

MINUTES

North Dakota State Water Commission
Meeting Held In
Vocational Education Conference Room
State Office Building
Bismarck, North Dakota

May 24 and 25, 1976

The North Dakota State Water Commission held their regular meeting on May 24, 1976, in the Vocational Education Conference Room, State Office Building, Bismarck, North Dakota. Governor Link called the meeting to order at 9:20 a.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

Arthur A. Link, Governor-Chairman
Richard Gallagher, Vice-Chairman, Mandan
Alvin Kramer, Member from Minot
Gordon Gray, Member from Valley City
Arthur Lanz, Member from Devils Lake
Arlene Wilhelm, Member from Dickinson
Myron Just, Commissioner, Department of Agriculture, Bismarck
Vernon Fahy, State Engineer, Secretary, North Dakota State
Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Phil Gibbs, Bureau of Reclamation, Billings, Montana
Ike Ellison, Coordinator of Natural Resources Council, Bismarck
Kannon Richards, Bureau of Land Management, Billings, Montana
David Darby, Bureau of Land Management, Billings, Montana
Dr. Charles Metzger, Governor's Energy Coordinator, Bismarck
Representatives of Montana-Dakota Utilities Co.
Representatives of Basin Electric Power Cooperative
Representatives of Natural Gas Pipeline Company of America
Don Ohnstad, Assistant Study Director of Yellowstone
Level B Study, Bismarck
Dunn County Citizens

Attendance Register is on file in the offices of the State Water Commission for the May 24, 1976 meeting (filed in SWC Water Permit No. 2179)

Proceedings of the meeting were tape recorded to assist in compilation of minutes.

**CONSIDERATION OF MINUTES
OF APRIL 21 AND 22, 1976
MEETING - ACTION DEFERRED**

Secretary Fahy briefly reviewed and updated the Commission members on the status of various items from the meeting held in Bismarck on April 21 and 22, 1976. The minutes are in the process of being finalized, therefore, Secretary Fahy requested that the Commission consider deferring action at this time. The minutes will be presented for the Commission's consideration at the next regular meeting.

It was the consensus of the Commission members that action will be considered on the minutes of April 21 and 22, 1976, at the Commission's next meeting.

**APPEARANCE OF PHIL GIBBS,
REGIONAL PLANNING DIRECTOR,
BUREAU OF RECLAMATION, TO
DISCUSS BUREAU PROJECTS**

Secretary Fahy introduced Mr. Phil Gibbs, Regional Planning Director for the Bureau of Reclamation in Billings, Montana.

Mr. Gibbs discussed several projects, investigations, and studies in which the Bureau of Reclamation is currently involved in the four states of North Dakota, South Dakota, Montana and Wyoming.

Feasibility investigations include: Billings Water Supply Unit in Montana; Apple Creek Unit, Dickinson Unit and Garrison Diversion Unit in North Dakota; Oahe Unit, Sioux Falls Unit, and Wagner Unit in South Dakota.

Appraisal investigations include: Castlewood-Estelline Area, James Division in South Dakota; Eastern Montana Basins; Western Dakota Basins, in North and South Dakota; and Western Energy Expansion Study in all western reclamation states.

Special investigations include: Bell Fourche Project in South Dakota; Sun River Project in Montana; Yellowstone Basin Projects in Montana and Wyoming; Environmental and Interagency Coordination Activities; and Total Water Management, Missouri River Upstream of Gavins Point.

Mr. Gibbs discussed the Western Energy Expansion Study, covering 17 western states, which is an effort by the Bureau of Reclamation to update all of its energy facilities. The first phase of the study has been completed and he discussed several projects which look favorable in helping to overcome the Nation's energy problems.

Total Water Management Study, upstream of Gavins Point, Missouri River, is a special investigation attempting to measure the water used by agriculture to determine how agricultural return flows affect the water quality of streams, to estimate the water available for industrial development, and to evaluate the effect institutional

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restrictions have on water and land resource development in the Missouri River Basin.

He discussed the modification of Dickinson Dam which will extend the municipal water supply for the city another 10-12 years. The Bureau has received the authority to proceed with such modification.

An investigation in Burleigh, Kidder and Emmons Counties of the Apple Creek Unit conducted jointly by the Bureau of Reclamation and the State Water Commission, will study the feasibility of multi-purpose resource development in the tri-county area, including irrigation, municipal, rural and industrial water supply, recreation, and fish and wildlife.

After questioning by the Commission members, Governor Link thanked Mr. Gibbs for his presentation.

APPEARANCE OF IKE
ELLISON, COORDINATOR
OF NATURAL RESOURCES
COUNCIL, TO DISCUSS
REGIONAL ENVIRONMENTAL
IMPACT STATEMENT FOR
WESTERN NORTH DAKOTA

Mr. Ike Ellison, Director of the Governor's Natural Resources Council, distributed an updated handbook "Preparation Plan for a Federal-State Environmental Impact Statement on Energy Development in West-Central North Dakota" to the Commission members.

The West-Central North Dakota Energy Development Environmental Impact Statement will address the environmental impacts expected to result from coal mining and power generation in the western North Dakota counties of Oliver, Mercer, Dunn, McLean, Stark, Morton and Burleigh. The statement will provide for joint Federal-State analysis, under the National Environmental Policy Act guidelines, from which plans and decisions can be made.

The Level of the EIS will: 1) analyze pending project proposals; 2) address the environmental suitability of areas for coal mining in comparison to competing land uses and values; 3) address cumulative impacts of a realistic mix of energy facilities and coal development levels; 4) provide information for decision-makers, structured to address the concerns of local, State and Federal agencies having jurisdiction in western North Dakota energy development; and 5) the achievement of improved Federal, State and local cooperation in the assessment process.

The EIS has been designated as a joint Federal-State effort and both groups will supply manpower for its development. The federal official responsible for completion of the EIS under the National Environmental Policy Act as delegated by the Secretary of the Interior and Director of Bureau of Land Management is the BLM Montana State Director. The Governor of North Dakota is responsible for State leadership and contributions to the study.

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The State of North Dakota is responsible for assistance in formulating study guidelines for coordinating State effort participation, and is jointly conducting and evaluating public participation efforts. The State will also lead the air quality portion of the EIS.

The Bureau of Reclamation is responsible for integration of the American Natural Gas Company EIS for the area-wide study to the greatest extent practical for liaison between the water marketing EIS.

The U.S. Geological Survey will supply technical input as required by and coordinated through the EIS Manager. The majority of technical input will relate to the non-living elements of the environmental and technical aspects of the proposed actions and alternatives about which they have special knowledge or expertise.

The Bureau of Land Management will employ a work group organization based on modular group principles to analyze a group of related environmental components (climate, air quality, soils, etc.) under the direction of a group leader.

Other Federal and State agencies will be contacted to determine necessary levels of involvement, and an EIS Coordinating Group will be designated to coordinate efforts required to meet study objectives.

Mr. Ellison said that the review process of the EIS will be in North Dakota, so the citizens can participate and be involved in witnessing the decisions for developing the alternative plans.

Mr. Kannon Richards, Associate Director of the Bureau of Land Management from Billings, Montana, read a letter from Mr. Ed Zaidlicz, State Director of BLM, in which he expressed regrets that conflicts made it impossible for him to be present and promising cooperation in the Regional EIS undertaking. He stated that Kannon Richards and Dave Darby would speak for him.

Dave Darby, Regional Environmental Impact Manager with BLM, reviewed the background which led to the Regional EIS, the study's present status, and the objectives and goals this plan hopes to accomplish.

In response to a question from Commissioner Kramer relative to the time frame for the Regional Environmental Impact Statement, Mr. Darby replied that agency meetings are scheduled for June 4, 1976 in Bismarck to discuss the involvement of State and Federal agencies and on June 11, 1976 for industry personnel. Seven public meetings have been scheduled in various locations in North Dakota in June to ask for comments and concerns of the public relative to the various proposed developments. A draft will be completed by March 25, 1977 for public review. The final date for submission to the President's Council on Environmental Quality is October 15, 1977.

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After discussion, Governor Link thanked Mr. Ellison and the BLM representatives for their presentation.

APPEARANCE OF DR. CHARLES METZGER, GOVERNOR'S ENERGY COORDINATOR, TO DISCUSS NORTH DAKOTA ENERGY PRODUCTION CHARTS (SWC Project No. 1595)

Governor Link indicated that he had directed Dr. Charles Metzger, Energy Coordinator of his staff and with assistance from others in that field, to prepare for the benefit of the Commissioners, charts depicting a factual visual picture of energy

development and response in North Dakota in relation to the needs of the State, the region, and the Nation.

Dr. Metzger presented APPENDIX "A" showing Coal Mined - North Dakota; and Megawatts Generated - North Dakota from 1973 to 1982.

Dr. Metzger discussed the Energy Policy Act passed by Congress in December, 1975, requiring each state to develop a state conservation program. At the present time, the guidelines are being developed for the state programs. By November, 1976, the plans will be submitted to the Federal Government, and by January, 1977, the plans will be funded so that each state can operate a conservation program.

After lengthy discussion of the energy concerns on both the national and State levels, Governor Link thanked Dr. Metzger for his presentation.

FURTHER CONSIDERATION OF APPLICATION BY MONTANA-DAKOTA UTILITIES CO. FOR A PERMIT FOR WATER (SWC Water Permit No. 2292)

Secretary Fahy reviewed the background of Montana-Dakota Utilities Co.'s request for a water permit for the appropriation of 11,000 acre-feet of water to generate 440 megawatts of power in Mercer County.

Governor Link invited representatives of the Company to review the proposal for the benefit of the Commission members.

Mr. William Pearce, Attorney for Montana-Dakota Utilities Co., indicated that the percentage of power in the plant for distribution among the participants is as follows: Montana-Dakota Utilities Co. - 20%; Otter Tail Power Company - 35%; Minnkota Electric - 30%; Northwestern Public Service - 10%; and Minnesota Power and Light Company - 5%. He noted that 70-75 percent of the power will be used in North Dakota.

In discussion relative to the model contract and conditions, which have been adopted by the Commission, Mr. Pearce filed a letter with the Commission indicating that Montana-Dakota Utilities Co. has reviewed the contract and conditions and that said Company is in agreement with such contract and conditions as drafted. This letter is attached hereto as APPENDIX "B".

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Murray Sagsveen distributed and reviewed copies of a draft contract and conditions making specific reference to Montana-Dakota Utilities Co. for the Commission's consideration for attachment to a conditional water permit.

Commissioner Just asked if a joint generation unit between Montana-Dakota and Basin Electric Power Cooperative has been considered.

Mr. W. Kroeber replied that a joint plant had not been considered, but that Montana-Dakota and Basin Electric do have an agreement whereby transmission lines are built and jointly used by both Companies.

The draft contract and conditions being discussed had been prepared making reference only to Montana-Dakota Utilities Co. Secretary Fahy inquired of the applicant if there would be any question that the other four participants of the plant would also be bound by such contract and conditions when they are developed.

Mr. Pearce replied that there would be no question - all users of the plant will be bound by the contract and conditions being considered.

Governor Link inquired as to the applicant's plans or decision for transportation facilities of distributing the product of the proposed plant.

Mr. Kroeber stated that the plans for the transmission lines are in the planning stage. The original plan was to build a transmission line from Coyote 1 to Center and another line from Coyote 1 to the Stanton area. He did indicate that the five partners in the proposal have met with three other power suppliers to consider the possibility of joint transmission lines.

It was moved by Commissioner Gallagher that in respect to the draft contract and conditions developed for Montana-Dakota Utilities Co.'s request for a water permit, on page 3, after 2a, a provision be included stating: "The Appropriator shall make available electricity to other North Dakota users for temporary periods upon a declaration of emergency by the Governor." This provision shall be designated as 2b. The motion was seconded by Commissioner Kramer. All members voted aye and the motion carried.

It was suggested that on page 6, under 1. of the draft contract and conditions, that the words "440 megawatt" be inserted.

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It was moved by Commissioner Just, seconded by Commissioner Lanz, and carried, that 1. under Conditions on page 6 be amended to read:

1. The water so diverted shall be available for beneficial use by the Appropriator for the purpose of producing electricity in a 440 megawatt generating facility...

Mr. Sagsveen stated that on pages 6 and 7 of the draft, are two alternatives for the Commission's consideration. These alternatives relate that Appropriator prepare a comprehensive environmental statement and analysis concerning water appropriations for the electrical generation plant. Alternative 1 is for one generation plant; alternative 2 is for two generation plants.

Mr. Pearce replied that his Company and partner Companies are preparing an EIS for only one plant. If, in the future, a second plant is considered, an EIS will be prepared at that time for that plant.

It was moved by Commissioner Just, seconded by Commissioner Kramer, and carried, that alternative #2 (all single-spaced language on page 7) be deleted, and that alternative #1 be contained in such draft.

Mr. Sagsveen stated that on page 9, the Commission has an option to consider of allowing a period of six or eight years for perfection of the permit. Six years have been allowed for a previous electrical plant, and in the case of a gasification plant, eight years has been chosen as the time necessary in which to perfect the permit.

It was the consensus of the Commission that a period of six years be allowed for this specific applicant, so therefore, 7. on page 9 shall remain as presented in draft with the comment in brackets deleted.

It was suggested by Mr. Sagsveen that under the definition "Appropriator" all of the partners in this joint venture be named individually.

It was the consensus of the Commission members that Mr. Sagsveen's suggestion be incorporated into the draft being considered.

It was moved by Commissioner Gallagher, seconded by Commissioner Just, and carried, that the Commission adopt the draft contract and conditions as amended, which would apply

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in the event a conditional water permit is granted to Montana-Dakota Utilities Co.

It was suggested by Commissioner Just and agreed upon by other Commission members, that before the Commission take final action on the request by Montana-Dakota, the Commission further consider and discuss the request by Basin Electric Power Cooperative.

The Commission recessed at 12:15 p.m., and reconvened at 1:45 p.m.

FURTHER CONSIDERATION OF
APPLICATION BY BASIN ELECTRIC
POWER COOPERATIVE FOR PERMIT
FOR WATER
(SWC Water Permit No. 2179)

Governor Link invited representatives from Basin Electric Power Cooperative, which has an application pending before the Commission for appropriation of 19,000 acre-feet of water to generate 880 megawatts of power to be used in

the operation of an electrical generation plant near Beulah in Mercer County, to comment and answer questions which the Commission may have.

Mr. James Grahl, Manager of Basin Electric, presented and read his statement labeled as APPENDIX "C".

Commissioner Gallagher inquired about a proposal mentioned during the MDU discussion whereby Basin Electric and Montana-Dakota have considered efforts for a joint transmission program.

Mr. Grahl replied that the two Companies have developed a joint transmission program that has been in operation for four years. If requests for water permits are granted to both Companies, Montana-Dakota and Basin Electric will contemplate joint efforts for an extension of already existing lines.

Commissioner Wilhelm asked what proposal Basin Electric could offer with respect to reserving a portion of its production for North Dakota.

Mr. Grahl replied that North Dakota is interconnected in a coast-to-coast system, and in the event of a power shortage, the Federal Power Commission is in charge of ordering power to that specific area.

Commissioner Just indicated his concern of possibly overcrowding this 50-mile area where a vast amount of North Dakota's coal and water resources lie by comparing the estimated 1200 megawatts being used in 1976, with the addition of those megawatts which are being considered in pending applications today. This would raise the total amount of megawatts to over 5000 if pending requests are granted. Commissioner Just requested Mr. Grahl and a representative of Montana-Dakota to reply to any suggested possible alternatives by the respective Companies in regard to this possible overcrowding of the area.

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Mr. Grahl suggested two alternatives which could be considered: 1) not to build any more generating plants, in which case the power would have to be bought from some other supplier, or else tell the members that there will be a shortage of power by 1981; and 2) to build generating capacity plants in other locations.

Mr. Pearce stated he feels the only alternative he can see is not to have the power. He expressed his concerns relative to the necessity of having the power to continue the way-of-life that North Dakotans are accustomed to.

FURTHER CONSIDERATION OF
APPLICATION BY MONTANA-
DAKOTA UTILITIES CO. FOR
A PERMIT FOR WATER
(SWC Water Permit No. 2292)

Mr. Sagsveen distributed copies of the second draft of contract and conditions which includes the amendments as adopted by the Commission previously today.

After a brief discussion, it was moved by Commissioner Kramer that the request by Montana-Dakota Utilities Co. for a conditional water permit be approved for 11,000 acre-feet of water to generate 440 megawatts of power, subject to the second draft of the contract and conditions adopted by the Commission. Commissioner Gallagher seconded the motion.

In discussion of the motion, Commissioner Wilhelm stated that she feels it may be premature for the Commission to be making a final decision at this time after listening to a presentation earlier today concerning an environmental impact statement which is being developed for western North Dakota. She said that one of the objectives of the EIS is to assist in decision-making.

Commissioner Gallagher said that the granting of a conditional water permit only reserves a specific amount of water for a project. Before perfecting a conditional water permit, the Commission must again review and evaluate the project after the water has been put to beneficial use.

At the call of the question for the pending motion, Secretary Fahy called the roll:

Commissioner Gallagher	-	aye
Commissioner Gray	-	aye
Commissioner Just	-	nay
Commissioner Kramer	-	aye
Commissioner Lanz	-	aye
Commissioner Wilhelm	-	nay

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The vote was recorded as: 4 ayes
2 nays

The motion was declared as passed, thereby granting a conditional water permit to Montana-Dakota Utilities Co.

FURTHER CONSIDERATION OF
APPLICATION BY BASIN ELECTRIC
POWER COOPERATIVE FOR PERMIT
FOR WATER
(SWC Water Permit No. 2179)

It was moved by Commissioner Gray that the Commission grant a conditional water permit to Basin Electric Power Cooperative for the appropriation of 19,000 acre-feet of water for 880 megawatts of power, subject to the same contract and conditions as adopted for the Montana-Dakota Utilities Co. conditional water permit with changes made applying to this specific applicant. The motion was seconded by Commissioner Lanz.

In discussion of the motion, Commissioner Just said he would be inclined to vote to grant water for one - 440 megawatt plant to be on line of production by 1981. The second unit is not scheduled for completion until 1984, therefore, he feels it might be premature to grant approval for the second plant this far in advance.

Commissioner Gallagher stated that in respect to this application, his feelings are the same as for Montana-Dakota. By granting a conditional water permit, is merely a reservation of the water needed to develop the project.

Discussion ensued on the amount of time to allow for the completion of each unit applied for.

Mr. Sagsveen stated this provision is provided for in the conditions and suggested that six years be allowed for the first unit and an additional three years be allowed for completion of the second unit.

At this time, Commissioner Gray amended his original motion as follows: That the Commission grant a conditional water permit to Basin Electric Power Cooperative for the appropriation of 19,000 acre-feet of water for 880 megawatts of power, subject

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to the same contract and conditions as adopted for the Montana-Dakota Utilities Co. conditional water permit with changes made applying to this specific applicant. The time period for completion of Unit No. 1 shall be six years (1981), and an additional three years shall be allowed for completion of Unit No. 2. Commissioner Lanz, who seconded the original motion, likewise seconded the amended motion.

At this time, Commissioner Just offered a substitute motion: That the Commission shall grant a conditional water permit to Basin Electric Power Cooperative for 11,000 acre-feet of water for one - 440 megawatt generating plant, subject to contract and conditions adopted for Montana-Dakota Utilities Co. with changes made applying to this specific applicant. Commissioner Wilhelm seconded the motion.

There was no discussion on the substitute motion - the question was called by the Chairman and Secretary Fahy called the roll:

Commissioner Gallagher	-	nay
Commissioner Gray	-	nay
Commissioner Just	-	aye
Commissioner Kramer	-	nay
Commissioner Lanz	-	nay
Commissioner Wilhelm	-	aye

The vote was recorded as: 2 ayes
4 nays

The substitute motion was declared as failed.

There being no further discussion on the original amended motion, the question was called by Governor Link. Secretary Fahy called the roll:

Commissioner Gallagher	-	aye
Commissioner Gray	-	aye
Commissioner Just	-	aye
Commissioner Kramer	-	aye
Commissioner Lanz	-	aye
Commissioner Wilhelm	-	nay

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The recorded vote was: 5 ayes
1 nay

The original amended motion was declared as passed, thereby granting a conditional water permit to Basin Electric Power Cooperative.

FURTHER DISCUSSION OF APPLICATION
BY NATURAL GAS PIPELINE COMPANY
OF AMERICA FOR A PERMIT TO DIVERT
WATER FROM LAKE SAKAKAWEA FOR USE
IN A GASIFICATION PLANT IN DUNN
COUNTY
(SWC Water Permit No. 2083)

Governor Link indicated that there have been requests received by the Chair from both representatives of Natural Gas Pipeline Company, and from parties wishing to oppose the application. It was suggested by the Governor that the Commission consider allowing some time to hear these presentations.

It was the consensus of the Commission members that a limited time be allowed to hear both the applicant and the opponents.

Mr. Robert Lindgren, Vice President of Natural Gas, showed and discussed several slides from a Management Information Program, which was held recently in Chicago for all systematic companies within the Peoples Gas Company. This program related the changes which have taken place, and the needs for such changes, since the beginning of the organization. The slides that Mr. Lindgren showed focused on both the world and the national energy concerns and the need for change.

In conclusion, Mr. Lindgren said that the granting of a conditional water permit to Natural Gas is not granting project approval, but allows the project to move forward.

The following Dunn County citizens repeated testimony which they had previously given in opposition to granting of the water permit to Natural Gas: John Guenther, Dunn Center; Larry Rohde, Halliday; Dale Nabben, Dunn Center; Harlin Kling, Halliday; Ruben Hummel, Mott; and Oscar Hagstrom, Wilton.

Commissioner Gray expressed his concerns for the pros and cons of the request by Natural Gas and said he feels that the Commission has been extremely deliberate in pursuit of the matter as it relates to conversion of our fossil fuels. The Commission has reviewed and evaluated many times this application during the past two years and has finally developed a set of basic model guidelines which are cognizant of the many concerns of North Dakotans. He said that it is a fact that a conditional water permit is not a perfected permit and that a conditional water permit is subject to a great deal more in the way of permit actions. He feels that the Water Commission has done as much as can be expected in the way of giving consideration to all of the concerns expressed by our citizens.

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It was moved by Commissioner Gray that the Commission grant to Natural Gas Pipeline Company of America a conditional water permit satisfactory of the demands and needs of one - 440 megawatt gasification plant allowing the appropriation of 17,000 acre-feet of water, subject to the contract and conditions that have been developed for attachment to a conditional water permit. The motion was seconded by Commissioner Kramer.

In discussion of the motion, Commissioner Gallagher reiterated the position he previously made with respect to the requests of Montana-Dakota and Basin Electric - that by granting a conditional water permit is merely saying that the water is available in that specific quantity, which upon compliance with all the other statutory requirements, the applicant will come back to the Water Commission for a final determination. He also expressed concern for both the proponents and opponents, but feels that the Water Commission has given all due consideration within its jurisdiction in making a decision.

Governor Link relinquished the chair to the Vice Chairman and made the following statement:

I feel that the Commission has been delegated a great deal of responsibility and by the action of this Commission some two or three meetings ago where an attempt was made to invite local zoning authorities to exercise their jurisdiction as the primary lead agency, so to speak, this particular Planning-Zoning Commission from the county, not the one in question here, but an adjoining county, elected not to do so, but encouraged and in fact indicated their desire that the State Water Commission continue to be the lead agency because it had the capability to hold the hearings and get the information that they could rely upon in making their decisions. In view of the Attorney General's Opinion that indicated that this Commission would have the responsibility and the authority for the lead agency, I believe that the authority and responsibility rests quite fully and squarely with this Commission.

With complete respect for your observation, Mr. Gallagher, regarding the various actions of the Legislature, it is only an indication of the fragmentation that exists in the State as to the multiplicity of agencies that are called upon to make decisions piecemeal, without each one having overall responsibilities for the allocation of our resources and the effect and impact of it. The law, itself, has not been changed which charges the Water

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Commission with the allocation of water to the beneficial use of all of the citizens of the State of North Dakota, and the beneficial use of utilizing water in connection with any process and its side effects cannot be overlooked. I believe that we have considerable responsibility to take into account from most of the impacts that result from the designation or authorization of a water permit, even though it is regarded not as a perfected water permit.

We have the overall responsibility, I believe, and I respect every members' position on this Commission for the tremendous thinking and indepth concern that they have shown as individuals and as members of the Commission. I think we are looking at it from many aspects, the members of the Commission as well as myself, and are considering the various impacts, the local impacts, the States' impacts, the States' needs, our responsibility to contribute to the national needs of the energy supply of the country. I think when we take all of these things into account and especially in keeping with what action we have already taken today, and in recognition of the energy developments that have already been permitted and now that which was permitted today - in fact, already the charts that Dr. Metzger presented are out-of-date because it is necessary to add one more of those red blocks on top of the ones that are there because the chart was projected using only one - 440 megawatt unit for Basin. The Commission authorized a second 440 megawatt plant. That kind of increase, in keeping with the response of other energy sources and efforts that are made in other areas, I think speaks highly for the responsibility that this Commission has taken upon itself and the contributions of this State's resources to the nation's needs. We can honestly say that, and I'm not being critical of the portion that goes out-of-state, but I think it is important that the graphs show the portion that goes out-of-state and that we are making significant and substantial contribution to the area and region outside of the State. And that, of course, is part of the national energy needs.

This last five percent of the energy output of the Montana-Dakota consortium that had not been allocated as indicated at the prior meeting, but was allocated today, is going to go into the iron range of northern Minnesota to assist in the power needs there to help process steel. I think we're saying, and there is some logic for it, that a portion of the energy that is projected to be reproduced from one of the permits that we granted today will go to that and, of course, other industrial uses outside of our State. I believe, too, that this Commission has gone as far as it logically should go short of receiving the results of the

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Regional Environmental Impact Statement that is now in process with the BLM and related agencies. So, I believe that this Commission has taken ample strides and I believe that we would not be serving the interests of the State of North Dakota by approving the application that is before us or by approving the motion that is before the Commission.

Governor Link resumes the chair.

Commissioner Just stated that his feelings remain the same as they were a month ago and does not support the motion due to the fact it would be premature for the Commission to make a decision without the support of Congress.

Commissioner Wilhelm made reference to the petition containing approximately 1200 signatures from Dunn County which indicates the concerns of the citizens. She also feels that the EIS being developed for western North Dakota is very important before the Commission makes a final decision.

After lengthy discussion, the question was called on the pending motion. Secretary Fahy called the roll:

Commissioner Gallagher	-	aye
Commissioner Gray	-	aye
Commissioner Just	-	nay
Commissioner Kramer	-	aye
Commissioner Lanz	-	nay
Commissioner Wilhelm	-	nay

The recorded vote was declared a tie:

3 - ayes
3 - nays

In order to break the tie vote, Governor Link voted - nay

The recorded vote was then:

3 - ayes
4 - nays

The motion was declared as failed, thereby denying the request of Natural Gas Pipeline Company for a conditional water permit.

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APPEARANCE OF DON OHNSTAD,
ASSISTANT STUDY DIRECTOR,
YELLOWSTONE LEVEL B STUDY
(SWC Project No. 1507)

Don Ohnstad, Assistant Study Director of the Yellowstone Level B Study, distributed several handouts regarding the Study. One of the handouts was "Plan of Study Flow Chart (Executive Summary), Yellowstone

Basin and Adjacent Coal Field Area Level B Study", which he discussed and is attached hereto as APPENDIX "D".

Mr. Ohnstad said three public meetings have been held in the study area. Two State study team meetings have been held. At the first meeting of the State study team in Glen Ullin, the public was asked to submit issue papers on water and related land resources problems and needs. At the second State study team meeting, the issue papers were discussed to see if various State and Federal agencies could assist in addressing these concerns.

Commissioner Kramer inquired as to the length of time that citizen participation for input into the study will continue.

Mr. Ohnstad replied that May 10, 1976, had been scheduled as a tentative cutoff date for submitting issue papers, however, the date for submission of the papers has been extended to July 15, 1976.

At present, several technical ad hoc committees have been appointed to develop the baseline data for the projected requirements in the area.

Mr. Ohnstad stated that a great deal of citizen participation has been received, but he feels there should be more. He discussed various concerns expressed in the citizens issue papers.

Commissioner Wilhelm presented a clarification statement, labeled as APPENDIX "E".

Ruben Hummel, representing the United Church of Christ, is a member of an ad hoc committee. He expressed concern that the citizens are not receiving proper consideration for their concerns.

Rick Maxiner from New England said that he feels the citizen attendance for the public meetings is decreasing very rapidly because of the fact the citizens realize that their input will not be recognized in the final outcome of the study. The needs of the area are going to be established by the ad hoc committees who are hired to be on the committees. He further discussed the concerns of the area citizens in regard to their feelings of the study.

Mike Jacobs stated that he has been attending the public meetings as a citizen and as a participating citizen, and one of the concerns is the reluctance of the study teams to address

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the problems of locating people. He said that he has been told that this specific item is outside of the scope of the study. He feels the conclusions have been reached and the study must prove these conclusions.

Mr. Ohnstad said that no conclusions have been reached at this point in regard to the final outcome of the study. The study is now at the point where the needs of the various areas are being addressed.

**CONSIDERATION OF REQUEST FROM
CASS COUNTY FOR AN INCREASE
IN COST PARTICIPATION ON THE
NOBLE TOWNSHIP DRAIN
(SWC Project No. 1073)**

On May 13, 1975, the Commission granted financial participation in the amount of \$34,688 for the construction of a large drop structure complex on the outlet serving four drains in Cass County.

Since that time, the State Water Commission has been advised that the bids received during the fall of 1975 were rejected and a bid opening slated for March 4, 1976 was cancelled because of several administrative and technical problems. In April, 1976, the bids were opened. Cass County has accepted the low bidder, but it increases the local costs of construction by 12½ percent.

A request has been received from Cass County to adjust the State share of participation to allow for this increase in local costs. This would result in an increase in State participation in the amount of \$3,505, bringing the State share to a total of \$38,193. It was Secretary Fahy's recommendation that the Commission participate in this increase of costs.

It was moved by Commissioner Lanz, seconded by Commissioner Gray, and carried, that the Commission participate in an increased amount not to exceed \$3,505 for the construction of the Noble Township Drain.

**CONSIDERATION OF REQUEST
FROM CASS COUNTY FOR FINANCIAL
PARTICIPATION IN THE CLEANOUT
OF DRAIN NO. 10
(SWC Project Nos. 1067 and 1065)**

Secretary Fahy stated that a request has been received from Cass County for the cleanout of Cass Drain No. 10 in the amount of \$6,800. He noted that this request is for the cleanout of a drain and crossing of a street

that will be a major municipal extension, and is somewhat apart from the rural aspects of a drain which the Commission had limited its participation in the past. He indicated that the Commission, with its limited funds, should concentrate more closely on construction of facilities for relief rather than for cleanout which lies in the area of maintenance. He suggested that this request be denied under these conditions.

It was moved by Commissioner Kramer, seconded by Commissioner Just, and carried, that the request for State Water Commission financial

May 24 and 25, 1976

participation for the cleanout of Cass County Drain No. 10 be denied.

CONSIDERATION OF RESOLUTION
FROM TRAILL COUNTY WATER
MANAGEMENT DISTRICT REQUESTING
STATE WATER COMMISSION TO PREPARE
AN ESTIMATE FOR SNAGGING AND
CLEARING GOOSE RIVER IN TRAILL
COUNTY
(SWC Project No. 235)

Secretary Fahy stated that a resolution has been adopted by the Traill County Water Management District requesting the State Water Commission to conduct a survey and prepare a cost estimate for a snagging and clearing project on the Goose River in Traill County. At this time, they are not asking for financial participation in the study,

but ultimately, will in the future. A similar resolution has been submitted to the Corps of Engineers and under the Corps' criteria they studied the project, but stated that they cannot arrive at an adequate cost/benefit ratio to justify the cleanout. Secretary Fahy recommended that the Commission honor this request to prepare a cost estimate for the snagging and clearing of the Goose River in Traill County.

It was moved by Commissioner Gray, seconded by Commissioner Wilhelm, and carried, that the Commission conduct a survey and prepare a cost estimate for snagging and clearing the Goose River in Traill County.

CONSIDERATION OF WATER
PERMIT REQUESTS

Secretary Fahy presented APPENDIX "F" attached hereto, which represents water permit requests. He indicated that his

staff has reviewed each application and has made recommendations noted on the attachment. After reviewing the requests, Secretary Fahy recommended that the Commission approve those requests as indicated, and defer those requests recommended for further study and information.

Secretary Fahy stated that at the rate requests are being received in his office for water permits to irrigate by ground water, it may be impossible to have such requests investigated, studied and analyzed within the 90-day time frame to present for the Commission's consideration. He said that in order to do justice to the care and conservation of the waters of North Dakota, more complete and comprehensive studies on these requests must be made. It was his suggestion that the Commission support the State Engineer in establishing a policy to allow ample time for detailed investigation of all permit requests.

The Commission suggested the preparation of a news release for distribution within the State noting the situation and advising applicants who may wish to irrigate that permits may not be issued in the same year in which the application is filed because of the detailed analysis which must be made to assure water availability.

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After discussion, it was moved by Commissioner Kramer, seconded by Commissioner Lanz, and carried, that the Commission approve the State Engineer's proposal to file a news release for distribution within the State alerting all potential irrigators to the situation as discussed.

After discussion, it was moved by Commissioner Kramer, seconded by Commissioner Lanz, and carried, that the Commission approve the following water permit requests, subject to the conditions indicated on each of the respective requests: No. 2385 - Roland T. Magill, Verona; No. 2372 - Ronald Wagner, Englevale; No. 2382 - Wallace and Lillian Stromswold, Larimore; No. 2422 - Robert E. Larson, Minot; No. 2391 - Glenn A. Lemke, Leonard (this permit was approved by State Engineer on May 3, 1976, now being reaffirmed by Commission); No. 2423 - Robert and Oliver Knutson, Oakes; No. 2426 - Butts Farming Association, Carrington; No. 2415 - Williams Rural Water Association, Williston; No. 2378 - Clarence N. Engene, Douglas; No. 2383 - Urban Hoistad and Myron P. Senechal, Forman; No. 2377 - Marvin H. Werner, LaMoure; No. 2424 - Rodney Anderson, Milnor; No. 2392 - City of Dodge, Dodge; No. 2420 - Monte Syvrud, Mandan; and 2428 - Allen Hansen, Ludden.

It was also moved by Commissioner Kramer, seconded by Commissioner Lanz, and carried, that the Commission defer action at this time on the following water permit requests pending additional information and study: No. 2416 - Kenneth R. Schmidt, Williston; No. 2427 - Russell and Ellen Sherman, Carrington; No. 2417 - Fargo Park District (Prairiewood Golf Course), Fargo; No. 2413 - Andy Anderson, Lisbon; No. 2337 - Stanley Malmberg, Oakes; and No. 2436 - Allen Hansen, Ludden.
(SEE APPENDIX "F")

A brief discussion ensued on acreage limitations for the State of North Dakota.

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**SUGGESTION TO ATTEND
A FIELD DAY TO OBSERVE
IRRIGATION SYSTEMS IN
NORTH DAKOTA**

It was suggested by Commissioner Just that the Commission should consider attending a field day to observe some of the irrigation systems in the State. It was the consensus of the Commission

members that this item be placed on the agenda in the near future.

**SCHEDULING OF NEXT
STATE WATER COMMISSION
MEETING**

Secretary Fahy suggested that the next meeting of the State Water Commission be scheduled for a two-day meeting in Carrington, including a tour of the

Carrington Experiment Station. This meeting will also include a public hearing and discussion of drainage rules and regulations.

**STATE WATER COMMISSION
VS UNITED PLAINSMEN
ASSOCIATION LAW SUIT**

At the April meeting of the Commission, Murray Sagsveen informed the members that the District Court Judge had ruled in favor of the Water Commission and

had granted a Motion to Dismiss the case. On May 14, 1976, that decision was appealed by the United Plainsmen Association. No date has been scheduled for the hearing at this time.

**COMPLAINTS PRESENTED
WHEREBY WELLS ARE BEING
DUG WITHOUT A WATER PERMIT**

Mr. LaVerne Johnson from McLean County discussed a problem in his area relative to a well driller digging wells before a water permit has been secured. He

also presented complaints against United Power Association-Cooperative Power Association with respect to their operations in the area.

After discussion, Governor Link requested Mr. Johnson to submit these violations and complaints in writing to the Governor's office and the Legal Counsel for the State Water Commission will be instructed to investigate the matters.

It was moved by Commissioner Gallagher, seconded by Commissioner Kramer, and carried, that the Commission recess their meeting at 6:15 p.m.

**TOUR OF ANG GASIFICATION
PLANT SITE
(SWC Water Permit No. 1901A)**

At 9:00 a.m. on May 25, 1976, the Commission reconvened and travelled to Mercer County to tour the ANG plant site.

During the noon recess on the day of the tour, Gilbert Ost and a number of Mercer County citizens discussed their opposition to the development of energy facilities in the county. Much of the concern expressed dealt with plant siting and the impacts of construction forces on the county facilities and the life styles of the people.

May 24 and 25, 1976

Following this noon recess, the group travelled to the Leland Olds Electric Generating Plant on the Missouri River where they were given a briefing and a tour of the plant by Basin Electric officials.

upon completion of the tour.

The meeting was officially adjourned



Arthur A. Link
Governor-Chairman

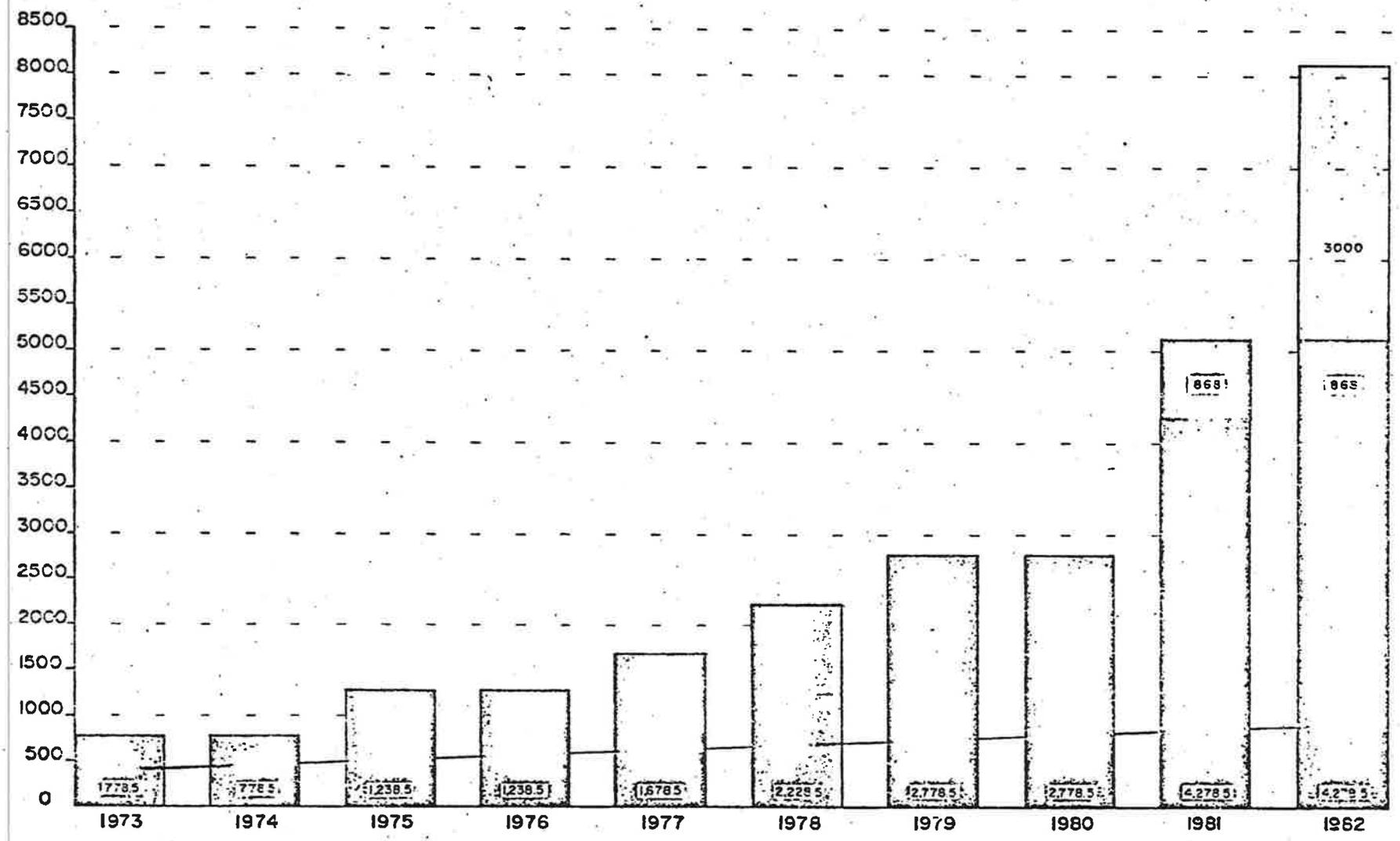
ATTEST:



Vernon Fahy
State Engineer, Secretary

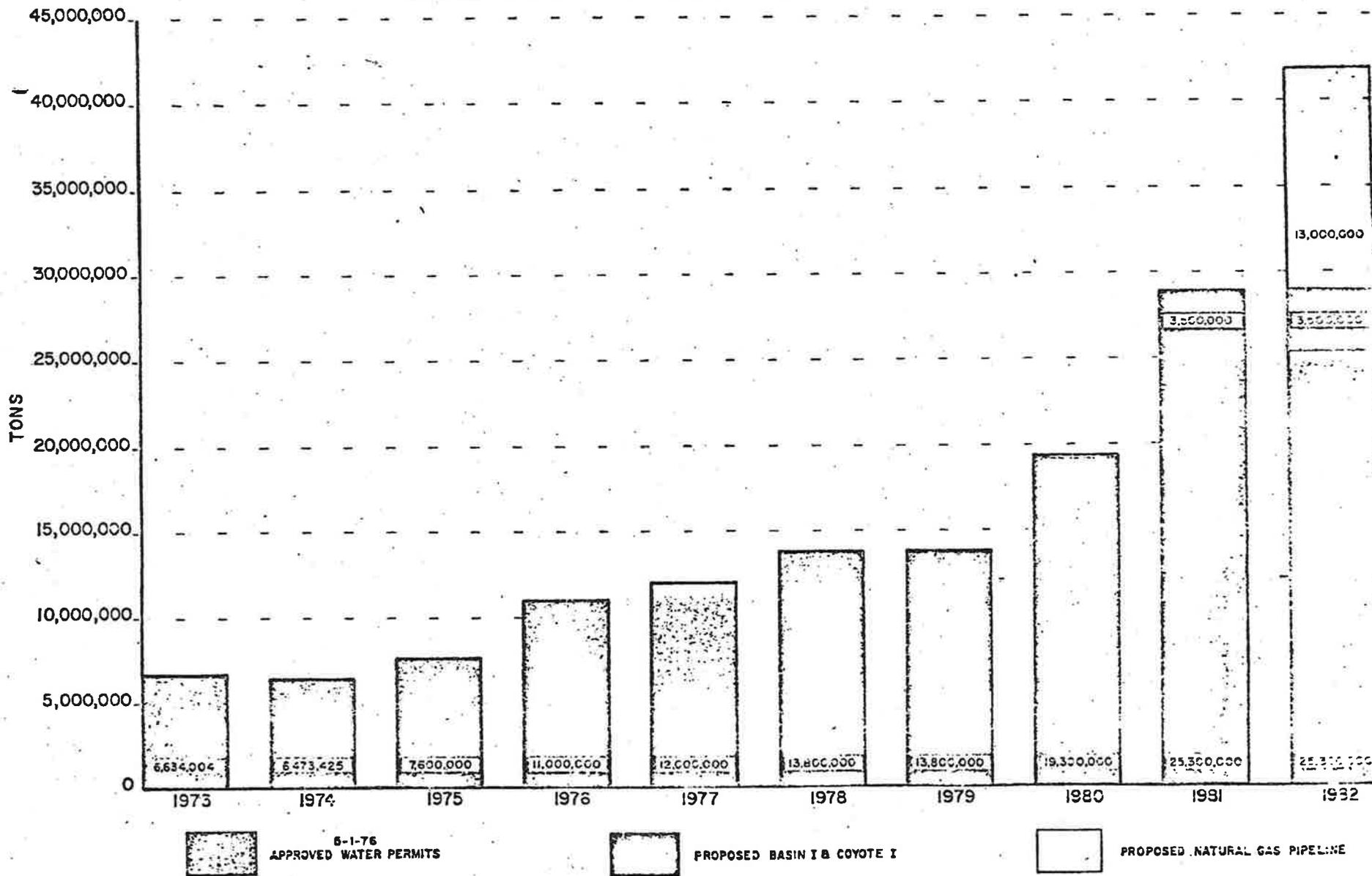
May 24 and 25, 1976

MEGAWATTS GENERATED IN NORTH DAKOTA BY YEAR



APPROVED WATER PERMITS 5/1/76
 PROPOSED BASIN I AND COYOTE I
 PROPOSED NATURAL GAS PIPELINE
 MEGAWATTS USED IN NORTH DAKOTA

COAL MINED IN NORTH DAKOTA BY YEAR



**MONTANA-DAKOTA UTILITIES CO.**

400 NORTH FOURTH STREET - BISMARCK, ND 58501 - TEL. (701)224-3000

May 24, 1976

Mr. Vernon Fahy
Secretary and Chief Engineer
North Dakota Water Commission
900 East Boulevard
Bismarck, North Dakota 58505

Dear Mr. Fahy:

Montana-Dakota Utilities Co. has reviewed the draft of the contract - conditions which were drafted by Mr. Murray G. Sagsveen, Director of Legal Services, North Dakota State Water Commission, for consideration by the State Water Commission on the application of Montana-Dakota Utilities Co.

Please be advised that Montana-Dakota Utilities Co. is in agreement with said conditions.

Sincerely,


Joseph R. Maichel
General Counsel

JRM:wct

BASIN ELECTRIC POWER COOPERATIVE

1717 EAST INTERSTATE AVENUE
BISMARCK, NORTH DAKOTA 58501
PHONE 701-223-0441 TWX 910-677-2342

APPENDIX "C"

May 24 and 25, 1976

President
Arthur
Jones

Vice
President
C. R.
Thiessen

Secretary-
Treasurer
Dennis
Lindberg

Assistant
Secretary
Herbert
Weber

Directors
Marvin
Beyers
Holland,
Minn.

Wayne
Bond
Lodgepole,
Nebr.

Arthur
Jones
Britton
S.D.

Ryanalt
Kaufman
Billings,
Montana

Dennis
Lindberg
Odebolt,
Iowa

Quentin
Louden
Martin
S.D.

Andrew C.
Mork
Mandan,
N.D.

C. R.
Thiessen
Lambert,
Mont.

Herbert
Weber
Hazen
N.D.

Clarence
Welander
Fullerton,
N.D.

Manager
James L.
Grahl

TO: GOVERNOR ARTHUR LINK, CHAIRMAN
NORTH DAKOTA WATER COMMISSION AND
MEMBERS OF THE COMMISSION

FROM: JAMES L. GRAHL

SUBJECT: BASIN ELECTRIC POWER COOPERATIVE REQUEST FOR PERMIT
TO APPROPRIATE 19,000 ACRE FEET OF WATER FOR
ELECTRIC POWER GENERATION

DATE: MAY 21, 1976

Subsequent to the January 22, 1976 Commission hearing at Hazen, North Dakota on Basin Electric's water permit application, the proposed construction schedule for the two-unit 900,000 KW generating station has been altered due to the revised construction schedule announced by ANG Coal Gasification Company. The gasification plant now will require less steam and electric power from the first Basin Electric unit. Basin Electric now intends to construct the two units over an eight-year period, with the first unit scheduled for operation in October 1981 and the second unit in 1984.

This schedule will allow the Cooperative to meet its Class "A" member power requirements on a timely and orderly basis. As required by Chapter 49-22 of the N.D. Century Code, an application for a site certificate has been filed with the North Dakota Public Service Commission outlining the construction schedule and power requirements study which indicates the need for this generating capacity. For your information, copies of this application were filed with the Chief Engineer of the Commission prior to your April, 1976 meeting.



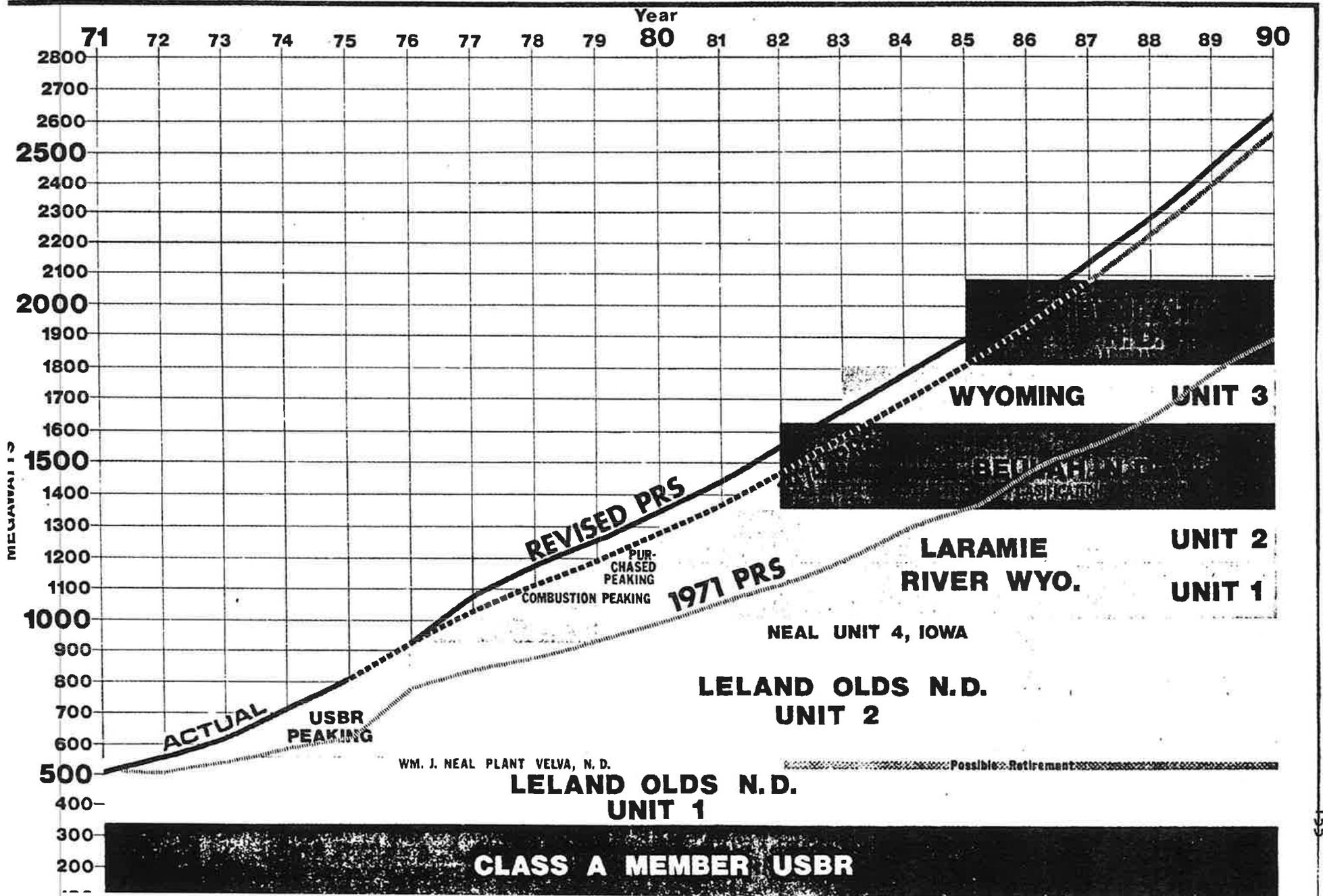
Basin Electric has filed a comprehensive 10-year power supply plan with the North Dakota Public Service Commission as required by North Dakota law. Attached is a chart which vividly displays the elements of this plan. The phased construction of the two units near Beulah, N.D. is an integral and necessary part of our long-range power supply plan. The new schedule will also allow for a more orderly development of necessary facilities for the construction and operation work force in the Mercer County area, since the peak construction work force will be sharply reduced. At this time, consultants for the Cooperative are developing comprehensive environmental and socio-economic reports as required by the National Environmental Policy Act and the N.D. Siting legislation.

Another major element of our long range planning process is the analysis of and planning for the necessary transmission arrangements for delivery of the power from the two units. If the necessary permits and approvals are secured, transmission capacity can be planned, financed and constructed to meet the requirements for both units and avoid the possible construction of duplicate lines where one could serve the needs.

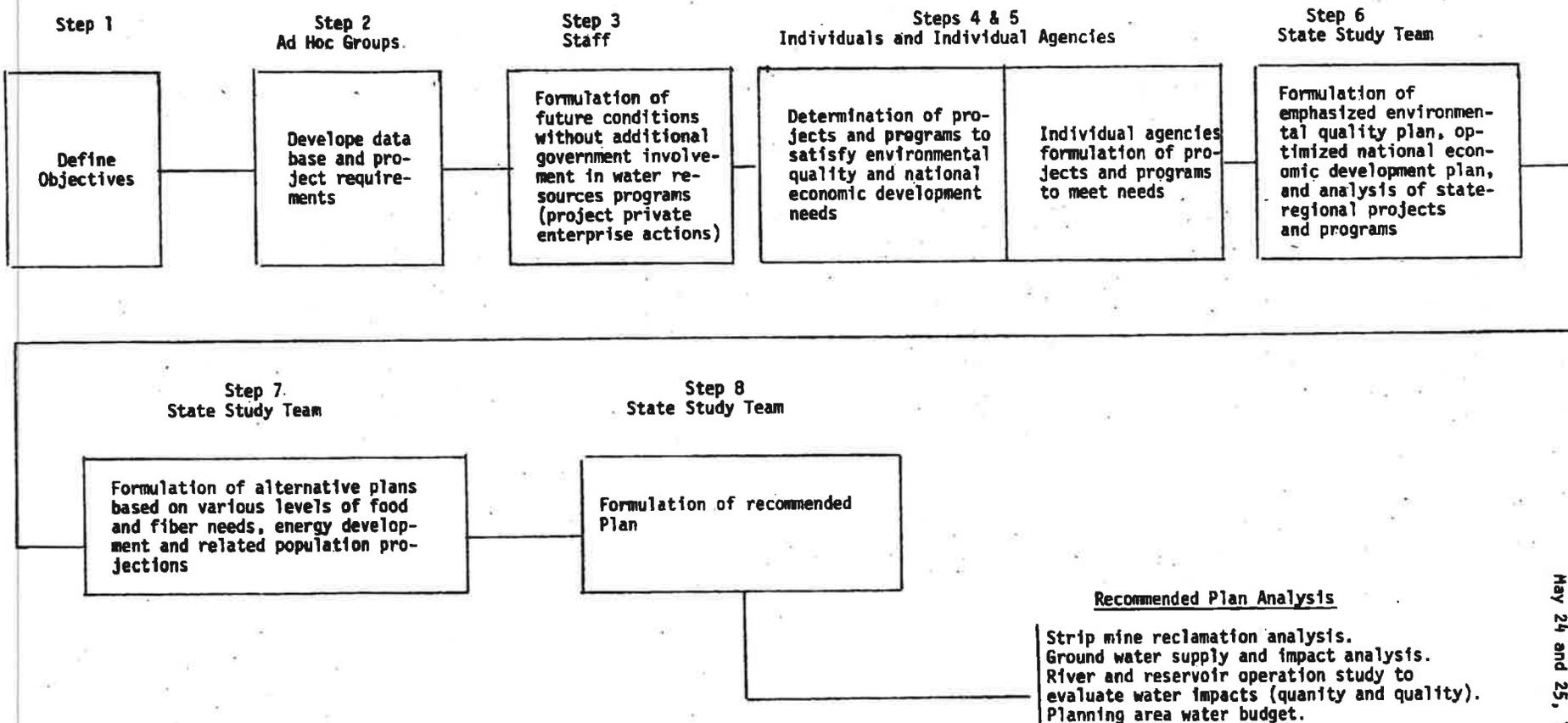
**ASIN ELECTRIC
POWER COOPERATIVE**

planned power program

**SUMMER PEAK MW LOADS
For Class A Members**



**PLAN OF STUDY FLOW CHART
(EXECUTIVE SUMMARY)
YELLOWSTONE BASIN AND ADJACENT COAL FIELD AREA
LEVEL B STUDY**



STATEMENT BY ARLENE WILHELM
REGARDING YELLOWSTONE STUDY

APPENDIX "E" 157
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There appears to be a general misunderstanding about my position regarding the Yellowstone study. Recent news stories have contributed to the impression that I am against the study. The truth is that I have never taken a position against it. Since North Dakota has become involved, and from the very beginning of our involvement, my efforts have been spent in getting citizens in the study area to participate in the study; and to make that participation meaningful. I intend to continue this effort through the duration of the study.

It IS true that I have challenged the mechanics of the study. I feel the rigid structure set by the study management team makes it virtually impossible for citizens to do anything but rubber stamp pre-set bureaucratic plan framework. When I refer to rigid structure I specifically mean the detailed "Plan of Study" and the organizational flow chart which totally control the direction of the study. To date there has been no citizen input allowed into these plans which are the very foundations of the study. The time allotted for the study will be half over before the citizens will have an opportunity to even view the plan of study. By that time the work assignments described in it will be completed or well on their way. Ad hoc committees made up of federal and state employees (but no citizens) will have defined the major needs of the study area as they see them. Because of these factors, but also because of the lack of adequate time and funds with which to do the job, there appears to be general frustration throughout the body of those participating in the study. I would be remiss if I did not report this.

I would like to further clarify my position on the West River Study. It is often mistakenly said that I opposed that study. I never did oppose the study. Generally, I support all efforts to acquire more information about resource development. What I did oppose was the West River Diversion legislation in the last legislative session. I simply felt it was bad legislation, as did most of the people living in the west. The West River study itself was my best ally at that time. I was able to use the material in the study to support my position against the legislation.

AGENDA FOR MAY 24 and 25, 1976 MEETING

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2385	Magill, Roland T. - Verona (Ransom County)	Ground Water	Irrigation	592.0 acre-feet 296.0 acres	Recommend for approval: 202.0 acre-feet 135.0 acres (202.0 acre-feet shall be held in abeyance pending additional data.)
2372	Wagner, Ronald - Englevale (Ransom County)	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	202.0 acre-feet 135.0 acres
2416	Schmidt, Kenneth R. - Williston (Williams County)	Little Muddy River, trib. to Missouri River	Irrigation	130.0 acre-feet 132.0 acres	Defer action at this time pending further information and study.
2382	Stromswold, Wallace and Lillian - Larimore (Grand Forks Co.)	Ground Water	Irrigation	147.0 acre-feet 98.0 acres	147.0 acre-feet 98.0 acres
2422	Larson, Robert E. - Minot (Ward County)	Unnamed Lake, contributing to Souris River Basin	Irrigation	195.0 acre-feet 158.0 acres	158.0 acre-feet 158.0 acres
2391	Lemke, Glenn A. - Leonard (Cass County)	Buffalo Creek, trib. to Maple River	Irrigation	394.0 acre-feet 262.7 acres	Recommend for approval: 86.0 acre-feet 86.0 acres (Balance of request to be held in abeyance pending acquisition of further data) (This request was approved by the State Engineer on May 3, 1976)

APPENDIX "F"
May 24 and 25,
1976

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2423	Knutson, Oliver - and Robert - Oakes (Dickey County)	Ground Water	Irrigation	118.0 acre-feet 79.0 acres	105.0 acre-feet 70.0 acres
2426	Butts Farming Association - Carrington (Foster County)	Ground Water	Irrigation	240.0 acre-feet 160.0 acres	202.0 acre-feet 135.0 acres
2427	Sherman, Russell and Ellen - Carrington (Foster County)	Ground Water	Irrigation	435.0 acre-feet 294.5 acres	Defer action at this time pending further information and study.
2415	Williams Rural Water Association - Williston (Williams County)	Missouri River	Municipal- (Rural Domestic)	224.0 acre-feet	224.0 acre-feet
2417	Fargo Park District (Prairiewood Golf Course) - Fargo (Cass County)	Ground Water	Irrigation	62.0 acre-feet 31.04 acres	Defer action at this time pending further information and study.
2378	Engene, Clarence N. - Douglas (Ward County)	Ground Water	Irrigation	228.0 acre-feet 152.1 acres	202.0 acre-feet 135.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2383	Hoistad, Urban and Senechal, Myron P. - Forman (Ransom County)	Ground Water	Irrigation	640.0 acre-feet 320.0 acres	404.0 acre-feet 270.0 acres
2377	Werner, Marvin H. - LaMoure (LaMoure County)	Ground Water	Irrigation	132.0 acre-feet 88.5 acres	132.0 acre-feet 88.5 acres
2413	Anderson, Andy - Lisbon (Ransom County)	Ground Water	Irrigation	1280.0 acre-feet 640.0 acres	Defer action at this time pending further investigations and study.
2424	Anderson, Rodney - Milnor (Ransom County)	Ground Water; and Sheyenne River, trib. to Red River	Irrigation	1456.0 acre-feet (total) (896.0 acre-feet from river; and 560.0 acre-feet from Groundwater) 728.0 acres	Recommend for approval: 75.0 acre-feet in W $\frac{1}{2}$ W $\frac{1}{2}$ Sec 21, Twp 134, Rge 54 75.0 acres (Balance to be held in abeyance pending further investigations)
2337	Malmberg, Stanley - Oakes (Dickey County)	Ground Water	Irrigation	320.0 acre-feet 156.0 acres	Defer action at this time pending further information and study.
2392	Dodge, City of - Dodge (Dunn County)	Ground Water	Municipal	160.0 acre-feet	160.0 acre-feet

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2420	Syvrud, Monte - Mandan (Morton County)	Sweet Briar Creek, trib. to Heart River	Irrigation	164.0 acre-feet 83.7 acres	83.7 acre-feet 83.7 acres
2428	Hansen, Allen - Ludden (Dickey County)	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	202.0 acre-feet 135.0 acres
2436	Hansen, Allen - Ludden (Dickey County)	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	Defer action at this time pending further information and study.