

## MINUTES

North Dakota State Water Commission  
Held at Devils Lake Armory  
Devils Lake, North Dakota

June 12, 1973

The North Dakota State Water Commission held a meeting at the Armory in Devils Lake, North Dakota, on June 12, 1973. Governor-Chairman, Arthur A. Link, called the meeting to order at 9:00 a.m., CDT.

### MEMBERS PRESENT:

Arthur A. Link, Governor-Chairman  
James Jungroth, Member from Jamestown  
Gordon Gray, Member from Valley City  
Donald Noteboom, Member from McKenzie County  
Vernon Fahy, Secretary and State Engineer, North Dakota State  
Water Commission, Bismarck

### OTHERS PRESENT:

Matt Emerson, Assistant Secretary, North Dakota State Water Commission, Bismarck  
Cliff Jochim, Special Assistant Attorney General, North Dakota State  
Water Commission, Bismarck  
LeRoy Klapprodt, Resources Planner, North Dakota State Water Commission, Bismarck  
Oscar N. Berg, Ward County Water District, Minot  
Representative Charles F. Mertens, Devils Lake  
Katherine Satrom, Governor's Office, Bismarck  
H. A. Hendrickson, Chairman, Souris-Red-Rainy River Basins Commission,  
Moorhead, Minnesota  
James B. Collinson, Garrison Diversion Conservancy District, Devils Lake  
George McHugh, Nelson County Water Management District, Lakota  
Terrence P. Devine, Attorney, Nelson County Water Management District, Lakota  
Ken Ziegler, Basin Electric Power Cooperative, Bismarck  
Olger L. Sandven, Benson County Water Management District, York  
Jos. A. Vogel, Jr., Attorney, Mandan  
Bruce Hagen, North Dakota Public Service Commission, Bismarck  
Art Lanz, City Commission, Devils Lake  
Russell Dushinske, Executive Vice President, North Dakota Water  
Users Association, Minot  
Mike Jacobs, North Dakota Farmers Union, Jamestown  
Gordon Berg, Chairman of the Sweetwater-Dry Lake Water Management  
District, Devils Lake  
John Zaleski, Jr., North Dakota Wildlife Federation, Devils Lake  
Mike Connor, Manager, Chamber of Commerce, Devils Lake  
Ralph F. Fries, Fish and Wildlife Service, Devils Lake  
Eugene C. Patten, Fish and Wildlife Service, Devils Lake  
T. K. Lybeck, Soil Conservation Service, Devils Lake  
Fred Lindseth, Munich  
Carey Backstrand, State Highway Department, Bismarck  
E. J. Weed, State Highway Department, Devils Lake

CONSIDERATION OF MINUTES OF  
MAY 9, 1973 MEETING - APPROVED

May 9, 1973 meeting be dispensed with and be approved as circulated.

It was moved by Commissioner Jungroth, seconded by Commissioner Gray and carried, that the reading of minutes from the

FINANCIAL STATEMENT FOR  
MONTH OF MAY, 1973

of May, 1973. He stated that the object code comparison, not available for the meeting, will be mailed out. Reference was made to the Commission audit which has been circulated and which will be presented by the State Auditor on June 14, 1973 to the Legislative Audit and Fiscal Review Committee.

Matt Emerson, Assistant Secretary for the State Water Commission, presented the financial statement for the month

A motion made by Commissioner Gray, seconded by Commissioner Noteboom and carried, was passed approving the financial statement for the month of May, 1973, as presented.

MISSOURI RIVER BANK  
STABILIZATION  
(#576)

amount is the District's share of Missouri River bank stabilization repair work which was completed near Lake Mandan in 1967. Discussions revealed that this obligation may have been unfairly assessed to the Oliver County District inasmuch as the Missouri River is of state-wide benefit and because of the later bank stabilization maintenance accepted by the U. S. Army Corps of Engineers.

A request was received from the Oliver County Water Management District to reduce a past due indebtedness to the Commission from \$18,823.39 to \$10,000. The past due

It was moved by Commissioner Jungroth, seconded by Commissioner Gray and carried, that the Commission accept the offer of settlement by the Oliver County Water Management District in the amount of \$10,000 for repair of Missouri River bank stabilization works.

CITY OF PETERSBURG DRAINAGE  
(#1131)

to alleviate a drainage problem affecting a portion of the city of Petersburg. Normal state share, he stated, would be \$3,200, if this was given consideration as a legally established drain. Secretary Fahy did not recommend participation.

Vernon Fahy read a written request from the Nelson County Water Management District regarding financial participation

Commissioner Jungroth moved that, inasmuch as this request would involve drainage within city limits which is not consistent with Commission policy, the Commission should not participate. The motion was seconded by Commissioner Noteboom, and the motion carried.

CASS COUNTY DRAIN NO. 14  
 (#1070)

Secretary Fahy read a written request from the Cass County Drain Board for financial assistance in the hydraulic improvement of Cass County Drain No. 14. Total cost is estimated to be \$35,832 and the adjusted state share is \$6,135.

It was moved by Commissioner Gray, seconded by Commissioner Jungroth and carried, that the Commission participate in the hydraulic improvement of Cass County Drain No. 14 in the amount of the adjusted state share, not to exceed \$6,135. The motion was carried.

PEMBINA COUNTY DRAIN NO. 13  
 LATERAL 13B  
 (#1141)

Secretary Fahy read a written request from the Pembina County Water Management District for financial assistance to construct a two and one-fourth (2 $\frac{1}{4}$ )-mile lateral to an existing legal drain. The total estimated cost is \$9,195, of which the state's 40 percent share of qualified construction items would be \$3,567.

It was moved by Commissioner Gray, seconded by Commissioner Jungroth and carried, that the Commission participate in the construction of Lateral 13B to Pembina County Drain No. 13 in the amount of 40 percent of qualified costs, not to exceed \$3,567.

TRAILL COUNTY DRAIN NO. 13  
 (#1232)

Secretary Fahy read a written request from the Traill County Drain Board for financial assistance in a modification of Traill County Drain No. 13, consisting of a pipe drop. The total estimated cost is to be \$21,000, of which the state's 40 percent share of qualified construction items would be \$7,870.

It was moved by Commissioner Gray, seconded by Commissioner Jungroth and carried, that the Commission participate in the modification of Traill County Drain No. 13 in the amount of 40 percent of qualified construction cost items, not to exceed \$7,870.

LAKOTA DRAIN  
 (#1557)

Mr. George McHugh, Chairman for the Nelson County Water Management District, presented a formal letter of request to the Commission for financial participation in a legal drain near the city of Lakota. Mr. McHugh, when making an oral presentation of the request, stated that the State Highway Department has agreed to participate. He stated that preliminary estimated costs were \$5,000, but they could reach \$6,000. The state's share would be 40 percent.

Commissioner Jungroth moved that the Commission participate in the Lakota Drain up to 40 percent of qualified construction costs based on the \$6,000 estimate, not to exceed \$2,400 and that the established Commission criteria be used in determining qualified costs. The motion was seconded by Commissioner Gray and the motion carried.

MINOT FLOOD CONTROL  
PETERSON COULEE  
(#1408)

Secretary Fahy read the minutes of the Commission's January 1, 1973 meeting regarding previous discussions of a request for financial participation by

the Ward County Water Management District. Mr. Oscar Berg, representing the District, was on hand to review the request. He stated that in cooperation with the State Highway Department and the State Water Commission, the District proposed to construct facilities to alleviate flooding from coulees west of Minot. It was noted that the largest share of costs would be assumed by the State Highway Department in constructing a highway bypass in the area. The balance of costs to be financed is \$130,400, of which Ward County Water Management District has pledged \$39,000 and the city of Minot has pledged \$39,000. Mr. Berg then requested assistance from the Commission in the amount of \$52,200, or 40 percent.

Commissioner Gray moved that the Commission participate financially with the Ward County Water Management District in the proposed flood control project west of Minot in the amount of 40 percent of the estimated \$130,400 cost, not to exceed \$52,200. The motion was seconded by Commissioner Noteboom and the motion carried.

ALTERATION OF BOUNDARIES  
OF WEST DICKEY WATER  
MANAGEMENT DISTRICT  
(#728)

Secretary Fahy read a memo from Cliff Jochim, who has held a public hearing regarding the formation of a county-wide water management district in Dickey County. The hearing was held as a

result of a petition by the West Dickey Water Management District's Board. Mr. Jochim's recommendation was to alter the boundaries to include the entire county.

It was moved by Commissioner Jungroth, seconded by Commissioner Noteboom and carried, that the State Water Commission adopt Resolution No. 73-6-346, Altering the Boundaries of the West Dickey Water Management District, which authorizes the Governor to execute the State Water Commission's Order altering the boundaries of the West Dickey Water

Management District to include the entire county within the district and to change the name of the district to the Dickey County Water Management District. (See Appendix "A")

**ART GREENBERG WATER PERMIT #1916  
CONFIRM CHANGES IN MINIMUM FLOW**

Secretary Fahy explained to the Commission members that after the approval of the Art Greenberg water permit, additional information had been received regarding Red River flows which was the source of water for the permit involved. The Commission, at its last meeting, had approved the permit at a reduced amount of water and subject to no appropriation of water under 60 cubic feet per second flow in the Red River near Grand Forks. Secretary Fahy stated that after receiving the new information, he altered the approval to read a minimum flow of 200 cubic feet per second and asked the Commission to confirm his action. During discussion, it was noted that no other items were changed on the conditional permit.

It was moved by Commissioner Gray and seconded by Commissioner Jungroth that the Commission confirm the State Engineer's action to stipulate a minimum flow of 200 cubic feet per second in the Red River at which time Art Greenberg should cease the appropriation of water under Conditional Permit No. 1916, unless special approval be obtained from the State Engineer. The motion carried.

**SALINE SEEPS PRESENTATION STUDY -  
REQUEST BY DR. NORUM, NORTH  
DAKOTA STATE UNIVERSITY  
(#322)**

Secretary Fahy referred to a request by Dr. Norum, Chairman of the Soils Department at the North Dakota State University, which asked for financial participation of \$23,000 in a proposed three-year study of saline seeps in western North Dakota. Secretary Fahy stated that he sent out copies of the request prior to this meeting so that members of the Commission could review it. He quoted Dr. Norum as saying that this proposed study would attempt to alleviate the saline seeps prior to becoming a problem and that the study would not duplicate research work now being done by the Agriculture Research Service located at Mandan. Secretary Fahy recommended a reduction in the first year participation if the Commission decided to participate; he felt that the equipment purchases for the study should not be a Commission function. Discussions followed and the members generally agreed that the study could be very worthwhile to the State.

Governor Link mentioned his contacts at the National Governors Conference regarding the subject and that the Governor of Montana had requested his assistance in obtaining help from the U. S. Department of Agriculture. Governor Link stated that when the Old West Regional Commission Governors are meeting in Bismarck, he planned to have a special meeting regarding the saline seeps problem. He indicated that the meeting would be June 15th and that he would invite North Dakota agencies, etc., which should be involved.

It was moved by Commissioner Gray and seconded by Commissioner Jungroth that the Commission approve Dr. Norum's request for financial participation in a three-year study of saline seeps prevention in the amount of \$15,900 to be divided as follows:

|                  |         |
|------------------|---------|
| Fiscal Year 1974 | \$7,500 |
| Fiscal Year 1975 | 5,300   |
| Fiscal Year 1976 | 3,100   |

The motion carried.

MICHIGAN-WISCONSIN  
PIPELINE COMPANY, WATER  
PERMIT NO. 1901A-D

Governor-Chairman Link opened the discussions regarding the application for a water permit for lignite coal gasification by the Michigan-Wisconsin

Pipeline Company with the acknowledgement of the letters and communications received relative to testimony on the application. He stated that the written testimony had been circulated to the Commission members with the exception of the late arrivals. Governor Link then commented on the most recent communications. As a matter of record, the Chairman then acknowledged each letter or communication as listed below:

| <u>DATE OF<br/>CORRESPONDENCE</u> | <u>NAME AND ADDRESS</u>                | <u>REPRESENTING</u>                                       |
|-----------------------------------|--|---|
| January 22, 1973                  | Wilmer Wiedrich<br>Beulah, ND          | Mayor of Beulah, ND                                       |
| January 23, 1973                  | Guy F. Larson<br>Bismarck, ND          | Missouri Slope Irrigation<br>Development Association      |
| February 16, 1973                 | H.E. Aldrich<br>Billings, Mont.        | Bureau of Reclamation                                     |
| February 21, 1973                 | Duane Bye<br>Bismarck, ND              | Resources and Conservation<br>Supervisor                  |
| March 6, 1973                     | Gaylen Sailer, Sec.<br>Beulah, ND      | Beulah Boosters   |
| March 7, 1973                     | Edwin T. O'Donnell<br>Omaha, Neb.      | U. S. Army Corps of Engineers                             |
| March 7, 1973                     | G. Alex Mills, Chief<br>Washington, DC | U. S. Bureau of Mines                                     |
| March 19, 1973                    | Mrs. Carol Fried<br>Bismarck, ND       | Lewis and Clark Environmental<br>Association              |
| March 19, 1973                    | Frank Magill<br>Fargo                  | Nilles, Hansen, Selbo, Magill<br>& Davies, LTD, Attorneys |
| March 19, 1973                    | J. E. Thompson<br>Chicago, Ill.        | Natural Gas Pipeline Company<br>of America                |
| March 20, 1973<br>& June 7, 1973  | Walter H. Hoff<br>Bismarck, ND         | North Dakota Wildlife Federation                          |

| <u>DATE OF<br/>CORRESPONDENCE</u> | <u>NAME AND ADDRESS</u>                    | <u>REPRESENTING</u>   |
|-----------------------------------|--|---|
| & May 24, 1973                    | Watford City, ND                           |   |
| March 20, 1973                    | V. A. Linington<br>Minot, ND               | Consolidation Coal Company                                  |
| March 20, 1973                    | Theodore E. Mann<br>Bismarck, ND           | Bureau of Reclamation                                       |
| March 23, 1973                    | Henry M. Byorum, Chairman<br>Minot, ND     | Water Resources Committee                                   |
| March 29, 1973                    | William L. Nelson<br>Grand Forks, ND       | Self  |
| April 11, 1973                    | Floyd A. Bishop<br>Cheyenne, Wym.          | State of Wyoming  |
| April 16, 1973                    | Tim W. VavRosky<br>Fargo, ND               | Self  |
| April 16, 1973                    | Mrs. Evelyn Newton<br>Gladstone, ND        | Self  |
| April 20, 1973                    | Norman E. Nelson, Sec.<br>Rapid City, SD   | Rocky Mountain Chapter,<br>Sierra Club                      |
| May 9, 1973                       | Richard F. McAdoo<br>Omaha, Neb.           | U. S. Army Corps of Engineers                               |
| May 21, 1973                      | H. R. Morgan<br>Bismarck, ND               | National Wildlife Federation                                |
| May 22, 1973                      | Vivian D. Rask, Pres.<br>Mandan, ND        | Lewis & Clark Environmental<br>Association                  |
| June 1, 1973                      | Charles Tighe<br>Bismarck, ND              | Law Office  |
| June 1, 1973                      | William L. Guy<br>Casselton, ND            | Former Governor of<br>North Dakota                          |
| June 5, 1973                      | Quentin N. Burdick<br>Washington, DC       | United States Senator Representing<br>North Dakota          |
| June 6, 1973                      | William P. Eastwood, Chr.<br>Dickinson, ND | Energy & Environment Committee                              |
| June 8, 1973                      | G. Kent Conrad<br>Bismarck, ND             | Senator Burdick's Office                                    |
| June 11, 1973                     | E. W. Smith, Pres.<br>Jamestown, ND        | North Dakota Famers Union                                   |
| June 11, 1973                     | Finton Dooley<br>Bismarck, ND              | Attending University of North<br>Dakota                     |
| May 30, 1973                      | Darrell Dorgan<br>Bismarck, ND             | Free Lance Reporter Attending<br>University of North Dakota |

Secretary Fahy, in response to Governor-Chairman Link's request, related the process by which the application under consideration was processed and the Chairman then stressed the open-policy of Commission records and proceedings. Mike Jacobs, representing the North Dakota Farmers Union, announced that their letter of testimony had been forwarded.

Secretary Fahy then read his recommendations to the Commission regarding action to be considered on the application before the Commission.

Bruce Hagen from the Public Service Commission appeared before the Commission and testified to some of the problems involved in lignite coal strip mining. He informed the Commission of a new process, still under study, of burning lignite coal for gasification. The process, named insitu, would burn the lignite underground. Mr. Hagen stated that he would forward information regarding the process to Commission members.

Commissioner Jungroth stated that we must be extremely cautious in the consideration of any actions which encourage a procedure or process involving stack emissions of lignite residues. He reminded those present of the problems experienced in Bowman County several years ago where a uranium extraction process caused severe molybdenum poisoning to the land surface over a rather widespread area. He suggested that it would be advisable for the Commission to obtain copies of the reports developed by the State Health Department on this situation.

Joseph Vogel, Attorney from Mandan, North Dakota, representing himself and unnamed environmental organizations, testified regarding the use of water called for in the Michigan-Wisconsin application. Mr. Vogel, who presented a written statement along with other supporting material, noted that the El Paso Gas Company's proposed water uses were much lower. He further testified that they would be paying \$7.00 per acre-foot of water. Mr. Vogel urged that extreme caution be used in the handling of North Dakota water resources by the Commission.

Russell Dushinske, Executive Vice President of the North Dakota Water Users Association, presented a written testimony on behalf of Jack Zaleski, Jr., who was to represent the North Dakota Wildlife Federation.

Russell Dushinske testified in behalf of the North Dakota Water Users Association. He urged the Commission to consider the economic benefits of a lignite coal gasification operation and recommended approval of a basic conditional water permit to allow development. Mr. Dushinske presented his testimony by letter, also.

It was moved by Commissioner Gray, seconded by Commissioner Noteboom and carried, that the State Water Commission adopt a declaration of intent to reserve four million acre-feet of water annually from the waters of the Missouri River and Lake Sakakawea, and that the use of this water be designated in the following manner:

|  |                            |
|--|----------------------------|
| Industrial Use   | 2 million acre-feet        |
| Agricultural Use   | 1 million acre-feet        |
| Municipal, Flood<br>Control, Recreation,<br>Fish and Wildlife,<br>and Environmental<br>Enhancement | <u>1 million acre-feet</u> |
| TOTAL  | 4 million acre-feet        |

It is further provided in this motion that this declaration of intent is intended to supercede the declaration of intent which was made on January 10, 1973, calling for the reservation of 2,500,000 acre-feet of water.

It was moved by Commissioner Gray, seconded by Commissioner Noteboom and carried, that the State Water Commission approve the application for 17,000 acre-feet annually for each of four separate points of diversion as described in the applicant's petition and that such allocation be subject to any or all of the following stipulations:

- 1) The 68,000 acre-feet is part of the four million acre-feet reserved by the State Water Commission's declaration of intent;
- 2) Should the North Dakota Legislative Assembly, at any time, provide for the payment of a water users fee, the applicant shall be subject to such charges when such law becomes effective, and such charges shall exceed costs;
- 3) That the most advanced engineering and technological methods shall be employed in the design of each plant, and every other effort shall be made to minimize evaporation and other wasteful uses of water. Such efforts and methods shall be subject to State Water Commission approval;
- 4) No assignment or transfer of any part of the water to which the applicant is entitled shall, at any time, be made without prior State Water Commission written approval of all points of diversion, utilization, and discharge; and

5) It is the State Water Commission's intent to approve the motion granting the conditional permit to the Michigan-Wisconsin Pipeline Company, effective upon the completion of a supplemental hearing to be held in Dickinson at a date to be determined by Governor Arthur Link.

A copy of the statement read by Secretary Fahy concerning this application is attached to the minutes for additional information. (See Appendix "B")

It was moved by Commissioner Noteboom, seconded by Commissioner Gray and carried, that the State Water Commission recommend to the next session of the Legislature that a severance tax be developed by proper legislative processes for the purpose of establishing the substantial fund that may be dedicated to future land and water resource developments in the lignite producing areas of the State which contribute their non-replaceable natural resources to development.

Commissioner Gray qualified the term "substantial" as being that amount determined by knowledge currently available in evaluating land and water resource development costs.

Governor Link stated that the supplemental hearing to be held in Dickinson will be given adequate publicity, and that all persons who have written to his office, or to the State Water Commission, concerning this matter will be sent a copy of the publication stating the time and date of the meeting.

REQUEST BY INTER-COMMUNITY  
TELEPHONE COMPANY TO PLACE  
TELEPHONE CABLE UNDER LAKE  
ASHTABULA BACKWATERS  
(#1373)

Secretary Fahy read a request by Inter-Community Telephone Company of Nome, North Dakota, to place a telephone cable under the backwaters of Lake Ashtabula as detailed by plans submitted with the request. Discussion followed.

It was moved by Commissioner Gray and seconded by Commissioner Jungroth that the request be granted. The motion carried.

U. S. ARMY CORPS OF ENGINEERS  
DAM SAFETY INSPECTION  
(#1579)

Secretary Fahy explained a new federal program wherein the Commission would receive financial assistance for dam safety inspection in North Dakota.

The U. S. Army Corps of Engineers, federal sponsoring agency, has made available

\$8,000 at this time which would be supplemented by additional funds next fiscal year. Secretary Fahy requested Commission approval to sign contracts for the \$8,000 at present, explaining that the Corps of Engineers would allow the Commission to carryover this amount to the forthcoming biennium. He stated that it was his intention to add the \$8,000 to subsequent funds before making a fund authorization request of the Emergency Commission.

It was moved by Commissioner Gray and seconded by Commissioner Jungroth that the State Engineer be authorized to contract with the U. S. Army Corps of Engineers for the requested amount. The motion carried.

#### FUTURE STATE WATER COMMISSION MEETING

It was the consensus of the Commission that they would hold a July meeting in Dickinson, North Dakota, subject to a date set by Governor-Chairman Link. The meeting would be held in conjunction with a public hearing regarding Michigan-Wisconsin Pipeline Company's application.

#### WATER PERMITS

Secretary Fahy presented 20 water permit applications to the Commission members for their consideration. It was Secretary Fahy's recommendation that water permit No. 1911, H.D. Knudsen, Minot, be deferred at this time pending further information, and that the other 19 applications be granted approval subject to such conditions as indicated on the permit.

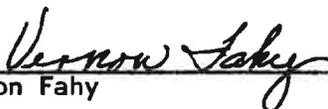
It was moved by Commissioner Noteboom, seconded by Commissioner Gray and carried, that the following water permit applications be granted approval subject to such conditions as indicated on the permit: No. 1913, Vincent Sauer, Tappen; No. 1915, Harvey C. Larson, Bismarck; No. 1907, Richard J. Lefor, Gladstone; No. 1886, Harmon Olstad, Sentinel Butte; No. 1912, North Dakota Forest Service, Bottineau; No. 1917, Traill County Water Management District and Red River Valley Cooperative, Hillsboro; No. 1914, M. H. Johnson, Plaza; No. 1899, City of Davenport, Davenport; No. 1918, Raymond R. Maier, Morrystown, South Dakota; No. 1919, William Palanuk, Fairfield; No. 1922, Lloyd Salter, Menoken; No. 1897, City of Sawyer, Sawyer; No. 1920, William A. Rotenberger, Bowman; No. 1928, Eugene E. Keller, Beulah; No. 1925, Doris E. Vculek, Oakes; No. 1926, Dennis P. Roney, Oakes; No. 1934, Jerome Muller, Grenora; No. 1822, City of Wahpeton, Wahpeton; and No. 1898, City of Wahpeton, Wahpeton. Water permit No. 1911, Dr. H. D. Knudsen, Minot, is to be deferred pending further information. (See Appendix "C")

DEVILS LAKE  
(#416)

Gordon Berg, Chairman of the Sweetwater-Dry Lake Water Management District, presented maps and slides along with

a narrative regarding the Devils Lake area. He outlined the route to be taken during a subsequent tour of the area and cited some of the problems to be considered.

There being no further business to come before the Commission, the meeting adjourned at 2:00 p.m.

  
\_\_\_\_\_  
Vernon Fahy  
Secretary

ATTEST:

  
\_\_\_\_\_  
Arthur A. Link  
Governor-Chairman

## RESOLUTION 73-6-346

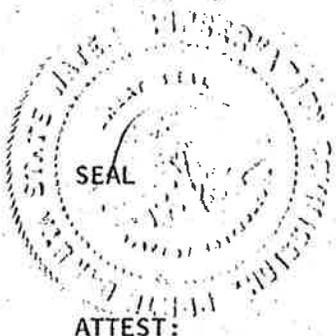
Authorizing the Alteration of the  
Boundaries of West Dickey Water Management District

WHEREAS, West Dickey Water Management District, acting by and through its Board of Commissioners, on the 11th day of May, 1973, filed with the North Dakota State Water Commission, its petition requesting the alteration of the boundaries of the district to include all of Dickey County within such district; and

WHEREAS, the facts adduced at a public hearing held in the Dickey County Courthouse on the 29th day of May, 1973, disclosed that the conservation and utilization of the county's water resources can best be accomplished by a county-wide water management district in cooperation with state and federal agencies.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission, in meeting duly assembled this 12th day of June, 1973, in Devils Lake, North Dakota, does hereby authorize and direct the Chairman and Secretary of this Commission to execute an Order altering the boundaries of the West Dickey Water Management District to include all of Dickey County and designate such district as the Dickey County Water Management District.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:



/S/ Arthur A. Link  
Arthur A. Link  
Governor-Chairman

/S/ Vernon Fahy  
Vernon Fahy  
Secretary

## ORDER

Altering the Boundaries of the  
West Dickey Water Management DistrictSWC Project No. 728  
June 12, 1973

WHEREAS, the West Dickey Water Management District, acting by and through its Board of Commissioners, filed with the North Dakota State Water Commission, its petition requesting that the boundaries of the West Dickey Water Management District be altered to include all of Dickey County within its boundaries; and

WHEREAS, the petition of the West Dickey Water Management District's Board of Commissioners was accompanied by a certified copy of a resolution of the Board of Commissioners, authorizing and directing for and on behalf of the District, the filing of such petition; and

WHEREAS, the report of the Chief Engineer of the State Water Commission, and evidence submitted at a public hearing held in the city of Ellendale on the 29th day of May, 1973, after legal notice thereof, disclosed that such a county-wide district would provide a responsible legal entity to serve the people of the county in all aspects of water resource development; and

WHEREAS, the Commission at its regular meeting held at Devils Lake, North Dakota, on the 12th day of June, 1973, approved the petition of West Dickey Water Management District and directed its Chairman and Secretary to execute the Order of the Commission altering the boundaries of the West Dickey Water Management District to include the entire county within the district and to change the name of the district to the Dickey County Water Management District.

The boundaries of the West Dickey Water Management District are hereby altered to include all of Dickey County within the District and the District's name is hereby changed to the Dickey County Water Management District.

Dated at Bismarck, North Dakota, this 19th day of June, 1973.

NORTH DAKOTA STATE WATER COMMISSION

By:

Arthur A. Link  
Arthur A. Link, Governor and Ex-  
Officio Chairman of the North Dakota  
State Water Commission

ATTEST:

Vernon Fahy  
Vernon Fahy, Secretary

STATE OF NORTH DAKOTA )  
  ) SS  
COUNTY OF BURLEIGH )

On this 19th day of June, 1973, before me a Notary Public in and for Burleigh County and the State of North Dakota, personally appeared Honorable Arthur A. Link, known to me to be the Governor of North Dakota and Ex-Officio Chairman of the North Dakota State Water Commission, and Vernon Fahy, known to me to be the Chief Engineer and Ex-Officio Secretary of the said Commission and acknowledged to me that the Commission had executed the within and foregoing Order establishing the Dickey County Water Management District.

[Signature]  
Notary Public, Burleigh County,  
State of North Dakota

My Commission Expires July 29, 1976

## DECLARATION OF INTENTION 73-6-347

## Relative to the West River Diversion Study

WHEREAS, on January 10, 1973, the North Dakota State Water Commission adopted a Declaration of Intention reserving 2,500,000 acre-feet of the unappropriated water flowing into Lake Sakakawea and 500,000 acre-feet of unappropriated water generated in the 14 counties south and west of the Missouri River; and

WHEREAS, since January 10, 1973, considerable interest has been shown in the waters of the Missouri River and Lake Sakakawea for industrial purposes; and

WHEREAS, in order to accommodate the needs of all anticipated water users, it is necessary to increase the amount of water reserved.

NOW, THEREFORE, BE IT RESOLVED by the North Dakota State Water Commission in regular meeting in Devils Lake, North Dakota, this 12th day of June, 1973, that it hereby declares its intention to store, divert, control and appropriate 4,000,000 acre-feet of the unappropriated waters of the Missouri River and of the waters flowing into Lake Sakakawea and 500,000 acre-feet of unappropriated water generated in the 14 counties south and west of the Missouri River in order to meet the future needs of such 14 counties as indicated by the Commission's West River Diversion Study.

BE IT FURTHER RESOLVED that such 4,500,000 acre-feet of water shall be stored, diverted, controlled and appropriated by a series of dams, dikes, canals, channel improvements, pipelines and pumps; and

BE IT FURTHER RESOLVED that such 4,500,000 acre-feet of water shall be allocated by the Commission and the State Engineer pursuant to Chapter 61-04, North Dakota Century Code, to applicants on a first-come-first-served basis for

-2-

Industrial, municipal, agricultural, recreational, fish and wildlife, or other beneficial purposes approved by the Commission; and

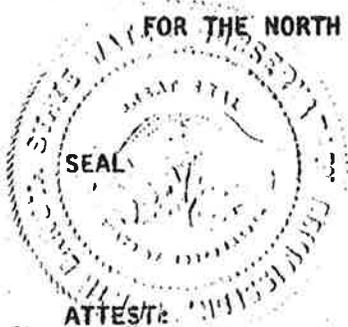
BE IT FURTHER RESOLVED that the use of the 4,000,000 acre-feet of the waters of the Missouri River and of the waters flowing into Lake Sakakawea is hereby designated as follows:

|   |                            |
|---|----------------------------|
| Industrial Use  | 2 million acre-feet        |
| Agricultural Use  | 1 million acre-feet        |
| Municipal, Flood Control,<br>Recreation, Fish and<br>Wildlife, and Environmental<br>Enhancement | <u>1 million acre-feet</u> |
| Total   | 4 million acre-feet        |

BE IT FURTHER RESOLVED that the 4,500,000 acre-feet of water reserved by this Declaration of Intention includes and is not in addition to the 3,000,000 acre-feet reserved by the January 10, 1973 Declaration of Intention; and

BE IT FURTHER RESOLVED that the State Engineer is hereby advised of the Commission's intentions and is required to file this Declaration of Intention in his office along with the attached current West River Diversion Study. As such study progresses and is updated, current copies shall be filed with this Declaration of Intention.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:



/S/ Arthur A. Link  
Arthur A. Link, Governor-Chairman

/S/ Vernon Fahy  
Vernon Fahy, Secretary

## NORTH DAKOTA STATE WATER COMMISSION

## OFFICE MEMO

MEMO TO: North Dakota State Water Commission Members  
FROM: Vernon Fahy, Chief Engineer  
SUBJECT: Michigan-Wisconsin Pipeline Company's Request for a Water Permit -  
SWC Water Permit No. 1901  
DATE: June 11, 1973

The national energy crisis has thrust this State into a position of prominence in the industrial areas of the nation's resources and has imposed upon our citizens a need for consideration of a new philosophy for the State's growth and development. This emergence from a largely agricultural economy concept into one in which industrial needs will become extremely important requires careful planning and consideration of development methods and procedures.

The State Water Commission will become deeply involved in this changing economic picture because it has been assigned the custody of the most vital element in economic growth - water.

Although there are a number of planning efforts underway at the present time by various state and federal agencies to develop state and regional plans for orderly resource development, none have progressed sufficiently to provide concise guidelines for agency decision making.

With this as a background, I would recommend that the Michigan-Wisconsin Pipeline Company's application for a water permit for coal gasification purposes be considered for approval only if revised to eliminate possible constraints upon our ability to plan for orderly development of our resources. We should not make an irrevocable commitment to a plan or a process which is so susceptible to technological change. One way in which this can be done is by granting a conditional permit for water based on the development of four plants, but approve a water right for the applicant only when it begins to use the water. This means

that a right to use of water would be on a plant-by-plant basis and would allow the State to maintain the flexibility necessary to meet technological and philosophical change. If changes occur, the State Water Commission is not bound by a long-range commitment of our water resources.

The concern of water users over priority dates could be minimized if our original declaration of intent to appropriate were revised from 2.5 million acre-feet annually to 4.0 million acre-feet annually. This would assure all users, agricultural, municipal, recreational and industrial, of the state's intent to make water available for beneficial use.

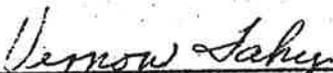
The declaration of intent is necessary, also, to indicate to downstream areas what we believe to be our needs at this time. Great interest is being shown by other areas in the diversion of water from the Missouri River, so we must assure that this state establishes a claim to meet its needs.

Any approval given for a water permit or a perfected water right should contain a stipulation requiring the applicant to utilize the most efficient water conservation methods and a clause which will provide for a charge for water used when and if enabling legislation is enacted.

My recommendation for a controlled approach is based upon my concern for the wisest use of our water resource and upon the conviction that coal conversion and other energy producing techniques are in the embryonic stages and may never develop totally as they are projected at this time. We must avoid a commitment which destroys our ability to cope with change.

In each Commissioners' portfolio is a statement which incorporates this approach to granting a conditional permit to the Michigan-Wisconsin Pipeline Company. It is offered as a suggestion for handling the water right application in a manner that would permit development under controlled conditions if it is determined that development is desirable.

VF:sl

  
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Vernon Fahy, Chief Engineer

WATER PERMITS FOR JUNE 12, 1973 AGENDA

| NO.  | NAME AND ADDRESS  | SOURCE  | PURPOSE                        | AMOUNT REQUESTED                                  | COMMENTS & RECOMMENDATIONS                        |
|------|---|---|--------------------------------|---|---|
| 1913 | Sauer, Vincent -<br>Tappen<br>(Kidder County)   | Ground Water                                    | Irrigation                     | 379.0 acre-feet<br>303.0 acres                    | 379.0 acre-feet<br>303.0 acres                    |
| 1915 | Larson, Harvey C. -<br>Bismarck<br>(McLean County)  | Ground Water                                    | Irrigation                     | 185.0 acre-feet<br>123.0 acres                    | 185.0 acre-feet<br>123.0 acres                    |
| 1907 | Lefor, Richard J. -<br>Gladstone<br>(Dunn County)   | Knife River, tributary<br>to the Missouri River | Irrigation -<br>Waterspreading | 368.0 acre-feet<br>184.0 acres                    | 184.0 acre-feet<br>184.0 acres                    |
| 1886 | Olstad, Harmon -<br>Sentinel Butte<br>(Golden Valley Co.)   | Garner Creek, trib. to<br>Little Missouri River | Irrigation -<br>Waterspreading | 226.0 acre-feet<br>113.1 acres                    | 113.1 acre-feet<br>113.1 acres                    |
| 1912 | North Dakota Forest<br>Service -<br>Bottineau<br>(Bottineau Co.)  | Unnamed Watershed, trib.<br>to Souris River     | Recreation                     | 115.0 acre-feet<br>45.0 acre-feet<br>annual use   | 115.0 acre-feet<br>45.0 acre-feet<br>annual use   |
| 1917 | Traill County Water<br>Management District<br>and Red River Valley<br>Cooperative -<br>Hillsboro<br>(Traill County) | Goose River, tributary<br>to the Red River      | Industrial                     | 2376.0 acre-feet<br>450.0 acre-feet<br>annual use | 2376.0 acre-feet<br>450.0 acre-feet<br>annual use |

| NO.  | NAME AND ADDRESS  | SOURCE   | PURPOSE                       | AMOUNT REQUESTED   | COMMENTS & RECOMMENDATIONS   |
|------|---|--|-------------------------------|--|--|
| 1916 | Greenberg, Art -<br>Grand Forks<br>(Grand Forks Co.)    | Red River  | Irrigation                    | 3812.0 acre-feet<br>1906.0 acres                           | 1906.0 acre-feet<br>1906.0 acres<br><br>Approved by State Water<br>Commission on May 9, 1973 |
| 1914 | Johnson, M. H. -<br>Plaza<br>(Mountrail County)         | Several Sloughs, which<br>is non-contributing<br>drainage area adjacent<br>to the Missouri River | Irrigation                    | 155.9 acre-feet<br>155.9 acres                             | 155.9 acre-feet<br>155.9 acres   |
| 1899 | Davenport, City of -<br>Davenport<br>(Cass County)      | Ground Water   | Municipal                     | 50.0 acre-feet   | 50.0 acre-feet   |
| 1918 | Maier, Raymond R. -<br>Morristown, SD<br>(Sioux County) | Unnamed Tributary,<br>trib. to Hay Creek,<br>Cedar & Cannonball<br>Rivers                        | Irrigation-<br>Waterspreading | 120.0 acre-feet<br>60.0 acres                              | 120.0 acre-feet<br>60.0 acres  |
| 1919 | Palanuk, William -<br>Fairfield<br>(Billings Co.)       | Intermittent Draw,<br>trib. to Magpie Creek<br>and the Little Missouri<br>River                  | Recreation<br>(Livestock Use) | 117.0 acre-feet<br>storage<br>30.3 acre-feet<br>annual use | 117.0 acre-feet<br>storage<br>30.3 acre-feet<br>annual use                                   |
| 1911 | Knudsen, H.D. (Dr.) -<br>Minot<br>(McLean County)       | Ground Water   | Irrigation                    | 2780.0 acre-feet<br>1390.0 acres                           | Defer pending further<br>information.  |

| NO.  | NAME AND ADDRESS                                  | SOURCE   | PURPOSE                        | AMOUNT REQUESTED               | COMMENTS & RECOMMENDATIONS     |
|------|---|--|--------------------------------|--------------------------------|--------------------------------|
| 1922 | Salter, Lloyd -<br>Menoken<br>(Burleigh County)   | Ground Water   | Irrigation                     | 730.0 acre-feet<br>487.0 acres | 730.0 acre-feet<br>487.0 acres |
| 1897 | Sawyer, City of -<br>Sawyer<br>(Ward County)      | Ground Water   | Municipal                      | 31.0 acre-feet                 | 31.0 acre-feet                 |
| 1920 | Rotenberger, Wm. A.-<br>Bowman<br>(Bowman County) | Unnamed Intermittent<br>Draw, trib. to Grand<br>River              | Irrigation -<br>Waterspreading | 136.0 acre-feet<br>68.7 acres  | 68.7 acre-feet<br>68.7 acres   |
| 1928 | Keller, Eugene E. -<br>Beulah<br>(Mercer County)  | Ground Water   | Irrigation                     | 700.0 acre-feet<br>350.8 acres | 525.0 acre-feet<br>350.8 acres |
| 1925 | Vculek, Doris E. -<br>Oakes<br>(Dickey County)    | Ground Water   | Irrigation                     | 320.0 acre-feet<br>160.0 acres | 240.0 acre-feet<br>160.0 acres |
| 1926 | Roney, Dennis P. -<br>Oakes<br>(Dickey County)    | Ground Water   | Irrigation                     | 620.0 acre-feet<br>310.0 acres | 465.0 acre-feet<br>310.0 acres |
| 1934 | Muller, Jerome -<br>Grenora<br>(Williams Co.)     | Unnamed Coulee, trib. to<br>Pat's Coulee and Little<br>Muddy River | Irrigation-<br>Waterspreading  | 26.0 acre-feet<br>17.4 acres   | 17.4 acre-feet<br>17.4 acres   |

| NO.  | NAME AND ADDRESS                                     | SOURCE       | PURPOSE   | AMOUNT REQUESTED | COMMENTS & RECOMMENDATIONS |
|------|--|--------------|-----------|------------------|----------------------------|
| 1822 | Wahpeton, City of -<br>Wahpeton<br>(Richland County) | Ground Water | Municipal | 1670.0 acre-feet | 1670.0 acre-feet           |
| 1898 | Wahpeton, City of -<br>Wahpeton<br>(Richland County) | Ground Water | Municipal | 835.0 acre-feet  | 835.0 acre-feet            |