

MINUTES OF A MEETING
OF THE
STATE WATER CONSERVATION COMMISSION

Held on Wednesday, September 11, 1940, in the Office of
the Commission at Bismarck, N. Dak.

A regular meeting of the State Water Conservation Commission was called to order at 10 o'clock A. M., Wednesday, September 11, 1940 in the office of the Commission, with Commissioners Dahl, Thompson, Simons, present. Governor John Moses, Chairman, and Henry Holt, Vice Chairman, absent. In the absence of both the Chairman and Vice Chairman, Comm. Simons presided.

Typewritten copies of the minutes of the meeting of July 17, 1940 having been sent to each Commissioner and no corrections or additions being noted, it was moved by Comm. Dahl, seconded by Comm. Thompson, that the minutes of the last meeting be approved. The motion carried, all Commissioners voting aye.

The Commissioners spent some time discussing various projects such as the Bismarck, Kyes, Harmon, Painted Woods, etc.

At this time, Governor John Moses came into the meeting and Comm. Simons turned over the chairmanship of the meeting to him.

There was a discussion of the naming of representatives to the National Reclamation Association convention, which is scheduled for Great Falls, Montana, September 24, 25 and 26, 1940. The Secretary reported that the Western State Engineers also are meeting at Great Falls on September 22 and 23, and the Western Beet Growers on September 23.

It was moved by Comm. Thompson, seconded by Governor Moses, that this Commission authorize Comm. Simons, State Director of the National Reclamation Association and Chairman of the Irrigation Committee of the State Water Conservation Commission; Comm. Dahl, member of the Commission and of the Irrigation Committee; and Mr. McColly, Chief Engineer of the State Water Conservation Commission and member of the Resolutions Committee of the National Reclamation Association, to represent this Commission at the meeting of the National Reclamation Association to be held at Great Falls, Montana, September 24, 25 and 26, and that necessary expenses be paid. On roll call the motion carried, Comms. Thompson, Dahl, Simons and Governor Moses voting aye. Vice Chairman Holt, absent.

The Secretary called to the attention of the Commission two items of Federal legislation, which both pertain to water conservation and the reduction of seepage from irrigation canals. These are S4191, introduced July 8, 1940, authorizing the Secretary of Agriculture to promote water conservation and the reduction of seepage from irrigation canals; and HR10237, which authorizes the Secretary of the Interior to investigate seepage from irrigation canals.

There was a short discussion of the Bismarck Irrigation Project. Comm. Simons reported that the Bismarck Association of Commerce is interested in this project and that they will try to raise some money for it, if the project can be brought to the point where it is necessary to raise money. The discussion was discontinued until Judge Christianson could come into the meeting.

The following resolution was presented by Comm. Simons, who moved its adoption, which motion was seconded by Comm. Thompson:

WHEREAS, it is necessary to issue and sell Water Conservation Commission Revenue Bonds in the principal amount of Thirty Thousand Dollars (\$30,000.00), or so much thereof as shall be found necessary to purchase certain tracts of land situated in the proposed Kyes Irrigation Project in Emmons County, and to develop such lands for irrigation and to pay incidental expenses necessary for the acquisition of said lands,

NOW, THEREFORE, BE IT RESOLVED By the State Water Conservation Commission:

That State Water Conservation Commission Revenue Bonds, Series H, be issued and sold in the aggregate principal amount of Thirty Thousand Dollars (\$30,000.00) or so much thereof as shall be found necessary to purchase certain tracts of land situated in the proposed Kyes Irrigation Project in Emmons County, and to develop such lands for irrigation and to pay incidental expenses necessary for the acquisition of said lands.

That State Water Conservation Commission Revenue Bonds, Series H, be issued in denominations of \$100.00 or multiples thereof, and that such bonds shall be payable serially over a period of thirty years as follows, to-wit:

\$ _____ on or before January 31st, 1951.

\$1,000.00 on or before January 31st in each of the years 1952 to 1971, inclusive.

That each of the bonds shall be numbered consecutively, beginning with Bond No. 1, and shall bear interest at the rate of four percent (4%) per annum, provided, however, that interest up to and including January 31st, 1943, shall be accrued and shall be payable on or before January 31st, 1943.

That each bond shall be callable at the option of the State Water Conservation Commission upon any interest payment date upon thirty (30) days prior notice which shall be given by publication once in a newspaper of general circulation in Burleigh County, North Dakota, by payment of the par value thereof and interest thereon to the date of redemption. If thus called for redemption, this bond shall cease to bear interest after the date fixed for redemption. That such bonds shall be substantially in the following form, to-wit:

STATE OF NORTH DAKOTA

STATE WATER CONSERVATION COMMISSION REVENUE BOND

SERIES H.

No. _____ \$ _____

The State Water Conservation Commission, a body corporate, created, organized and existing under and by virtue of Chapter 256 of the Session Laws of North Dakota for the year 1939, for value received, hereby undertakes and promises to pay from the special fund herein mentioned to the bearer hereof, or if this bond be registered, to the registered owner hereof, on or before the 31st day of January, 19____, the principal sum of _____ (\$ _____) and interest thereon from the date hereof at the rate of _____ percent (____%) per annum. Principal and interest on this bond shall be payable at the office of the State Treasurer of North Dakota in any coin or currency of the United States of America, which on the date of payment of the principal and interest on this bond is legal tender for the payment of public and private debts.

This bond is one of a duly authorized issue of bonds known as State Water Conservation Commission Revenue Bonds, Series H, limited in the aggregate principal amount to Thirty Thousand Dollars (\$30,000.00) (except for bonds issued in substitution for bonds lost, stolen or destroyed), all of like tenure. Said bonds are issued to provide funds for the purchase of certain tracts of land situated in the proposed Kyes Irrigation Project in Emmons County, and to develop such lands for irrigation and to pay incidental expenses necessary for the acquisition of said lands.

The principal and interest of this bond will be payable from a special fund created by payments to the State Water Conservation Commission from the sale of said lands, or parts thereof, and from rent received for the use thereof. This bond is, and will be secured by a trust deed to said land made and delivered to the Bank of North Dakota as Trustee under and by virtue of a Trust Indenture to be entered into between the Commission and the Bank of North Dakota. The State Water Conservation Commission has further secured the payment of the principal and interest of the State Water Conservation Commission Revenue Bonds, Series H, by irrevocably pledging and hypothecating to the Bank of North Dakota as such Trustee the sum of _____ Dollars (\$ _____), guaranteeing the payment of principal and interest to that extent under and by virtue of sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939.

The State Water Conservation Commission covenants that revenues derived from the sale of said lands, or any part or portion thereof, and from rents received for the use of said lands, will be paid to the Bank of North Dakota as Trustee and deposited by said Trustee in the office of the State Treasurer of North Dakota in a fund known as State Water Conservation Commission Revenue Bond Payment Fund, Series H, that a trust deed has been delivered to the Bank of North Dakota under which said bank will hold said deed in trust for the owners of State Water Conservation Commission Revenue Bonds, Series H, and that the Commission has under and by virtue of Sub-division 4 of Section 21 of Chapter 256, Laws 1939, irrevocably pledged and hypothecated _____ Dollars (\$ _____) to insure and guarantee the payment to that extent of the principal and interest of said bonds.

The State Water Conservation Commission reserves, and shall have, the right to redeem this bond on any interest paying date upon at least thirty (30) days prior notice by publication once in a newspaper of general circulation in Burleigh County, North Dakota, by payment of the par value thereof and interest thereon to date of redemption. If this called for redemption, this bond shall cease to bear interest after the date fixed for redemption.

This bond shall be deemed to be a negotiable instrument under the laws of the State of North Dakota, as declared by Chapter 256 of the Session Laws of 1939, and is issued with the intent that the laws of said state shall govern the construction thereof. The title to this bond shall pass by delivery except when registered at the office of the State Water Conservation Commission, or in the office of the Trustee, and after such registration, no transfer hereof shall be valid unless made at the office of the Secretary of the Commission, or Trustee by the holder hereof in person or by attorney duly authorized in writing.

This bond is issued and delivered under and by virtue of, and in strict compliance with Chapter 256 of the Session Laws of North Dakota for 1939. The State Water Conservation Commission hereby certifies and declares that all acts, conditions and things required to be done, have been done and happened and do exist, and have been performed in accordance with law.

IN WITNESS WHEREOF, the State Water Conservation Commission has caused this bond to be signed by the Governor of the State of North Dakota, as its ex-officio chairman, and

the seal of the State Water Conservation Commission to be affixed, all duly attested to by the Secretary of the Commission.

Dated this _____ day of _____, 19____ at Bismarck, North Dakota.

Governor of the State of North Dakota as Ex-officio
Chairman of the State Water Conservation Commission.

ATTEST

Secretary, State Water Conservation Commission

C O U P O N

No _____

On the 31st day of January, 19____, unless the bond to which this coupon is attached shall have been called for redemption, as provided therein, the State Water Conservation Commission of North Dakota will pay to the bearer at the office of the State Treasurer in the City of Bismarck, North Dakota, the sum of \$ _____ in any coin or currency of the United States of America which on said date of payment is legal tender for the payment of public and private debts, solely from the Series H, Bond Payment Fund in payment of the annual interest due at the date hereof upon its State Water Conservation Commission Revenue Bond, Series H.

Dated this _____ day of _____, 19____.

STATE WATER CONSERVATION COMMISSION

By _____
Governor of North Dakota,
Ex-officio Chairman.

ATTEST:

Secretary

BE IT FURTHER RESOLVED: That the Chairman and Secretary of the Commission be, and they are hereby, directed, for and on behalf of the Commission to enter into a Trust Indenture with the Bank of North Dakota for the security and protection of owners of State Water Conservation Commission Revenue Bonds, Series H, and under the terms of such Trust Indenture to make, execute and deliver to the Bank of North Dakota a trust deed to the lands hereinbefore mentioned and described and, under and by virtue of Sub-division 4 of Section 21 of Chapter 256 of the Session Laws of North Dakota for 1939, to deposit, hypothecate and pledge to the Bank of North Dakota as Trustee the sum of \$ _____ to guarantee to that extent the payment, when due, of the principal of and the interest on State Water Conservation Commission Revenue Bonds, Series H.

On roll call the motion carried, Commissioners Thompson, Dahl, Simons and Governor Moses voting aye. Vice Chairman Holt, absent.

The Secretary distributed typewritten copies of a report concerning a six year construction program of public activities of this state as requested from each state by the National Resources Planning Board. The Advisory Board is collecting information for this report. The water resources phase is being formulated by the Water Commission and State Engineer offices, and a preliminary draft was reviewed. A short discussion of the water resources phase was held.

The Secretary presented the financial statement for the month of August.

NORTH DAKOTA STATE WATER CONSERVATION COMMISSION
MONTHLY REPORT AUGUST 1 TO 31, 1940
1939 APPROPRIATION

U Underrun
O Overrun

	Total Approp'n 24 Months.	Expended to July 31 1940	Balance July 31 1940	Agreed Reduction	Balance Available	Available Per Month	August Expenses	Aug. Overrun or Underrun	
Commissioner's Per Diem	4,200.00	742.00	3,458.00	1,200.00	2,258.00	205.27	35.00	170.27	U
Administration	30,000.00*	14,487.71	15,512.29	1,000.00	14,512.29	1,319.30	*1,004.46	314.84	U
Const. Bond Guarantee	50,000.00	1,280.00	48,720.00	10,000.00	38,720.00	3,520.00	-----	3,520.00	U
Lewis & Clark Exp. Farm	4,000.00	996.79	3,003.21	250.00	2,753.21	250.29	265.63	15.34	O
Sponsor's Share - Dams	7,000.00	602.76	6,397.24	2,000.00	4,397.24	399.75	76.48	323.27	U
Eng'ring & Soil Surveys	1,000.00	119.23	880.77	180.00	700.77	63.71	-----	63.71	U
Designs & Reports-Mo. Riv.	500.00	148.08	351.92	300.00	51.92	4.72	17.63	12.91	O
Goose River Diversion	500.00	375.00	125.00	100.00	25.00	2.27	-----	2.27	U
James River-Lake Traverse	1,600.00	804.21	795.79	750.00	45.79	4.16	-----	4.16	U
Invest. & Surveys-Mo. Riv.	3,000.00	532.92	2,467.08	2,000.00	467.08	42.46	-----	42.46	U
Evaluation Economic Benef.	1,000.00	233.08	766.92	700.00	66.92	6.08	12.96	6.88	O
Reports & Conferences	1,000.00	565.06	434.94	300.00	134.94	12.27	-----	12.27	U
Tri-State Water Confer's.	5,600.00	2,373.23	3,226.77	600.00	2,626.77	238.80	188.24	50.56	U
Indep. Invest. & Reports	1,600.00	655.23	944.77	600.00	344.77	31.34	107.56	76.22	O
TOTALS	\$111,000.00	23,915.30	87,084.70	19,980.00	67,104.70	6,100.42	1,707.96	4,392.46	U

* "Revolving Fund" expenditures on
Projects-Repayable 41,711.60 (to July 31) *August expenses on Projects-Repayable 2,837.04

* "Revolving Fund" Collections 33,718.87 (" " ") *August Collections Received 2,581.50

At 12:15 P. M., the meeting was recessed until 1:30 P. M.

At 1:30 P. M., the meeting was called to order by Comm. Simons, with Comms. Dahl, Thompson and Simons present. Absent, Governor John Moses, Chairman, and Henry Holt, Vice Chairman.

There was a discussion of the second biennial report of this Commission for the period December 1, 1938 to December 1, 1940. The Secretary stated that the inclusion of the State Engineer's report with the Water Commission report, except complete stream gaging records, was being considered. Stream gaging records to be mimeographed. Comm. Simons suggested that some sort of a stream gaging report, if the whole report were too long, should be included--perhaps not a complete, detailed report, but more of a summary including annual rates of flow, rates of flow during the active irrigation season, etc. It was decided that the matter would be left to the judgment of the Secretary, with the consent and assistance of the Governor.

Mr. R. B. Millhouse of Cartwright, and Mr. F. W. Erickson of Alexander, came into the meeting. Mr. Millhouse stated that he was giving up his pumping equipment and farm and that Mr. Erickson wished to buy it. The two men desired to make some sort of arrangement with the Commission whereby Mr. Erickson could obtain the used pumping equipment. After considerable discussion, the equipment was finally sold to Mr. Erickson for \$500.00, one-half cash and the rest to be paid September 11, 1941, and Mr. Millhouse was released from further obligation.

There was a discussion of the biennial budget, which is to be filed with the State Auditor before October 1st, and the Tri-State Waters Commission budget for 1941-42. Comm. Simons suggested that the next Legislature be asked to liberalize the Bond Guarantee Fund. The Secretary distributed typewritten sheets showing the status of the 1939 appropriation on September 1, 1940.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the matter of working out the budget be left to a committee consisting of Governor Moses, Comm. Simons, and Secretary McColly, after consultation either by letter or in person with Vice Chairman Henry Holt. The motion carried, all Commissioners voting aye.

The Secretary called to the attention of the Commissioners the Tri-State Waters Commission meeting scheduled for October 21, 1940, at White Rock Dam, and Sisseton.

It was moved by Comm. Dahl, seconded by Comm. Simons, that Vice Chairman Holt or Comm. Thompson be asked to attend the meeting at Sisseton and White Rock Dam, October 21. On roll call the motion carried, Comms. Dahl, Simons and Thompson voting aye. Absent, Governor Moses, Chairman, and Vice Chairman Henry Holt.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that the following water rights be granted on the Maple River with the provision that the water right following any particular tract sold from the original acreage under the water right to be in direct proportion as the irrigable acreage of the sold tract is to the total irrigable acreage under the water right:

<u>Name of Applicant</u>	<u>Yearly Acreage Under Irrigation</u>	<u>Annual Amount of Water to be diverted</u>
Emil Piper	160 acres	160 acre-feet
Frank Lynch, Estate	160 acres	160 acre-feet
Allen Houd	120.6 acres	120.6 acre-feet
A. L. Eggert	160 acres	160 acre-feet

Also to William Oelke of New Leipzig, for a water right in N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 8-133-90 from the Cannonball River, 27 acres to be irrigated, 54 acre-feet annual diversion.

On roll call the motion carried, Comms. Dahl, Simons and Thompson voting aye. Absent, Governor John Moses and Vice Chairman Holt.

The Secretary brought to the attention of the Commission a notice from the National Reclamation Association advising that hearings on the irrigation problem by the Tolson Committee have been changed to September 16-17 at Lincoln, Nebraska.

The Secretary gave each member a short report on the Irrigation Experiment Farm at Williston, North Dakota

A report on the status of the proposed loan from the Reconstruction Finance Corporation on the Yellowstone Pumping Project was presented to the Commissioners by the Secretary. The Secretary stated that further investigations are being made by the R.F.C., and as yet no definite decision has been reached by the Corporation on the loan.

Judge A. M. Christianson, President of the Rural Rehabilitation Corporation, came into the meeting. A discussion of the Bismarck Irrigation Project followed.

It was moved by Comm. Thompson, seconded by Comm. Dahl, that Comm. Simons and Secretary McColly, on counsel of Judge Christianson and Mr. Acker, be authorized to act in working out the terms of the Trust Agreement in connection with the "state land purchase and development bond issue" and enter into proper arrangements with the Bank of North Dakota and the Industrial Commission. The motion carried, all Commissioners voting aye.

The Secretary stated that the Army Engineers, Kansas City, have reported to the Board of Engineers, Washington, D. C., favoring a reservoir on the Big Horn River in Wyoming and no others in the Yellowstone Basin at this time.

He stated that a meeting of the Upper Missouri River Drainage Basin Committee is also being held September 11, 1940 at Helena, Mont., and that State Engineer E. J. Thomas was attending the meeting.

The Secretary presented a news report stating that the Army Engineers will investigate the plan for 6 dams in the Knife River for irrigation and flood control. This seems to follow the flood control hearing held at Beulah, October 11, 1939.

The Secretary reported that Mr. Bergstad, a new employee of the Farm Security Administration office at Denver, was at the Commission office obtaining ownership data and general information regarding the following irrigation projects: Kyes, Mandan, Heart-Butte and Knife River.

The Secretary presented copies of State Engineer Thomas' report on the meeting of the Upper Mississippi Drainage Basin Committee "A" at Fergus Falls, August 14, and 15, 1940. The report was ordered received and placed on file.

It was moved by Comm. Dahl, seconded by Comm. Thompson, that the meeting adjourn until the call of the Chair as to time and place.

Respectfully submitted,

APPROVED:

Secretary
Secretary

(S E A L)

John A. Holt
Vice Chairman