

MINUTES OF A MEETING  
OF THE  
STATE WATER CONSERVATION COMMISSION

Held at Bismarck, North Dakota, Wednesday, January 10, 1940, in the office of the Commission.

A regular meeting of the State Water Conservation Commission was called to order in the office of the Commission at 9:30 A. M., Wednesday, January 10, 1940, by the Vice Chairman, Henry Helt.

Roll was called with Comms. Simens, Thompson, Dahl, Helt, and Governor Moses, Chairman, present.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the reading of the minutes of the last meeting be dispensed with, in view of the fact that each member had received a typewritten copy of same, and that they be approved as written. The motion carried, all Commissioners voting aye.

The Secretary called the matter of personal expenses to the attention of the Commissioners. These expenses are limited to \$4.00 per day for sustenance while traveling within the state and \$6.00 outside the state.

Comm. Simens advised the Commission that a letter had been received from John C. Page, Commissioner, Bureau of Reclamation, advising that the construction of the Grand River-Bowman Project #216, with CCC aid, may be feasible but that he understood no camps are available. Comm. Simens further explained that the Governor was interested in seeing CCC camps brought to the state and suggested that every Association of Commerce and other civic organizations join in requesting these camps.

The Secretary reported that Attorney General Strutz gives the opinion that the Bank of North Dakota may purchase bonds of the Water Commission but the Board of University and School Lands may not. He presented a letter that Mr. I. A. Acker (attorney) treasurer for the Rural Rehabilitation Corporation, had written regarding this opinion. The Secretary reported that the Attorney General had withdrawn his original opinion and wished to have the two opinions requested in separate letters. The separate letters were written but as yet the opinions on the Board of University and School Lands had not been received. The opinion regarding purchasing of the bonds by the Bank of North Dakota was received during the meeting and was substantially the same as the previous opinion, that is, that the Bank of North Dakota may invest in Water Commission bonds.

The Secretary further reported that a letter had been received from the State Land Department reporting the purchase price of the school land, the N<sup>o</sup> 16-153-101 less highway right-of-way, which it is proposed to buy on the Lewis and Clark Project, at \$3,152.70, the deed fee \$5.00, and advertising \$5.10, making a total cost of \$3,162.80 for 315.27 acres of land. He also presented a memorandum of analysis for the tracts of state land on the Lewis and Clark Project which the Water Conservation Commission proposes to purchase.

The Secretary stated that some trouble is anticipated in the canals of the Sioux Project and that the National Reclamation Association and the Idaho State Planning Board had petitioned the Department of Agriculture and Bureau of Reclamation to experiment with low cost canal linings. He suggested that the Commission pass a similar resolution, specifically mentioning the Sioux Project for experimental purposes. ✓

It was moved by Comm. Thompson, seconded by Comm. Simens, that the Secretary be authorized to prepare a resolution in line with the resolution of the Idaho Planning Board. The motion carried, all Commissioners voting aye.

Following is the resolution as prepared by the Secretary:

WHEREAS, vast amounts of water are lost annually through canal leakage during the operation season, and

WHEREAS, investments for irrigation purposes run into the hundreds of millions of dollars with seepage losses in many cases exceeding one-half of the quantity of water diverted, and

WHEREAS, the 76th Congress of the United States has provided in Public 159, Chapter 253, 1st Session, H. R. 5269, appropriation in the amount of \$21,462,349, for "soil and moisture conservation and land use operations, demonstrations, and information; For carrying out preventive measures to conserve soil and moisture, including such special measures as may be necessary to prevent floods and the siltation of reservoirs, and including the improvement of farm irrigation and land drainage, the establishment and operation of erosion nurseries, the making of conservation plans and surveys, and the dissemination of information \$21,462,349", and

WHEREAS, the North Dakota State Water Conservation Commission has irrigation projects where canal losses due to seepage are a serious factor in canal stability in addition to the loss of water which in North Dakota is pumped into the canal and for consequently higher cost than diverted water,

NOW, THEREFORE, BE IT RESOLVED, That we petition the U. S. Department of Agriculture to use such amount of the funds provided in Public No. 159, 76th Congress, Chapter 253, 1st Session, H. R. 5269, as may be necessary in cooperation with the U. S. Bureau of Reclamation, the Farm Security Administration, and other recognized departments or divisions in conducting experimental demonstrations of low cost canal linings in various canal systems throughout the irrigated districts of the United States, to the end that methods be demonstrated on a broad scale to prove that tremendous savings may be made through such improved distribution facilities at a reasonable cost.

Copies of this resolution were sent to the Secretary of Agriculture, National Reclamation Association, the Idaho Planning Board, and the North Dakota Congressional Delegation.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Commission authorize and direct the Secretary to pay \$100.00 membership of the Commission in the National Reclamation Association for the period from October 1, 1939 to October 1, 1940, payment to be made in quarterly installments, the money to be paid from the Commission's appropriation for Reports and Conferences #12. On roll call the motion carried, Comms. Holt, Simons, Thompson, Dahl and Governor Moses voting aye. Voting no, none.

The Secretary reported that there has been submitted to the Montana Water Board eleven items of construction, operation and financing for approval as a general plan of cooperative procedure on the Yellowstone Pumping Project #214. He read the letter as it was submitted, and a reply from the Montana Water Board stating that they would make a detailed reply after they had studied the situation.

The Secretary reported that Carl Lindberg has filed acceptance of a \$3,300.00 penalty, the amount established at the last Commission meeting, on his intake contract, Lewis and Clark Project #175, that the settlement was approved by the directors of the Lewis and Clark Project #175, and that a final estimate of \$3,753.41 is now due Lindberg, less taxes owed McKenzie County.

It was moved by Comm. Dahl, seconded by Comm. Simons, that the settlement with Contractor C. L. Lindberg, the final estimate of \$3,753.41, be approved and the same paid to Lindberg upon clearance of taxes and any unpaid bills due on the project. On roll call the motion carried, Comms. Holt, Simons, Thompson, Dahl and Governor Moses, voting aye. Voting no, none.

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Mr. A. D. McKinnon, State Director of the Soil Conservation Service, came into the meeting to ask for the approval of a water right for the U. S. Department of Agriculture on the Cartwright Irrigation Project #36.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the application by the U. S. Department of Agriculture, Soil Conservation Service, for a water right for the Cartwright Irrigation Project #36, be approved and the State Engineer be directed to accept such a filing by the Department of Agriculture. The motion carried, on roll call, with Comms. Holt, Simons, Dahl, Thompson and Governor Moses voting aye. Voting no, none.

Mr. McKinnon also asked for a water right on the Upper Cannonball River where it is planned to construct a large reservoir and a series of smaller dams. Comm. Simons asked the following questions. Mr. McKinnon's answers are also given:

1. How many acre feet will the dam hold? -- Answer, 2800 acre feet.
2. Is the valley above the dam going to supply that much normally? - Answer, Yes.
3. How much is that development, all told, going to cost? -- Answer, It depends on the number of dams. We can put in as high as eight small dams but are figuring now on four.
4. How many acres of irrigation? -- Answer, On the upper one 1,100 acres all told.
5. The dam is how high? -- Answer, 38 feet.

Mr. William Lowe, Game and Fish Commissioner, was called into the meeting in an effort to determine whether the granting of this water right would affect any wild life refuge. After some discussion, Mr. Lowe stated it would not interfere with any of their work.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the application by the U. S. Department of Agriculture, Soil Conservation Service, for an appropriation of all the unappropriated waters in the North Fork of the Cannonball River and its tributaries west of the range line between Range 94 and 95 West, be approved and the State Engineer be authorized to accept the filing of the Department of Agriculture. On roll call the motion carried, Comms. Holt, Simons, Thompson, Dahl and Governor Moses, voting aye. Voting no, none.

Mr. Lowe stated that the State Game and Fish Department expects to do some developing on Cedar Lake and they would like some assurance that the water will be held up to a certain level. Comm. Simons suggested that he file applications for water rights governing all things in which he is interested.

It was moved by Comm. Simons, seconded by Comm. Thompson, that this Commission approve the granting by the State Engineer of a water right on the unappropriated waters in Cedar Lake located in Sections 27, 34 and 35-133-98, to the North Dakota State Game and Fish Commission. On roll call the motion carried, Comms. Holt, Simons, Thompson, Dahl and Governor Moses voting aye. Voting no, none.

At noon the Vice Chairman declared a recess until 1:30.

At 1:30 P. M. the Commission reconvened with Comms. Holt, Thompson, Simons, Dahl and Governor Moses present. Absent, none.

Copies of the financial statement as of January 1, 1940 were presented to the Commissioners, as follows:

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION  
MONTHLY REPORT DEC. 1 to 31, 1939  
1939 Appropriation

U - Underrun  
O - Overrun

	Total Approp'n. 24 months	Expended to Nov. 30, 1939	Balance Nov. 30, 1939	Agreed Reduction	Balance Available	Available Per Month	Dec. Exp.	December Overrun or Underrun
1. Commissioners Per Diem	\$ 4,200.00	238.00	3,962.00	1,200.00	2,762.00	145.37	91.00	54.37U
2. Administration	30,000.00	*5926.52	24,073.48	1,000.00	23,073.48	1,214.39	*967.73	246.66U
3. Cons't. Bond Guarantee	50,000.00	-----	50,000.00	10,000.00	40,000.00	2,105.26	-----	2,105.26U
4. Lewis & Clark Exp. Farm	4,000.00	28.15	3,971.85	250.00	3,721.85	195.88	-----	195.88U
5. Sponsor's Share - Dams	7,000.00	308.07	6,691.93	2,000.00	4,691.93	246.94	-19.07	227.87U
6. Eng'ring & Soil Surveys	1,000.00	17.01	982.99	180.00	802.99	42.26	32.29	9.97 U
7. Designs & Reports-Mo. R.	500.00	-----	500.00	300.00	200.00	10.54	63.71	53.17 O
8. Goose River Diversion	500.00	262.76	237.24	100.00	137.24	7.22	112.24	105.02 O
9. James River-Lake Traverse	1,600.00	616.27	983.73	750.00	233.73	12.30	187.94	175.64 O
10. Invest. & Surveys - Mo. R.	3,000.00	66.29	2,933.71	2,000.00	933.71	49.14	103.66	54.52 O
11. Evaluation Economic Benefits	1,000.00	-----	1,000.00	700.00	300.00	15.79	-----	15.79 U
12. Reports & Conferences	1,000.00	60.79	939.21	300.00	639.21	33.64	132.32	98.68 O
13. Tri-State Water Confer's	5,600.00	934.48	4,665.52	600.00	4,065.52	213.98	168.39	45.59 U
14. Independent Investigations & Reports	1,600.00	182.28	1,417.72	600.00	817.72	43.04	252.48	209.44 O
<b>Totals</b>	<b>\$ 111,000.00</b>	<b>8,640.62</b>	<b>102,359.38</b>	<b>19,980.00</b>	<b>82,379.38</b>	<b>4,335.75</b>	<b>2,130.83</b>	<b>2,204.92 U</b>

\*This "revolving fund" Expenditures on Projects-Repayable  
\* \$ 31,254.47 (to Nov. 30)

\*Dec. exp. on Projects-Repayable 1,314.11

\* " " " Collections Received 14,636.62 (" " " )

\*December-Collections Received 1,833.71

The Secretary reported that the Irrigation District of the Cartwright Irrigation Project #36, had requested that the contract between the State Water Conservation Commission and the District be rescinded. He also requested that the bond issue be rescinded. The purpose of this move would be to withdraw in favor of the Water Facilities group.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the following resolution be approved. On roll call the motion carried, Comms. Holt, Thompson, Simons, Dahl and Governor Moses voting aye. Voting no, none.

WHEREAS, the Board of Directors of Cartwright Irrigation District of McKenzie County, North Dakota, has found it necessary to abandon the plan proposed by the State Water Conservation Commission for financing the construction of a system of irrigation therein and has arranged to build such system under the so-called Water Facilities Act enacted by Congress;

THEREFORE, BE IT RESOLVED That the Secretary of the State Water Conservation Commission be, and he is hereby, authorized and directed, for and on behalf of the Commission, to enter into an agreement with the Board of Directors of Cartwright Irrigation District, abrogating, terminating and cancelling the contract entered into between the Commission and the District under date of December 6, 1938.

BE IT FURTHER RESOLVED That the Secretary and Chief Engineer of the Commission is authorized to approve and consent, for and on behalf of the Commission, to the plan proposed for the construction of said irrigation system under the provisions of said Water Facilities Act.

The Secretary reported that the next meeting of the Tri-State Waters Commission is tentatively set for Feb. 2nd, at Fargo, as reported by Dean Holm, Executive Secretary of that Commission. Comm. Holt, Chairman of the Tri-State Waters Commission, stated that a drainage basin meeting under the direction of Mr. Horner, would be held sometime the latter part of February.

The Secretary reported that the group promoting community gardens in Adams County along the Cedar River have been instructed to select and arrange for the purchase of land as the first preliminary requirement.

The Secretary reported that a letter had been received from the National Rivers and Harbors Congress advising that the Missouri River Diversion Project has been placed in Class 2, which is meritorious but not sufficiently advanced for endorsement.

There was a discussion of the State Health Department report on various studies by Mr. Lloyd Clark of the Health Department, and Mr. E. J. Thomas, State Engineer. Mr. Clark explained that the report has been prepared at the request of Mr. Horner of the National Resources Planning Board. It is a preliminary report. Mr. Clark explained various phases of the reports and presented graphs showing oxygen content of water at certain temperatures and certain degrees of pollution.

It was moved by Comm. Thompson, seconded by Comm. Simons, that Mr. Clark and Comm. Holt be requested to go to St. Paul, if necessary, to confer with Captain Moreland on the Health Department report in connection with Missouri River Diversion, regarding the study, and that the expenses be allowed out of the proper budget item of this Commission. On roll call the motion carried, Comms. Holt, Thompson, Dahl, Simons and Governor Moses voting aye. Voting no, none.

It was moved by Comm. Simons, seconded by Comm. Dahl, that, subject to the approval of the Governor and to any changes that may be made by the Commission at a meeting in February, if one is held, Comm. S. W. Thompson, and/or such other person as may be designated by the Governor, be authorized and empowered to attend the National Rivers and Harbors Congress at Washington, D. C. and the Projects Committee meeting of that organization, and to also act as a representative of the Tri-State Waters Commission, expenses of said trip to

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come from the appropriate budget item in the Commission appropriation. On roll call the motion carried, Comms. Holt, Thompson, Dahl, Simons and Governor Moses voting aye. Voting no, none.

Judge Christianson, Chairman of the Rural Rehabilitation Corporation, and Mr. Charles L. Sweet, came into the meeting. The Judge discussed the Lewis and Clark Project and final adjustments on the project. He stated that he felt there should be an official break-down as to what should be charged against the project and what should be charged against land development. He suggested a general checking of accounts, by someone representing the Commission and the Corporation, from the beginning of the project up to this time, and that they make any changes that might be found that should be made. Judge Christianson stated, "This Commission should set a standard to guide them in this. Development of projects is your work. Land development was found necessary in this case. The proper standard that should be adopted is that there should be charged to the irrigation project proper, everything that would necessarily have been spent in construction of the project without regard to land development. Only things should be charged to land development which would not have occurred if all you had done is constructed the project. My suggestion is that you name someone to sit for you in this matter and we would name Mr. Sweet. They would sit down and go over the items and any items they would agree on, that would end it. If they disagreed, they would report it and we would iron it out ourselves".

It was moved by Comm. Simons, seconded by Comm. Dahl, that the Secretary be directed to cooperate with Mr. Charles L. Sweet in assessing these expenditures and determining the amounts which are properly chargeable against the construction of the irrigation project proper and the development of the land. It was further moved and seconded that in the event of a disagreement between the Secretary and Mr. Sweet, as representatives respectively of the Water Conservation Commission and the Rural Rehabilitation Corporation, that the Governor of the State, as Chairman of this Commission, be asked to act for the Commission in adjudicating such disputes, or any person named by him for that purpose. It was further moved and seconded that the Secretary and Mr. Sweet, having allocated these costs, that they then go further and prepare and recommend to the Directors of the Lewis and Clark Irrigation District proper assessments against each tract in the district and that they be further asked and authorized to prepare and submit to the Directors of the Irrigation District, operation and maintenance schedules to be recommended to the District by the Commission. It was further moved and seconded that these two men make a complete survey and audit of the expenditures heretofore made in connection with the project and if they find any errors in connection with the distribution, etc., to adjust it if possible. On roll call the motion carried with Comms. Holt, Thompson, Simons, Dahl, and Governor Moses, voting aye. Voting no, none.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Chairman and Secretary of this Commission be authorized to ask for bids and enter into a contract with any firm, person, or corporation, including the North Dakota Rural Rehabilitation Corporation, for the completion of such parts of the Lewis and Clark Irrigation Project, including the construction of drains, which are not finished and completed as of this date. The motion carried on roll call, with Comms. Holt, Dahl, Simons, Thompson and Governor Moses, voting aye. Voting no, none.

Mr. Charles L. Sweet stated that Mr. John A. Topliss, district engineer for the Farm Security Administration, had stated that the FSA had about \$83,000.00 for the Buford-Trenton Project for buying machinery and that he was going ahead with the purchase of three 95 H. P. Caterpillars and a 12-yard LeTourneau. Then it would be arranged for a loan agreemental or rental basis between the Lewis and Clark and Buford-Trenton Projects whereby the three tractors and the LeTourneaus could be placed at the disposal of the Lewis and Clark Project for use for the rest of this year. At the end of this year, the Rural Rehabilitation Corporation's machinery could be put on the Buford-Trenton Project to work out or counteract the rental charge.

Mr. Simons explained that it would have taken about three years to get the land on the

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Lewis and Clark Project all levelled. Now, with the FSA machinery, it ought to be practically completed and ready to go this year.

It was moved by Comm. Simons, seconded by Comm. Dahl, that the Chairman and Secretary be authorized to do whatever things are necessary to the completion of the land transaction in which the Commission has made certain engagements in reference to the establishment on the Lewis and Clark Project of an experimental station. On roll call the motion carried, Comms. Holt, Thompson, Dahl, Simons and Governor Moses voting aye. Voting no, none.

It was moved by Comm. Dahl, seconded by Comm. Simons, that the Governor and Secretary be fully empowered and authorized on behalf of the State Water Conservation Commission to take any and all steps that are necessary to complete the proposed purchase of lands within the Lewis and Clark Project from the Bank of North Dakota and the State of North Dakota, and to contract for the delivery of bonds against such lands for the purpose of paying the purchase price, the cost of development, and the cost of the construction of the irrigation facilities properly chargeable against such lands and that they be further authorized to enter into agreements with proposed purchasers for the sale of such lands and to accept payment therefore and to expend the proceeds of such payments in payment of the purchase price of lands, the cost of development and the cost of irrigation assessments or construction charges properly chargeable against the land. On roll call the motion carried, Comms. Holt, Thompson, Simons, Dahl and Governor Moses voting aye. Voting no, none.

It was moved by Comm. Simons, seconded by Comm. Thompson, that a resolution asking the Bank of North Dakota to act as trustee for the State Water Conservation Commission bond issues be approved. On roll call the motion carried, Comms. Holt, Thompson, Simons, Dahl, and Governor Moses voting aye. Voting no, none. Following is the resolution:

WHEREAS, the State Water Conservation Commission has issued, and in the future will issue, various series of commission bonds in order to finance the establishment and construction of various water conservation and irrigation projects, and

WHEREAS, it is deemed advisable that such bonds be secured by a trust indenture, or indentures, to protect and enforce the remedies and rights of the holders of such bonds;

THEREFORE, BE IT RESOLVED: That the Chairman and the Secretary of the Commission be, and they are hereby, authorized and directed to enter into for and on behalf of the Commission a trust indenture, or indentures, with the Bank of North Dakota whereby, and under the terms whereof, the Bank of North Dakota, in conformity with the provisions of Section 23 of Chapter 256 of the Session Laws of 1939 and with the provisions of the statute in such case made and provided, will act as trustee for the protection of holders of bonds issued by the Commission.

There was a general discussion of the Square Butte Project #238 at Harmon, the Park Hill Irrigation Project #132 at Bismarck, and the Bismarck Project #215.

The Secretary reported on the Square Butte Project #238 at Harmon, stating that it appeared to be a fine site for a project. He stated that of 3,925 acres, 1,909 were cleared, irrigable acres, and a total of 2,750 acres were considered irrigable.

Comm. Simons read the letters from Cliff Willson and Jos. A. Smart, Farm Security Administration, Denver, relating to appraisal and purchase of land on the Bismarck Project #215.

It was moved by Comm. Simons, seconded by Comm. Thompson, that the Commission authorize the Irrigation Committee to cooperate with the FSA to secure appraisals on the Bismarck Project and to obtain options for the purchase of land thereon and to expend such monies as may be

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necessary in so doing. On roll call the motion carried, Comms. Holt, Thompson, Simons, Dahl, and Governor Moses, voting aye. Voting no, none.

The Kyes Irrigation Project #79 in Emmons County was discussed. The Chairman recommended that the Irrigation Committee proceed on the Kyes project.

The Commission adjourned sine die.

Respectfully submitted

H. F. McColly  
H. F. McColly, Secretary

Henry Holt  
Vice Chairman



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