

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE July 6, 1981 PLACE Cunnington, N.Dak.

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
<u>Ed Blossendorf</u>	<u>Kramer, N.D.</u>	<u>Bottineau Co. Water Revenue District</u>
<u>Norman Ruedel</u>	<u>Des Moines, Ia</u>	<u>Wells Co Water Bd.</u>
<u>Tilmer Rensing</u>	<u>McClusky, ND</u>	<u>S.D.C.D.</u>
<u>Lester M. Anderson</u>	<u>Maybass, ND</u>	<u>S.D.C.D.</u>
<u>HANK TRAVESRUD</u>	<u>Fargo, N.D.</u>	<u>HOUSTON, ENG.</u>
<u>Joe Kukhan</u>	<u>Omaha</u>	<u>Houston-Kukhan Michael</u>
<u>Louis Behovsky</u>	<u>Doker, N.D.</u>	<u>S.D.C.D.</u>
<u>Ans Basse</u>	<u>Corwille, ND</u>	<u>S.D.C.D.</u>
<u>Geo Houston</u>	<u>Fargo</u>	<u>HOUSTON</u>
<u>Omell Indvik</u>	<u>Bottineau, N.D.</u>	<u>Weld Eng.</u>
<u>Almer Jordheim</u>	<u>Walcott, D.</u>	<u>S.D.C.D.</u>
<u>Bill Beavers</u>	<u>Omaha</u>	<u>Chiles, Heider & Co</u>
<u>Bud Kelly</u>	<u>"</u>	<u>" " "</u>
<u>Mark A Johnson</u>	<u>Bismarck</u>	<u>Houston-Kukhan Michael</u>
<u>DR Breeding</u>	<u>West Fargo</u>	<u>Mass County</u>

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Your Name	Your Address	Who do you Represent? (Or Occupation)
Robert R Boone	Fargo ND	SCS
Charles Brandt	Upham	
E. Emmons	Newburg ND	
Bill Lalle	Granville ND	McHenry County
Glenn Wunderlich	Voltaire ND	McHenry Co. W. Md.
- Glenn K. Samsen	Bottineau ND	OAK Creek Water mgt. Dist
H. J. Carlson	" "	" "
Stanley Rousso	" "	" "
Evelyn Selper	" "	" "
Homer Edge/hom	Crofta	SOCD
W. J. Lybeck	Devils Lake	Ramsay Watershed
Russ Neukirch	" "	
W. J. Hendrick	Fargo	Garrison
Agit Frank	Libon	SOCD
Len McHoy	Raton	Emmons CWMD

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Your Name	Your Address	Who do you Represent? (Or Occupation)
Harry Volter	Shasburg ND	W M D Emmons
Oliver Pelton	Halliday, N.D.	Dunn Co. W R D
Lemuel Greenshield	Dodge ND	Dunn Co W R D
Harry R. Zacher	Box 155 Ely ND	Grant Co.
Charles Kistner	New Rockford	N D C D
John A. Dean	Hutton	"
Russell Nelson	Dickinson ND	Stark Co W R D
Arnold Seibel	Honey ND	N D C D.
Gene Kienz	Bismarck	Water Commission
Arthur Allen	Balta	N D C D
Ben Varnum	Lakota	Nelson Co. W M B.

MINUTES

North Dakota State Water Commission
Carrington, North Dakota

July 6, 1981

The North Dakota State Water Commission held a meeting at the Garrison Conservancy District Headquarters, Carrington, North Dakota, on July 6, 1981. Acting Vice Chairman, Guy Larson, called the meeting to order at 10:00 a.m., and requested Secretary Vernon Fahy to call the roll and present the agenda.

MEMBERS PRESENT:

Allen I. Olson, Governor-Chairman (present only for afternoon session)
Alvin Kramer, Member from Minot
Florenz Bjornson, Member from West Fargo
Ray Hutton, Member from Oslo, Minnesota
Garvin Jacobson, Member from Alexander
Guy Larson, Member from Bismarck
Henry Schank, Member from Dickinson
Bernie Vculek, Member from Crete
Vernon Fahy, State Engineer and Secretary, North Dakota
State Water Commission, Bismarck

MEMBER ABSENT:

Kent Jones, Commissioner, Department of Agriculture, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 60 Water Resource and Conservancy District members

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

The proceedings of the meeting were recorded to assist in compilation of the minutes.

CONSIDERATION OF MINUTES
OF JUNE 24, 1981 MEETING -
APPROVED

The minutes of the June 24, 1981 meeting held in Bismarck, North Dakota, were reviewed by Secretary Fahy. There were no corrections or additions to the minutes.

It was moved by Commissioner Schank, seconded by Commissioner Vculek, and unanimously carried, that the minutes of the June 24, 1981 meeting be approved as presented.

CONSIDERATION OF REQUEST FOR
FINANCIAL ASSISTANCE IN
CASS COUNTY DRAIN NO. 35
(SWC Project No. 1086)

Staff members Dave Sprynczynatyk and Cary Backstrand presented a request by the Cass County Drain Board for financial assistance in constructing a gated control structure on legal

Drain No. 35. The original drain, built in 1917, is planned for improvement by phased construction.

According to Drain Board Attorney, Duane Breitling, the first phase is partially for flood control and would help prevent Sheyenne River backup water from spilling across country.

It was moved by Commissioner Kramer and seconded by Commissioner Bjornson that an amount not to exceed \$17,500 be granted for eligible construction items of this phase of Cass County Drain No. 35, subject to the availability of funds and conditions required by the State Engineer. All members voted aye; motion unanimously carried.

CONSIDERATION OF REQUEST
FOR FINANCIAL ASSISTANCE
IN RUSSELL DIVERSION
(BOTTINEAU COUNTY)
(SWC Project No. 1684)

Staff members Sprynczynatyk and Backstrand presented a request from the Bottineau County Water Resources District for financial participation to improve an existing legal drain, known as Russell Diversion. They cited the need to

re-route the flows in the final reaches of the drain to stop erosion and that the operation of the drain would be coordinated with Souris River flows.

Cliff Issendorf, Chairman of the Water Resources District gave a slide presentation showing areas along the drain where water is temporarily stored, controlled by eight gated areas throughout the drain.

Lloyd Jones, representing the North Dakota Chapter of the Wildlife Society, appeared to protest the granting of lands and to state that the wetland drainage causes problems. He cited that there were no downstream easements obtained where the drain affected both water quantity and quality. He further stated that their opposition would probably be brought into court based upon their contention that 90 to 95 percent of the drainage area controlled by the Russell Diversion was formerly non-contributing to the Souris River. He stated that their attorneys are reviewing the case.

July 6, 1981

Commissioner Kramer moved to approve financial participation in an amount not to exceed \$25,000 for eligible construction items to relocate the final reaches of Russell Drain, subject to the availability of funds and conditions required by the State Engineer. The motion was seconded by Commissioner Jacobson.

Under discussion, Kevin Brennan, J. Clark Sayler Wetlands Manager, read a statement from the U.S. Wildlife Service. Statement is attached hereto as APPENDIX "A".

Legal Counsel for the State Water Commission, Mike Dwyer, presented the background tracing the legal history of the drain from illegal status, court action brought by State Engineer, court decision, and then approval of the drain.

Mr. Brennan requested the Commission to review the case before voting on request.

The Vice Chairman stated that the Commission action today would not change the possibility of future court action and called for a vote regarding the motion. The motion unanimously carried.

CONSIDERATION OF FINANCIAL
ASSISTANCE IN EMRICK DRAIN
(CASS COUNTY)
(SWC Project No. 1633)

Emrick Drain. Added costs are due to the revision of the earthwork quantities and because of conditions added by the State Engineer to the permit approval. It was stated that a series of gated pipes were to be installed to satisfy downstream interests.

Mr. Sprynczynatyk and Mr. Backstrand presented a request by the Wells County Water Resources District for financial participation for eligible items to cover added construction costs of the

Norman Rudel from the District appeared at the meeting and explained the joint effort in this drain with Eddy and Foster Counties.

It was moved by Commissioner Vculek and seconded by Commissioner Hutton that the State Water Commission approve financial participation in an amount not to exceed \$27,500 for eligible construction items, not including legal and administrative costs, subject to the availability of funds and conditions required by the State Engineer. All members voted aye; motion unanimously carried.

July 6, 1981

CONSIDERATION OF EMPLOYMENT
OF FINANCIAL CONSULTANT
FOR SOUTHWEST PIPELINE PROJECT
(SWC Project No. 1736)

Secretary Fahy presented a summary of three proposals for financial consulting work in connection with preliminary plans for a West River water delivery system. He stated that the following cost information had been gathered since the last meeting:

- | | |
|---------------------------------|---------------------------------|
| 1) Arthur D. Little, Inc. | \$228,327 - some travel extra |
| 2) Ernst & Whinney | \$75,000-\$95,000 - plus travel |
| 3) Chiles, Heider and Co., Inc. | \$50,000 - plus travel |

Secretary Fahy explained some of the scope of work under consideration in the proposals. There were amortization of water delivery system costs, bonding, water rates to be established and bonding prospectus. He further stated that he was recommending the acceptance of the Chiles, Heider and Co., Inc. proposal.

Mr. William Beavers from the recommended firm appeared before the Commission. He cited their North Dakota background on similar projects. He briefed the Commission on a plan of operation including working with consulting engineers, public meetings relative to costs and work to be completed and the possibility of studies to incorporate a multiple-use concept.

It was moved by Commissioner Kramer that the Commission enter into a contractual agreement with Chiles, Heider and Co., Inc. to accomplish the financial studies for the Southwest Pipeline Project. The motion received a second from Commissioner Schank. All members voted aye; motion carried unanimously.

Prior to recess for lunch at 11:55 a.m. new staff member, Joe Cichy, was introduced.

with Governor Olson presiding.

Commission meeting reconvened at 1:05 p.m.

SOUTHWEST PIPELINE PROJECT:
DISCUSSION RELATIVE TO
ENGINEERING CONSULTANTS
(SWC Project No. 1736)

Secretary Fahy stated that the joint venture firm of Bartlett & West - Boyle Engineering were selected, with a backup joint venture firm of Houston-

July 6, 1981

Kirkham & Michael selected should it not be possible to contract with the top selection. He further explained that there had been no contracts or negotiations as yet with the selected firm, pending an Attorney General's ruling concerning interpretation of the laws regarding legal status of the out-of-state firm's permit application.

Discussions followed concerning a letter circulated to Commission members which referred to the selection process. No letter or communication had been received by the Governor or by the State Engineer.

Governor Olson, after reviewing a Commission member's letter, said there were some legal questions raised. He advised the State Engineer to get a copy of the letter and respond immediately to Commission members and other involved with the letter, both authors and recipients.

**GARRISON DIVERSION
PROJECT STATUS
(SWC Project No. 237)**

Governor Olson reported on his recent meeting in Washington, D. C. with Interior Secretary Watt. He discussed the Garrison Diversion Project and possible alternatives to the first phase. Governor Olson expressed belief that the project would continue. He stated that Secretary Watt seemed quite interested in a joint proposal which would involve modifications in the Oakes Project authorization to provide for delivery of water through Garrison Diversion Unit facilities to the South Dakota border via the James River for use in South Dakota.

**STATUS REPORT RELATIVE
TO LAKE METIGOSHE
IN BOTTINEAU COUNTY
(SWC Project No. 330)**

Glen Swanson, Attorney from Bottineau, expressed appreciation for State Engineer and Commission support to solve problems at Lake Metigoshe and urged further study.

Secretary Fahy stated that there is underway an investigation study for Lake Metigoshe. The purpose of this study is to determine the feasibility of delivering supplemental water to the lake.

**AUGUST, 1981 STATE WATER
COMMISSION MEETING**

Secretary Fahy announced the next meeting of the State Water Commission will be held at the Walhalla Country Club on August 12, 1981, with arrangements being handled by Grant Trenbeath and Leon Dubourt. He further stated that a public works briefing of the Pembina River studies would be conducted by the U.S. Army Corps of Engineers during the evening of August 11th and invited Commission members to attend.

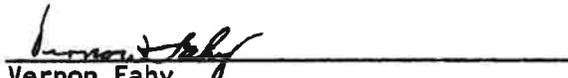
July 6, 1981

The meeting was then adjourned to join the Water Resources Districts and Garrison Conservancy District for further meetings. A part of the added meeting was a presentation by chart and film by staff member, Gene Krenz, regarding the State Planning Public Involvement Program.



Allen I. Olson
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

July 6, 1981



United States Department of the Interior

FISH AND WILDLIFE SERVICE
 J. CLARK SALYER NATIONAL WILDLIFE REFUGE
 P.O. BOX 66
 UPHAM, NORTH DAKOTA 58789
 TELEPHONE (701) 768-2548



July 2, 1981

North Dakota State Water Commission
 900 East Boulevard
 Bismarck, North Dakota 58505

Dear Sirs:

The U.S. Fish and Wildlife Service would like to voice its opposition to the use of state tax funds for constructing portions of the Russell Diversion Drain Project in Bottineau County, North Dakota. Irregardless of the professional differences that the Commission and the U.S. Fish and Wildlife Service may have experienced in past years, we ask that any decisions concerning funding of this project be based on an objective review of the facts surrounding the drain, keeping in mind the future precedent you may set by cost sharing the drain construction.

The Fish and Wildlife Service has objected to the construction of this drain many times because of its adverse impacts on the J. Clark Salyer National Wildlife Refuge into which the drain runs via the Deep River.

These adverse impacts include the following:

1. Additional waters released into the J. Clark Salyer National Wildlife Refuge during flood stage causes flooding of refuge uplands, dikes and island erosion, inundation of roads and aquatic nesting cover. These waters come from a watershed that was previously 90-95 percent noncontributing. Studies done by the U.S. Fish and Wildlife Service indicate that approximately 35 percent of the total flows of the Souris River at Westhope are due to wetland drainage in the North

Dakota portion of the basin. There is no reason to add to the impacts of the flooding by construction of the Russell Drain.

In reviewing the operation and construction plans for the drain few if any of these impacts will be alleviated. In fact, according to the plan, the drain can be operated during a major flood on the Souris.

We also question the revising of the original drain permit from the State Engineer, which allowed for the partial restoration of five natural wetlands in the basin to a permit with no permanent water retention conditions. This is especially disheartening, in view of the State Engineer's statement at the October 1978 Water Commission meeting in Minot, where he indicated that wetland restoration would be part of the Russell Diversion Project.

2. In addition to the impacts from the quantity of water the Refuge is receiving, there are additional impacts from poor water quality. The Russell Diversion Drain has contributed water exceeding the state water quality standards for Class I and III streams in ammonia, nitrate and dissolved phosphorous. Also, FWS studies indicate that over 420 tons of sediment flowed from the drain, causing sedimentation in the refuge pool and a loss of topsoil from farmland in the watershed. These nutrients and sediments speed up the eutrophication process in the refuge pools, shortening their life span.

Again, the operation for the drain plan is inadequate, as it provides for only short term holding of the waters, resulting in very little water quality improvement. In addition some of the erosion

problems along the drain will not be alleviated. Studies pertaining to the Russell Diversion have been conducted by the Fish and Wildlife Service since 1978. This information shows that there are other flaws in the plan of operation including flooding of downstream private lands. The Commission is welcomed to review this information.

In summary, I would like to again point out that wetland drainage is the major cause of flooding in the Souris River Basin, and ask that the Commission take the appropriate steps to begin to correct this problem by denying state funds for the Russell Diversion Drain.

Kevin J. Brennan
Wetlands Manager