

MINUTES OF A MEETING OF THE
STATE WATER CONSERVATION COMMISSION

Held in the Office of the State Water Conservation Commission
Bismarck, North Dakota, April 2, 1948.

A continuation of the Hearing on the application of J. B. Satterthwaite to divert and appropriate water, and a regular meeting of the State Water Conservation Commission were held in the Office of the Water Conservation Commission in the State Capitol, Bismarck, North Dakota, on April 2, 1948. The following named persons were present at this meeting:

STATE WATER CONSERVATION COMMISSION

- Honorable Fred G. Aandahl, Governor & Ex Officio Chairman
- Kenneth W. Simons, Vice Chairman
- S. W. Thompson, Commissioner from Devils Lake, N. Dak.
- Einar H. Dahl, Commissioner from Watford City, N. Dak.
- Curtis Olson, Commissioner from Valley City, N. Dak.
- J. J. Walsh, Secretary and Chief Engineer
- Einar Berge, Publicity Manager

OTHERS PRESENT

- Claude W. Hanna)
- Everett R. Day)
- Fred Shipman) Delegation from Watford City, Re: Watford City Dam.
- Hans Lofthms)
- Howard Konkkel)

- J. B. Satterthwaite, Sanish, N. Dak.
- Atty. J. A. Hyland, Bismarck, N. Dak., representing J. B. Satterthwaite
- Atty. C. F. Kelsch, Mandan, N. Dak., representing William Hadden and William Schule, Stanley and Sanish, North Dakota
- Atty I. A. Acker, Bismarck, N. Dak. representing the State Engineer: J. J. Walsh.

The meeting was called to order by the Chairman, Governor Fred G. Aandahl, at 9:30 a.m. The following members of the Water Commission were present: Governor Fred G. Aandahl, Kenneth W. Simons, Einar H. Dahl, S. W. Thompson, Curtis Olson, Secretary J. J. Walsh and Einar Berge.

H E A R I N G

Hearing was held on the Water Right Application of J. B. Satterthwaite in the Office of the State Water Conservation Commission, Bismarck, North Dakota, before the Members of the State Water Conservation Commission and the Secretary and Chief Engineer, on April 2, 1948 at 10:30 o'clock a.m. for permit to divert and appropriate water on the NE $\frac{1}{4}$ of Section 6, Township 153, Range 92, Mountrail County, North Dakota.

Let the records show that those present were: J. B. Satterthwaite, represented by Attorney J. A. Hyland for the Petitioner; and Mr. C. F. Kelsch, Attorney for Hadden and Schule, objectars to the Petition and Respondents in the action, also Mr. I. A. Acker, Attorney for the Commission.

"It is stipulated by and between the Petitioner and Respondents by their Attorneys that consent is given to the correction of typographical errors arising through the making and transcription of the testimony."

"The above entitled matter having come on for hearing before the State Water Conservation Commission, pursuant to Notice, on November 17, 1947, and testimony having been taken on behalf of both the Petitioner and the Respondents, which testimony has been reduced to writing and submitted to the parties, and the matter having been adjourned by agreement and consent to the 2nd day of April, 1948, at the hour of 10:30 a.m. for the purpose of oral argument and any other further proceedings, and the matter being now before the Commission pursuant to such adjournment, the following proceedings were had.

"It is stipulated by and between the Petitioner and the Respondents that Page 36 and Item No. 30 on Page 39 of the Second Biennial Report of the State Engineer, Government of the State of North Dakota, 1905-1906, be received in evidence and that the Commission be authorized to make a certified copy of the contents on Page 36, and Item No. 30, Page 39, and that the same be received in lieu of the original report. It is further stipulated that certified copies of any water rights affecting any of the lands involved in this proceeding of record in the Office of the Register of Deeds in Mountrail or Ward County, North Dakota, be marked an Exhibit and that the same be offered and received in evidence."

A delegation from Watford City was present at the opening of the meeting for the purpose of discussing with the Commission members the repair of the Watford City Dam. The delegation was seeking financial assistance from the State Game and Fish Department and the Water Commission in sharing this expense. Don Nichols, Assistant Engineer, entered the meeting and gave an estimate on the cost of repairing the dam, which he stated would be about \$7200.00. Equal amounts are to be contributed by the State Game and Fish Department and McKenzie County, in the amount of \$1800.00 each. Commissioner Dahl made this motion: "I move that the State Water Commission put in half of the expenses of the repair of the dam, not to exceed \$4,000.00, as the Water Commission's share." Commissioner Thompson seconded this motion. Governor Aandahl called roll, with Commissioners Thompson, Dahl, Olson, Simons and Governor Aandahl all voting aye.

The delegation from Watford City left the meeting at 9:55 a.m.

Governor Aandahl left the meeting at 10:00 a.m.

Commissioner Simons presiding.

A motion was made by Commissioner Dahl to approve the minutes of the December 29, 1947 meeting held in the Leland Parker Hotel at Minot, and the February 2, 1948 meeting held in the office of the State Water Commission. This motion was seconded by Commissioner Thompson. Motion carried.

The Financial Statements for January, February and March were then examined by the Commission and Commissioner Simons made a motion that they be approved and filed. The motion was seconded by Commissioner Thompson. Motion carried.

A letter was read from Homer W. Ludwick, Secretary of the Eastern North Dakota Water Development Association inviting the members of the Commission to be present at a meeting to be held in Fargo on Thursday, April 8, to discuss priority of water usage

and easements in connection with the Baldhill Reservoir. It was agreed that Secretary J. J. Walsh and Commissioner Olson represent the Water Commission at this meeting.

The Commissioners also discussed correspondence from C. W. Nelson, President of the North Dakota School of Forestry at Bottineau, North Dakota, inviting a representative of the Water Commission to be present at a meeting and participate in a discussion on forestry and water conservation. Commissioner Thompson was appointed to attend this meeting.

The application of the United States of America (U.S. Bureau of Reclamation) for permit to appropriate and divert water from the Heart River for irrigation for the Heart River Irrigation District and for irrigation and municipal purposes of the City of Dickenson, was brought before the Commissioners for their consideration and approval. Hearing on this application was held in the Office of the Water Commission on March 11, 1948, at 10:00 o'clock a.m. Present at this meeting were Mr. Bruce Johnson, Acting District Manager of the Bureau of Reclamation, Bismarck, N. Dak., and Mr. D. N. Lindeman, Attorney for the Bureau of Reclamation, Department of the Interior, Region 6, Billings, Montana, and as there were no objectors present, and no objections presented in person or in writing in opposition to the application of the Bureau of Reclamation, and as Certificates of Publication and other papers were filed with the State Engineer prior to the hearings and according to law, the application was presented to the Commissioners for their approval at this meeting.

Commissioner Thompson made the following motion in regard to the application of the Heart River Irrigation District: "I move that the application of the U.S. Government for the appropriation of water from the Heart River, as prayed for in their application, on file with the State Water Commission, be granted, subject to any prior rights." This motion was seconded by Commissioner Olson. Motion carried.

Commissioner Simons read letters from State Geologist Wilson M. Laird and A. R. Beardsley, City Auditor of the City of Rolla, and discussed the underground water survey investigation agreement between the State Water Conservation Commission and the City of Rolla, pending approval by the State Water Conservation Commission. Commissioner Olson made this motion: "I move that the Chairman and Secretary of the State Water Conservation Commission be authorized to sign an Agreement with the City of Rolla for an underground water survey, investigation and study in the vicinity of the City." The motion was seconded by Commissioner Thompson. Governor Aandahl called roll, with Commissioners Olson, Thompson, Dahl, Simons, and Governor Aandahl all voting aye.

In regard to the application of the Minnkota Power Cooperative, Inc., Grand Forks, North Dakota, for permit to divert and appropriate water from the Red River of the North for condenser cooling water purposes, the Commission took this action: That the application should go through the regular procedure of acquiring the right to divert and appropriate water, as required by law.

The meeting recessed at 1:30 p.m. to reconvene at 2:00 o'clock p.m.

Correspondence from Fred J. Fredrickson, Washington Representative for the Commission, was read and discussed by the Commissioners, which included federal appropriations for various irrigation projects including Heart River, Buford-Trenton, Dickinson, Fort Clark, and others, and a letter stating that North Dakota witnesses had been assigned one hour on Wednesday April 7, 1948, for their appearance before the House subcommittee on Interior appropriations. It was agreed among the Commissioners that members of the State Water Commission should appear in person to present their prepared statements before the House subcommittee, and Commissioners Thompson and Dahl were appointed to represent the Commission and attend these hearings at Washington, D. C., on April 7, 1948.

Mr. W. W. Palmer of the U. S. Bureau of Reclamation, Bismarck, and Mr. R. Bolger, Assistant Attorney from Dickinson, entered the meeting at 2:30 p.m. Mr. Bolger

discussed the water repayment contract regarding Dickinson Dam, stating that the Government usually requires a declaratory judgment approving the contract, and he suggested that this case may be brought before the Supreme Court for review, and requested the Water Commission to contact the Attorney General's office to make available an assistant to aid the City of Dickinson in bringing the action. The City of Dickinson will pay costs of filing fees, etc., except the Attorney General's fees. The Chamber of Commerce in Dickinson is representing the taxpayer in bringing the action. Commissioner Simons recommended assisting them, and Governor Aandahl agreed to take up the matter with the Attorney General and have him appoint an assistant from his office to assist the City of Dickinson.

In regard to a letter from the Legislative Research Committee on a deadline for departmental presentation of proposed legislation, it was suggested that the Commission invite representatives from the Heart River Irrigation District, the Missouri-Souris Project and others, including Mr. W. J. Burke, Attorney for the Bureau of Reclamation, to attend a legislative conference to be held in the City of Bismarck to discuss proposed legislation and formulate bills for presentation to the legislative committee. Secretary J. J. Walsh was requested to write Mr. Burke regarding this matter and request his presence at such a meeting.

Secretary J. J. Walsh gave a review of his attendance at the meeting held to arrange for organization of the Fort Clark Irrigation District, on March 30, 1948. He stated they met with representatives of the Fort Clark and Knife River Units at a local farm residence to discuss organization of the District and other matters. He was accompanied by A. J. Dexter of the Northern Pacific Railway Company, who made the suggestion at this meeting, that the District appoint a man to represent their organization in the event there would be an opportunity to be heard before the subcommittee in Washington. Mr. Alderin received a majority of votes and was elected to represent the District.

The Members of the Commission then discussed a letter dated March 17, 1948, received from the Minot Association of Commerce and written by W. C. Champlin, Secretary-Manager, in which the Board of Directors "unanimously expressed their appreciation to the State Water Commission for its foresight and initiative in opening the gates of the Lake Darling Dam to avoid, if possible, the flooding of Minot and other areas by the Mouse River." A letter dated March 13, 1948, from Jay W. Bliss, City Manager, also expressed thanks for the consideration shown Minot in the handling of the gates at the dam.

Governor Aandahl read a letter from A. F. Young, County Surveyor, Williston, North Dakota, in which he submitted an itemized statement on the cost of repairing the spillway at the Epping Dam during the year 1947. After further discussion on the allocation of costs, Commissioner Dahl made this motion: "I move that we pay one-third of the \$426.00, or total cost of repairing the spillway at Epping Dam, payments to be divided on the following basis:

Williams County's share	\$ 142.00
State Game & Fish Department	142.00
State Water Conservation Comm.	142.00, making a total of \$ 426.00."

The motion was seconded by Commissioner Olson. Governor Aandahl called roll, with Commissioners Simons, Olson, Thompson, Dahl and Governor Aandahl all voting aye.

A statement of costs on the purchase of pipe and installation work, including repairs to main canal on the Sioux Irrigation Project was presented to the Commission for their consideration and approval. Commissioner Simons made the following motion: "I move that we pay the above costs chargeable to the Sioux Irrigation District, under the terms of the "Resolution" previously adopted by the Commission during the meeting of the Commission

held in Bismarck on June 30, 1947, where funds were made available from prior appropriations allocated to the 'Maintenance of Dams' fund." Commissioner Dahl seconded the motion. Roll was called by Governor Aandahl, with Commissioners Dahl, Simons, Olson, Thompson and the Governor all voting aye.

Governor Aandahl read a letter from Mrs. Lewis T. Orlady, acknowledging the "Resolution" offered by the members of the State Water Conservation Commission as a tribute to the former member of the Commission, Lewis T. Orlady, and expressing her deep and sincere appreciation and thanks for the friendship expressed and their many kindnesses.

A letter from the Regent Commercial Club, Regent, North Dakota, and addressed to the State Game and Fish Department, Bismarck, was brought before the Commission by Secretary J. J. Walsh. This letter stated the difficulty of securing labor to assist in the work on the Regent Dam, and suggested that it might best be accomplished by letting it out under Contract. Don Nichols, Assistant Engineer, reported on the estimated cost of constructing the new spillway. His estimate shows that the cost of the work will amount to \$6,600.00 if done by "force account" under the supervision of the State Water Conservation Commission. He estimated that the cost of the work would amount to \$10,000.00 if let out by contract. Our records show that the State Game and Fish Department will contribute the sum of \$3,525.00, and an equal amount will be contributed by local people living in the vicinity of Regent and Mott. Commissioner Dahl made the following motion: "I move that we approve the repair of the dam at the cost to the Commission, not to exceed \$5,000.00." Commissioner Thompson seconded the motion. Governor Aandahl called roll, with Commissioners Dahl, Simons, Olson, Thompson, and Governor Aandahl all voting aye.

Members of the Water Commission recommended that this Office prepare a "list of dams" in this State, requiring maintenance work, etc.

Concerning cooperative surveys with the Bureau of Reclamation, the Members agreed that the Water Commission should continue with this cooperation in supplementing the work of the Bureau, and that more men be hired and more equipment be secured in order to maintain three crews in the field. It was suggested that a crew be sent to the Minot area as well as continuing the surveys in the Garrison Reservoir area, and also to send one crew to the Missouri-Souris area this coming year.

The Commission approved the purchase of another film from the Greater North Dakota Association showing the record of progress being made on the water development program in North Dakota. Commissioner Thompson moved that we purchase another film from the Greater North Dakota Association, in order that our water development program may continue to be recorded on film. Mr. Olson seconded the motion. Roll was called by Governor Aandahl, with Commissioners Dahl, Simons, Olson, Thompson and Governor Aandahl all voting aye.

The meeting adjourned at 3:35 p.m.

Respectfully submitted,


Secretary

ATTEST:


Chairman