute and serve as the Recreation Advisory Council to the Outdoor Recreation Agency in the formulation of methods and procedures for improved inter-agency coordination in the development of outdoor recreation policies, programs, and projects and in carrying out the functions hereunder, that the State Engineer shall serve as its first chairman beginning with the effective date of such legislation, and that the chairmanship shall annually thereafter rotate in the order of the agencies named herein; and

BE IT FURTHER RESOLVED that this Association, through its officers and directors, does hereby offer to provide legislative committees with such information on these proposals, make such presentations before committees thereon, and render such assistance in connection therewith as the committees may invite; and

BE IT FURTHER RESOLVED that the Secretary be directed to transmit copies hereof to the Governor; President of the State Senate and Speaker of the State House of Representatives; Secretary of the State Water Conservation Commission; Commissioner of State Game and Fish Department; President and Secretary of the State Historical Society; Chairman and Secretary of State Park Committee; Commissioner of State Highway Department; Director of State Department of Public Health; and Director of State Economic Development Commission.

APPENDIX D

R E S O L U T I O N - 5

For Financial Participation by The State in The
Development of North Dakota's Water Resources
Adopted by North Dakota Water Users Association
November 14, 1962

WHEREAS the ever-increasing withdrawal and the anticipated future use of water by the inhabitants of downstream states and provinces in interstate and international river basins to which North Dakota contributes water, together with the growing demand for and the anticipated future increase in the use of water by North Dakotans during the remainder of the present century point up the real need for prompt initiation of state legislation which will authorize and enable the State, its departments, agencies, political subdivisions, local interests and entities to cooperate and participate financially with each other and with the United States of America, or any department, agency, or instrumentality thereof, in undertaking, conducting, and pursuing an orderly and practicable program of activities for the conservation, development, protection, wise utilization, and equitable distribution of the State's precious water resources; and

WHEREAS it would be highly proper and necessary that such authorizing legislation contain a declaration to the effect that in consequence of the benefits resulting to the public health and general welfare of all the people of North Dakota that it is the policy of the State Legislature to recognize, preserve, and protect the primary responsibilities and rights of the people of the State in controlling, managing, using, and distributing for all lawful purposes the waters of the State, to support and aid technical research, planning, and engineering in connection with such program of activities; and

WHEREAS it would be appropriate that such financial participation of the State be channeled through and carried out by the State Water Conservation Commission, which was established as the agency of the State for the purpose of

engaging in such activities;

NOW, THEREFORE, BE IT RESOLVED by the North Dakota Water Users Association, Inc., in annual convention in Valley City, North Dakota, this 14th day of November, 1962, that, with the concurrence of the State Water Conservation Commission, the 38th Legislative Assembly of the State of North Dakota, be, and it hereby is, respectfully petitioned to enact legislation which will authorize and enable the State, its departments, agencies, political subdivisions, local interests and entities to cooperate and participate financially with each other and with the United States of America, or any department, agency, or instrumentality thereof, in undertaking, conducting, and pursuing an orderly and practicable program of activities for the conservation development, protection, wise utilization, and equitable distribution of the water resources of North Dakota; and

BE IT FURTHER RESOLVED that such authorizing legislation contain a declaration to the effect that in consequence of the benefits resulting to the public health and general welfare to all of the people of North Dakota that it is the policy of the State Legislature to recognize, preserve, and protect the primary responsibilities and rights of the people of the State in controlling, managing, using, and distributing for all lawful purposes the waters of the State, and to support and aid technical research, planning and engineering in connection with such program of activities: Provided, however, that the Commission shall establish rules and regulations to govern and provide for equitable financing by local participants; and

BE IT FURTHER RESOLVED that such authorizing legislation provide for the establishment and designation in the State Water Conservation Commission of a continuing special fund to remain available until expended, to be administered by the State Water Conservation Commission, into which shall be covered and deposited all appropriations, collection of moneys, and funds made available

for the purposes aforesaid during the next consecutive biennium sessions of the State Legislature until deposits in and payments to the fund shall total the amount of \$2,000,000; and

BE IT FURTHER RESOLVED that this Association, through its officers and directors, does hereby offer to provide the legislative committees such information on these proposals, make such presentations before committees thereon, and render such assistance in connection therewith as the committees may invite; and

BE IT FURTHER RESOLVED that the Secretary be directed to transmit copies hereof to the Governor; President of the State Senate and Speaker of the State House of Representatives; Secretary of the State Water Conservation Commission; Commissioner of State Game and Fish Department; President and Secretary of State Historical Society; Chairman and Secretary of State Park Committee; Director of State Department of Public Health; and Director of State Economic Development Commission.

APPENDIX E

AMENDMENTS PROPOSED TO WATER LAWS

- (1) SEC. 61-01-02. Would enable holder of water right to sever it from the land to which it is appurtenant for other beneficial uses.
- (2) SEC. 61-01-23. Deletes requirement of written consent of the occupant for entering upon land lying adjacent to nonnavigable stream for purpose of removing obstructions from bed, channel or banks of stream which prevent or hinder free flow of water or passage of ice, and gives the right of free entry thereon to Water Commission, Board of County Commissioners, or any Federal Agency authorized to construct works for prevention of floods or for abatement of stream pollution.
- (3) SEC. 61-01-25. Adds new section which provides that any person violating any provision of this chapter or any rule or regulation of the state engineer for which another penalty is not specifically provided shall be guilty of a misdemeanor and punishable by a fine of not more than \$500 or by 30 days' imprisonment, or by both, for each offense.
- (4) SEC. 61-02-02. Adds the words "treatment plants" and "treatment" in connection with the definition of "works".
- (5) SEC. 61-02-04. Proposed that State Water Conservation Commission may also be known as State Water Commission.
- (6) SEC. 61-02-12. Would change the rate of compensation to appointive Commission members from \$7 to \$15 per day.
- (7) SEC. 61-02-14. Several perfecting amendments are suggested to powers and duties of the Water Commission. Of significance is the deletion of the term "riparian" right to which diverting of waters from one stream, river or lake to another stream, river or lake is now subrogated.
- (8) SEC. 61-02-23. Amends power of Commission in connection with actions to acquire property rights.
- (9) SEC. 61-02-24. Provides that cooperation and coordination with existing agencies would extend to "international" waters.
- (10) SEC. 61-02-24.1. A new section which would authorize "All political subdivisions, including but not limited to, counties, townships, cities, villages and park districts" to "investigate, plan, cooperate, and make all necessary contracts or agreements with the state water commission for the purpose of participating in and conducting underground or surface water surveys and may participate in the construction and reconstruction of works, dams, and projects for the beneficial utilization and control of water."
- (11) SEC. 61-02-28. Would include "municipal, industrial, recreational, and fish and wildlife" works in connection with which the Commission may make plans, investigations and surveys concerning use of water for their establishment, operation and control.

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- (12) SEC. 61-02-30. Clarifies the provisions and procedure under which the Commission may acquire water rights through Declaration of Intention.
- (13) SEC. 61-02-31. Declares priority of water right shall date from time of filing or recording and deletes provisions that actual work of construction must commence within 2 years from date of original filing or recording.
- (14) SEC. 61-02-38. In providing that control of water right may be turned over to the Commission the word "Holder" is substituted for "Persons owning" water right.
- (15) SEC. 61-02-46. Would include participation with State or Federal agencies and political subdivisions as additional purposes for which Commission revenue bonds may be issued.
- (16) SEC. 61-02-75. A new section, would authorize state engineer to administer oaths and subpoena witnesses at hearings before him.
- (17) SEC. 61-03-21. Would authorize state engineer to require that all water structures be adequate, safe and operated in a manner that will prevent waste, promote beneficial use of water and not endanger the general health. Also provides the state engineer with means to enforce these provisions.
- (18) SEC. 61-04-02. Provides that all intending appropriators apply for water right before commencing construction of any works.
- (19) SEC. 61-04-15. Authorizes the assignment of water rights apart from the land to which it is appurtenant without losing priority of any right established and provides procedure therefor.
- (20) SEC. 61-04-23. Requires users of water to annually file with the state engineer report of water use and other information. The engineer may require installation of water measuring devices at points specified by him.
- (21) SEC. 61-14-03. Provides that state engineer may allow a higher rate of diversion than stipulated in permit under certain conditions.
- (22) SEC. 61-15-04. Makes granting of easements to federal agencies over state land discretionary instead of mandatory as now.
- (23) SEC. 61-15-08. Makes draining of meandered lake without written consent of state engineer a misdemeanor and provides penalty.
- (24) SEC. 61-16-08. Designates water conservation and flood control districts as "water management" districts and provides for filling vacancies in office of commissioner.
- (25) SEC. 61-20.06. Redefines duties of state geologist and others charged with supervision and regulation of artesian wells.

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