

MINUTES
STATE WATER COMMISSION MEETING
Held in the Gardner Hotel
Fargo, North Dakota
October 16, 1964

MEMBERS PRESENT:

Oscar Lunseth, Vice Chairman, Grand Forks
Richard P. Gallagher, Member, Mandan
Gordon Gray, Member, Valley City
Einar Dahl, Member, Watford City
Henry Steinberger, Member, Donnybrook
Milo W. Hoisveen, Secretary and Chief Engineer, State Engineer, Bismarck

OTHERS PRESENT:

Fred J. Fredrickson, State Water Commission, Planning Coordinator
Cliff Jochim, Special Assistant Attorney General

The meeting opened at 1:30 p.m. with Vice
Chairman Lunseth presiding.

MINUTES OF SEPTEMBER 15,
1964 MEETING APPROVED

It was moved by Commissioner Einar Dahl,
seconded by Commissioner Gray and carried
that the Commission dispense with the reading
of the minutes of the meeting of September 16, 1964, and approve such minutes
as circulated.

FINANCIAL STATEMENT
September, 1964

The State Water Commission's financial state-
ment for September, 1964, was read by
Secretary Hoisveen. Secretary Hoisveen called
on Mr. Cliff Jochim, Special Assistant Attorney General, to briefly explain
the proposed Contract Fund and General Administrative Appropriation as presented
to and adopted by the Natural Resources Subcommittee on the Legislative Re-
search Committee.

Mr. Jochim stated that the Commission was very
much aware of the constitutional hurdles which had to be cleared in order to
establish a State Water Commission revolving fund. Such hurdles being:
(1) That provision of the North Dakota Constitution which provides that any
monies collected by any state agency must be deposited with the State
Treasurer; and (2) that constitutional provision which provides that no
monies may be expended by a state agency unless first appropriated by the
Legislative Assembly. Mr. Jochim indicated that the proposed bill provided
that any monies reimbursed to the State Water Commission which had originally
been paid out of the General Administrative Appropriation would be deposited
in the State's general fund and could no longer be utilized by the Commission.
Any reimbursements, however, received by the Commission of monies originally
paid out of the Contract Fund would be deposited with the State Treasurer,
credited by him to the Contract Fund and could be once again expended by the
Commission by virtue of a standing appropriation. Thus both constitutional

obstacles previously mentioned would be considered. The Contract Fund would be depleted by only that amount of any project for which the Commission assumed the obligation and which would not be reimbursed.

It was moved by Commissioner Steinberger, seconded by Commissioner Gray and carried that the September, 1964, financial statement be approved as presented.

**FOSTER COUNTY WATER
MANAGEMENT DISTRICT**

Secretary Hoisveen stated that the State Engineer's report indicated that it was feasible that the Foster County Water Management District be established. He called on Mr. Jochim to give a report of the hearing held in Carrington, North Dakota, on the petition of the Foster County Board of Commissioners relative to the establishment of the district.

Mr. Jochim stated that he and Mr. Fredrickson conducted the hearing at which seventeen residents of Foster County were present. Of those present only four or five opposed the establishment of the district. It was quite apparent that of those present the residents of the City of Carrington favored the establishment of a county-wide water management district while the farmers owning the land adjacent to the city opposed it. Such support and opposition is based solely on the results of the drainage problems confronting Carrington. Because of the city's growth and the nature of the soil and inherent drainage problems of the site upon which the city is located the city is unable to adequately drain the city without causing water to flow onto adjacent farmland.

During the course of the hearing it became evident that the present drainage problem with which the city of Carrington and the surrounding farmland is faced is not the only matter a water management district might consider. . The county has a considerable amount of water resources potential which should be developed. This fact was recognized by all those present. It was also generally believed that something should be done about Carrington's drainage problem and, although the establishment of a water management district might not prove to be the ultimate solution, it is at least a step in the right direction. Mr. Fredrickson concurred with Mr. Jochim's summary of the hearing and the interpretation of feelings of those present.

It was moved by Commissioner Gallagher, seconded by Commissioner Steinberger and carried that the Commission approve the petition and establish the Foster County Water Management District. The Order Establishing the District is attached as Appendix A.

**REQUEST FOR DAM SITE
SURVEYS**
Rough Rider Dam #1374
Lucca Dam #1377
Clausen Spring Area #1378

The Commission has been presented with requests for dam site surveys for the following areas:

Rough Rider Dam, McKenzie County; Lucca Dam, Cass County; and Clausen Spring Area, Barnes County.

Secretary Hoisveen stated that none of the three requesting entities has made the necessary deposit, although such a survey is recommended for each area.

It was moved by Commissioner Gary, seconded by Commissioner Einar Dahl and carried that the Commission authorize a survey to be conducted for each of the three dams contingent upon the local sponsoring entity depositing the required \$200 and executing an agreement satisfactory to the Commission.

RESOLUTION RELATIVE TO SQUARE BUTTE CREEK BANK STABILIZATION #576 Secretary Hoisveen gave a brief resume' of the history and purpose of the project. He indicated that the U. S. Army Corps of Engineers would open bids in the Commission office at

2:00 p.m. on October 22, 1964. He then read the resolution which is attached as Appendix B.

It was moved by Commissioner Gallagher, seconded by Commissioner Einar Dahl and carried that the resolution be adopted as presented.

RESOLUTION HONORING U. S. REPRESENTATIVE B. F. SISK Secretary Hoisveen indicated that Mr. Fred J. Fredrickson had suggested that the Commission adopt a resolution commending the Honorable B. F. Sisk, U. S. Representative from California, for his work relative to H. R. 130, 88th Congress. Mr. Fredrickson read the resolution which is attached as Appendix C.

It was moved by Commissioner Gray, seconded by Commissioner Gallagher and carried that the resolution be adopted.

WELL DRILLERS' CERTIFICATES OF COMMENDATION Secretary Hoisveen stated that the Commission had previously approved the sending of certificates of commendation to township supervisors for their assistance in acquiring well inventories for the Commission. Such certificates were very well received. It has been suggested by the Commission's geologists that the well drillers also be awarded such certificates for their assistance in providing the Commission with valuable data gathered in the course of their work.

It was moved by Commissioner Gallagher, seconded by Commissioner Steinberger and carried that the Secretary be directed to send certificates of commendation to those well drillers providing the Commission with the required data.

PEMBINA CITY DAM #299 Secretary Hoisveen indicated that the City of Pembina has requested the Commission to participate in the repair of the Pembina Dam. The estimated cost of such repair is \$1,500. The Commission's share on a 50-50 basis would be \$750. The Commission has a crew in the area at the present time.

It was moved by Commissioner Lunseth, seconded by Commissioner Gray and carried that the Commission participate in the repair of the Pembina City Dam in the amount of \$750.

**SPONSOR'S AGREEMENT;
HARVEY DAM #671**

Secretary Hoisveen stated that on some of its projects constructed as a cooperative effort by the Commission, the State Highway Department and third parties, such as the State Game and Fish Department or local political entity, the Highway Department insists upon looking to the Commission as the sponsoring agency and will enter into an agreement with the Commission only. It then is incumbent upon the Commission to enter into separate agreements with the other participating agencies. Such was the case in the construction of McVille Dam, Crown Butte Dam and Sweetbriar Dam.

The City of Harvey and the Wells County Water Management District have requested that a dam be constructed in conjunction with the Highway Department's construction of State Highway #3. It would replace an existing dam and raise the reservoir surface to provide for increased public use and, in addition, enhance the recreational, flood control and water conservation aspects of the reservoir.

The project is estimated to cost approximately \$63,000, with such costs being shared equally by the Commission, the State Game and Fish Department and the Wells County Water Management District. The Highway Department will not share in the costs of the dam and will pay only those costs attributable to the highway itself.

It was moved by Commissioner Steinberger, seconded by Commissioner Gray and carried that the Secretary be authorized to execute an agreement with the State Highway Department whereby the Commission shall assume the role of sponsoring agency for the construction of the Harvey Dam.

DRAYTON DAM #681

Secretary Hoisveen explained the difficulties the contractor is experiencing in the construction of the Drayton Dam. The subsurface conditions at the dam site are such that earth excavated from the channel and placed on the west slope of the impoundment has caused a subsoil failure which has resulted in the upheaval of the structure. The contractor has written a letter to the Commission requesting an extension of the November 1 completion date and a waiver of the \$100 a day penalty clause which goes into effect on such date.

Commissioner Lunseth indicated that the problem faced by the contractor in the present case is quite common to the RedRiver Valley.

Secretary Hoisveen stated that in his letter the contractor indicated that he had been held up by precipitation which occurred on 20 days. Secretary Hoisveen said that the Commission's records indicate that the precipitation occurred on only about 10 days. He further indicated that the contractor does have a serious problem but the contractor did not, however, have his men and equipment on the job in sufficient force when he should have. He was about 5 weeks late in getting started and then only had 5 men and an insufficient complement of equipment working. Meanwhile, the Commission staff continued to remind him of the completion dead line,

the rapidly approaching cold weather and the penalty clause. Hoisveen indicated that the problem referred to the ground heaving which was occurring in the vicinity of the spillway and the outlet channel. This problem is being caused by the surcharge of added earth on the embankment. It was pointed out that the Commission authorized the stockpiling of the earth at this point in view of the limited acreage of the site. He indicated that this probably implied that the Commission had some responsibility in causing the problem because the Commission permitted the stockpile. This stockpiling has resulted in the raising of spillway slabs in two or three sections.

It was moved by Commissioner Gallagher, seconded by Commissioner Gray and carried that Secretary Hoisveen be authorized to grant a reasonable extension of the completion date, not to exceed 30 days and waive the penalty clause for the duration of such extension.

PURCHASE OF TWO
PANEL TRUCKS

Secretary Hoisveen indicated that Unit #645 and Unit #800, both Dodge Panels, each have approximately 60,000 miles usage. In addition Unit #645 is damaged to the extent of \$372. Authorization to trade both units in on two new units is requested. Replacement cost will be approximately \$4000 plus trade-in.

It was moved by Commissioner Einar Dahl, seconded by Commissioner Steinberger and carried that the Secretary be authorized to purchase two 1965 panel trucks.

H. R. 3846

Secretary Hoisveen stated that H. R. 3846 had been enacted and provides that funds shall be made available to those states that adopt a statewide outdoor recreation plan. Approximately \$1 million will be available to North Dakota. The funds are made available on a matching basis. A state's share may be provided by the state itself, its political agencies or subdivisions, or any combination of state agencies and entities.

Meetings will be held in Chicago, Illinois, on October 26-27, 1964, the purpose of which is to brief all state agencies charged with the responsibility of handling and disbursing the funds received through H. R. 3846. Secretary Hoisveen, Mr. Jochim and Mr. Jim Schulz, State Water Commission Accountant, will attend the meetings. October 29-30 Messrs. Hoisveen, Jochim and Schulz will report the results of the meetings to the Legislative Research Committee's Subcommittee on Natural Resources.

Secretary Hoisveen briefly discussed the proposal of the Legislative Research Committee's Subcommittee on Natural Resources to place the State Parks Division under the jurisdiction of the State Water Commission. It was stated that the Governor and the Commission did not particularly favor the proposal. During the discussion that followed Commissioner Gallagher suggested that any water permits granted to any state agency be granted to the State of North Dakota to be used by the receiving agency for the benefit of the people of the state. This suggestion was favorably received.

Secretary Hoisveen called on Mr. Jochim to give a brief resume of the action of the Legislative Research Committee's Subcommittee on Natural Resources. Mr. Jochim stated that the subcommittee authorized that a bill be prepared for discussion purposes during its October 29-30 meeting which would place the State Parks Division and the State Historical Society under a single board. The State Parks Division and the State Historical Society would thus be separate and equal agencies and each would have its own director with both directors under the control of the one board. The subcommittee also authorized the drafting, for discussion purposes, of a bill patterned exactly after S. B. 184 of the 1963 Legislative Session with the only changes being the Director of the State Parks Division and the President of the State Association of Soil Conservation Districts being given membership on the Advisory Board in lieu of the State Health Officer.

**PROPOSED DIVERSION OF
YELLOWSTONE RIVER**

Mr. Fredrickson stated that it is presently being proposed by California water interests that a million acre-feet of water of the Yellowstone River be annually moved through a stretch of the Snake River and then into the Green River, tributary of the Colorado River above Flaming Gorge Dam. The waters of the Yellowstone River and its tributaries have been apportioned among the States of North Dakota, Montana and Wyoming by a compact dated December 8, 1950. A discussion of the probable results such diversion would have on the Garrison Diversion Unit followed. It was generally agreed that this proposal should not be formally opposed by the Commission until such time as the Garrison Diversion Unit is approved by the U. S. Congress.

**PEMBINA RIVER CLEARING AND
SNAGGING PROJECT #871**

Secretary Hoisveen read the memo relative to the assurances requested of the Commission by the Corps of Engineers for the snagging and clearing of the Pembina River. The resolution is attached as Appendix D. It was moved by Commissioner Gray, seconded by Commissioner Gallagher and carried that the resolution be adopted as read.

**DES LACS CITY DAM
RECREATION DEVELOPMENT
#636**

Secretary Hoisveen indicated that approximately a year ago the Des Lacs was washed out. The Commission is in the process of completing the restoration of the dam and has been requested by the city for assistance in enhancing the area for recreational purposes. It is planned to plant trees and construct toilet facilities, picnic tables, etc. The total cost is estimated to be \$900 and the Commission is requested to participate in the amount of \$600.

It was moved by Commissioner Einar Dahl, seconded by Commissioner Steinberger and carried that the Commission be authorized to participate in the project to the extent of \$600.

**BUFFALO WATER SUPPLY
SURVEY #1340**

Secretary Hoisveen stated that the Commission has received \$200 from the Village of Buffalo and a request to conduct a city water supply survey.

It was moved by Commissioner Gray, seconded by Commissioner Steinberger and carried that the Commission be authorized to participate in a water supply survey for the Village of Buffalo.

RICHLAND COUNTY DRAIN #39 The Commission is in receipt of a request to participate in the improvement of the carrying capacity of Richland County Drain #39. The total cost of the project is estimated to be \$23,000.

It was moved by Commissioner Gray, seconded by Commissioner Einar Dahl and carried that the Commission participate to the extent of \$8010 in the improvement of Richland County Drain #39.

CASS COUNTY DRAIN #22 It is proposed to change the side slopes of the Cass County Drain #22 from 2:1 to 3:1. The total cost is estimated to be \$8500.

It was moved by Commissioner Gray, seconded by Commissioner Gallagher and carried that the Commission participate to the extent of \$2432 in the reconstruction of Cass County Drain #22.

CASS COUNTY DRAIN #32 The Commission has previously authorized the expenditure of \$2998 in the reconstruction of Cass County Drain #32. It has since been determined that it is necessary for the State Water Commission to participate in such reconstruction only to the extent of \$1600.

It was moved by Commissioner Gallagher, seconded by Commissioner Gray and carried that the Commission defer any action until its next meeting in order that the Secretary might review the situation.

PEMBINA COUNTY DRAIN #34 At its May 28, 1964, meeting the Commission approved the expenditure of \$16,911.20 relative to Pembina County Drain #34. Since that time a better location for the proposed drop structure has necessitated the moving of an additional 24,147 cubic yards of earth. This will increase the total cost by an estimated \$4,105 and the State Water Commission's share by approximately \$1642.

It was moved by Commission Lunseth, seconded by Commissioner Gray and carried that the Commission authorize the expenditure of an additional \$1,642, thus raising the Commission's total share to \$18,553.20 for Pembina County Drain #34.

WATER RIGHTS

#1236 The application of John F. Voigt of Shields to divert 32 acre-feet of water from Unnamed dry wash tributary to the Cannonball River for the purpose of irrigating 32 acres of land was presented to the Commission by the Secretary for consideration.

The State Engineer, Milo W. Hoisveen, having considered the application and made his recommendation thereon for 32 acre-feet to irrigate 32 acres, it was moved by Commissioner Einar Dahl, seconded by Commissioner Steinberger and carried that the application be approved and the permit granted for the diversion of 32 acre-feet to irrigate 32 acres of land, subject to such conditions as indicated on the permit.

APPENDIX A

O R D E RESTABLISHING THE
FOSTER COUNTY WATER MANAGEMENT DISTRICT

WHEREAS, Foster County, on the 15th day of September, 1964 filed with the State Water Commission its petition requesting the establishment of a water management district embracing in its entirety Foster County, North Dakota; and

WHEREAS, notice of public hearing was published in the Foster County Independent on September 24, 1964; and

WHEREAS, a public hearing was held in Foster County in the County Court House in Carrington, North Dakota at 2:00 o'clock p.m. on October 9, 1964; and

WHEREAS, such testimony and information secured at the aforementioned hearing was favorable to the establishment of, and adequate development of, various watersheds, drainage districts, prevention of flood damage, determination of sources of ground-water suitable for domestic and other purposes and conservation of water in watercourses for irrigation, and can best be attained through and by a water management district; and

WHEREAS, the State Water Commission assembled in regular meeting on October 16, 1964 approved the petition of Foster County and directed the Chairman and Secretary of the Commission to execute its order establishing a water management district including Foster County in its entirety.

THEREFORE, there is hereby established a water management district to be known and designated as the Foster County Water Management District which shall include within its borders all of Foster County.

Dated this 16th day of October, 1964.

NORTH DAKOTA STATE WATER COMMISSION

By:

Milo W. Horsman
Chairman and Governor

ATTEST:

Secretary and Chief Engineer

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STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)SS

On this 16th day of October, 1964, before me a notary public in and for Burleigh County, North Dakota, personally appeared William L. Guy and Hilo W. Hoisveen, known to me to be the Chairman and Governor and Secretary and Chief Engineer of the North Dakota State Water Commission and acknowledged to me that the Commission had authorized the execution of the within and foregoing order establishing the Foster County Water Management District.

/s. Arnold J. Schulz
Notary Public

RESOLUTION-64-10-211

APPENDIX B

WHEREAS the United States Corps of Engineers has submitted to the North Dakota State Water Commission plans and specifications for bank stabilization on the right bank of the Missouri River in the vicinity of Square Butte Creek and made formal request for rights-of-way as contained in drawing numbered MGOC1-2E1, and

WHEREAS the North Dakota State Water Commission has approved and adopted said plans and specifications and has acquired the easements for the construction of the river-bank protection project as set forth in drawing numbered MGOC1-2E1; Now, therefore, be it

RESOLVED by the North Dakota State Water Commission, meeting at Fargo, North Dakota, October 16, 1964, that it does hereby grant, give and convey to the United States Government, its contractors and agents, the right and permission to enter in and upon said lands for the purpose of construction of the river-bank protection project, as indicated on the plans and specifications and rights-of-way map designated as drawing numbered MGOC1-2E1, prepared by the U. S. Corps of Engineers and approved by said North Dakota State Water Commission.

Dated this 16th day of October, 1964.

Moved by Commissioner Richard P. Gallagher, seconded by Commissioner Einar Dahl that the foregoing Resolution be adopted.

Yeas: Oscar Lunseth, Einar Dahl, Gordon Gray, Henry Steinberger, Milo W. Hoisveen, representing Governor Guy.

Nays: None.

/S/ William L. Guy
William L. Guy, Governor, Chairman

ATTEST:

/S/ Milo W. Hoisveen
Milo W. Hoisveen, Secretary

APPENDIX C
64-10-212

RESOLUTION OF APPRECIATION

To
THE HONORABLE B. F. SISK
U. S. Representative
In Congress

WHEREAS the Honorable B. F. Sisk, Representative in the United States Congress from the Sixteenth Congressional District, State of California, sponsored, introduced and successfully guided through the Eighty-eighth Congress, H. R. 130, "To provide for the payment of compensation, including severance damages, for rights-of-way acquired by the United States in connection with reclamation projects the construction of which commenced after January 1, 1961," signed by President Lyndon B. Johnson September 2, 1964, Public Law 88-561; and

WHEREAS this Act is of tremendous importance and distinct benefit to affected landowners in the proposed Garrison Diversion Unit, North Dakota: Now, therefore, be it

RESOLVED by the North Dakota State Water Commission, meeting in Fargo, North Dakota October 16, 1964, that it does hereby express to Representative Sisk deep appreciation and sincere commendation for his vigorous, sustained and timely effort in obtaining enactment of the aforesaid bill, and for other legislative contributions he has made in the field of water resources development; and be it further

RESOLVED that the Secretary transmit this Resolution to Representative Sisk at his home in Fresno, California.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

/S/ William L. Guy
William L. Guy, Governor, Chairman

ATTEST:

/S/ Milo W. Hoisveen
Milo W. Hoisveen, Secretary

APPENDIX D

RESOLUTION 64-10-213

Commissioner Gordon K. Gray moved the adoption of the following resolution:

A RESOLUTION GIVING CERTAIN ASSURANCES OF THE NORTH DAKOTA STATE WATER COMMISSION RELATIVE TO THE PEMBINA RIVER SNAGGING AND CLEARING PROJECT IN PEMBINA COUNTY, NORTH DAKOTA

WHEREAS, the United States of America is authorized to undertake a project for the clearing and snagging of the channel and banks of the Pembina River at and below the junction of the Tongue and Pembina Rivers in Pembina County, North Dakota, provided that responsible local interests furnish assurances that they will perform certain acts of cooperation in the project required by the U. S. Army Corps of Engineers, acting for the United States of America; and

WHEREAS, the District Engineer, U. S. Army Engineer District, St. Paul, Minnesota, has formulated a plan for such clearing and snagging and such plan has been explained and discussed with local interests and members of the North Dakota State Water Commission; and

WHEREAS, the North Dakota State Water Commission recognizes that the plan will create substantial benefits to lands along the Pembina River in Pembina County; and

WHEREAS, it is required that no money shall be expended on the construction unless and until a responsible local agency has given assurances satisfactory to the Secretary of the Army that it will:

- (a) Provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project;
- (b) Hold and save the United States free from damages due to the construction works;
- (c) Maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army; and

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WHEREAS, the North Dakota State Water Commission is a legal entity deriving its existence, powers and duties from Chapter 61-02, North Dakota Century Code, as amended, and has the power and authority to comply with the requirements of the Secretary of the Army preliminary to the construction of such clearing and snagging of the channel and banks of the Pembina River at and below the junction of the Tongue and Pembina Rivers, Pembina County, North Dakota, and

WHEREAS, the North Dakota State Water Commission desires to have the project constructed and desires to comply with the requirements imposed by the U. S. Army Corps of Engineers.

NOW, THEREFORE, BE IT RESOLVED by the North Dakota State Water Commission that within the limitations imposed by the State of North Dakota, the said Commission will:

- (a) Provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project;
- (b) Hold and save the United States free from damages due to the construction works;
- (c) Maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army.

BE IT FURTHER RESOLVED that two signed copies of this Resolution be furnished the office of the District Engineer, U. S. Army Engineer District, St. Paul, Minnesota, as evidence of the desire of the North Dakota State Water Commission to cooperate in and obtain the construction of the project to provide for the clearing and snagging of the Pembina River in Pembina County, North Dakota.

Richard P. Gallagher seconded the foregoing Resolution and on roll call the following commissioners voted for the Resolution, Oscar Lunseth, Gordon K. Gray, Richard P. Gallagher, Einar Dahl, Henry J. Steinberger and Milo W. Hoisveen, representing the Governor.

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Voting against said Resolution: None

Whereupon William L. Guy, Chairman of the State Water Commission, and Governor of the State of North Dakota, then declared the Resolution duly carried and adopted this 16th day of October, 1964.

/S/ William L. Guy

Governor

ATTEST:

/S/ Milo W. Hoisveen

Secretary