

MINUTES

North Dakota State Water Commission
Meeting Held In
City Council Chambers - City Hall
Minot, North Dakota

October 20, 1978

The North Dakota State Water Commission held a meeting on October 20, 1978, in the City Council Chambers of the City Hall, Minot, North Dakota. Governor-Chairman, Arthur A. Link, called the meeting to order at 9:30 a.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Richard Gallagher, Vice Chairman, Mandan

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 15 persons interested in various agenda items

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

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

CONSIDERATION OF MINUTES
OF SEPTEMBER 14, 1978 MEETING -
APPROVED

Secretary Fahy reviewed the minutes of the September 14, 1978 meeting held in Bismarck, North Dakota. There was no discussion by the Commission members.

It was moved by Commissioner Lanz, seconded by Commissioner Wilhelm, and carried, that the minutes of the September 14, 1978 meeting be approved as prepared and distributed.

NOVEMBER, 1978 COMMISSION MEETING

At the September Commission meeting, it was the consensus of the Commission members that the November meeting would be held in Dickinson for the primary purpose of meeting with the Citizens Advisory Committee to the Southwestern North Dakota Water Delivery Study and the consultants for the study.

The Governor indicated a conflict with the November 14 date as scheduled, which would not permit his attendance at the meeting.

He concurred with a suggestion that was made to hold the meeting as previously scheduled on November 14 with the understanding that no items requiring a policy change be placed on the agenda.

It was suggested by Commissioner Kramer that the State Engineer prepare the agenda prior to the Governor's departure. This would give the Governor an opportunity to review the agenda permitting the deletion of any item that he may desire his input.

DISCUSSION OF OLD WEST REGIONAL COMMISSION AND HIGH PLAINS AQUIFER STUDY (SWC Project No. 1400)

Secretary Fahy recalled that he had forwarded to the Commission members some time ago, a memorandum that informed the members of his attendance at a seminar in Fort Collins, Colorado, in which they were discussing methods to replenish and maintain the economic viability of the Ogallala Aquifer which covers seven states including the very southern portion of South Dakota. The study has been assigned to a group of consultants with the exception of one alternative involving the importation of water, which has been assigned specifically to the Corps of Engineers.

Secretary Fahy recommended in his memo that North Dakota become an observer to those proceedings because of the possibility that the Corps will be looking at the diversion of Missouri River waters as one of the alternatives. This alternative would definitely involve consideration of modification to the Pick Sloan Missouri Basin Program, a matter of great interest to us and other upper basin states.

It was suggested by Secretary Fahy that the Governor appeal to the Water Resources Council and others involved, that North Dakota be allowed observer status on the High Plains Aquifer Study.

He noted that the Old West Regional Commission is considering an unsolicited proposal from a University in Denver

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for that University to monitor the Ogallala Aquifer Study on behalf of the Old West Regional Commission. He indicated that that particular kind of monitoring would not satisfy our needs, and that he would be interested in having either himself as State Engineer or one of his professionals sit in on the complex technical deliberations.

It was moved by Commissioner Wilhelm and seconded by Commissioner Lanz that the Chairman of the Water Commission be instructed to request representation on an observer-status basis in any project that has to do with the total regional research and evaluation of the water resources, particularly the High Plains Aquifer Study. All members voted aye; the motion unanimously carried.

CONSIDERATION OF REQUEST FROM
CITY OF PEMBINA FOR COST SHARING
FOR THE RELOCATION OF THE PEMBINA
STATE PARK DIKE
(SWC Project No. 1444)

Secretary Fahy presented a request from the Pembina City Council seeking financial assistance from the State Water Commission to help them solve dike stability problems that have occurred with the Pembina State Park dike. Total cost of the project is estimated to be \$11,090.

Approximately 100 feet of dike along the Pembina River is experiencing slide problems due to the unstable nature of the river bank in this area. The State Water Commission has developed a preliminary design for stabilizing a portion of the Pembina State Park dike as was requested by the City of Pembina. The design plan entails stabilizing the unstable portion of the dike by moving the dike back from its present location approximately 10 feet. This would remove the critical loading on the river bank in this area. The inside slope of the dike is to be flattened to side slopes of 4:1 to facilitate maintenance. The dike set back and the 4:1 side slopes will require the relocation of the comfort station and also the relocation of two buildings.

A financial arrangement is being negotiated whereby the City of Pembina would pay 25 percent - \$2,775; the State Water Commission 25 percent - \$2,775; and the Heritage Conservation and Recreation Service 50 percent - \$5,545.

It was the recommendation of the State Engineer that this request be honored.

It was moved by Commissioner Gray and seconded by Commissioner Lanz that the Water Commission approve financial participation in the amount of 25 percent, not to exceed \$2,775, contingent upon the availability of funds, for the Pembina

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State Park dike. All members voted aye; the motion unanimously carried.

CONSIDERATION OF REQUEST FROM
CITY OF MINOT FOR FUNDING FOR
MODIFICATION OF THE MINOT
SUPPLY DAM
(SWC Project No. 782)

Secretary Fahy presented a request from the Minot City Council for financial assistance to modify the Minot Water Supply Dam in order that it will be capable of passing flood flows of 5000 cubic feet per second without obstruction.

The Minot Water Supply Dam was constructed by the State Water Commission in 1965 in order to provide a pumping pool for the municipal water plant. Since the installation of the dam, several major floods have occurred and the Corps of Engineers have done extensive channel improvements upon the Souris River within the city and in the vicinity. These works have substantially increased the channel capacity of the stream and all other structures on the river have been modified to increase their capacity. The water supply dam is the only structure which has not yet had its capacity increased so as to be compatible with the entire project.

Several methods have been studied for the purpose of increasing the flow; however, the method most feasible would be to demolish all the weir structure above the optimum weir elevation and smaller gates would be installed to permit flushing sediment out of the reservoir to prevent its filling up. These gates will be installed flush within the top of the concrete weir so as to create no channel obstruction and provide no projections to catch trash during periods of high flow.

The total cost of the work is estimated at \$55,000. It was the State Engineer's recommendation that the Commission participate in 50 percent of the costs, not to exceed \$27,500.

It was moved by Commissioner Kramer and seconded by Commissioner Gray that the Water Commission honor the request from the Minot City Council and approve participation of 50 percent of the costs, not to exceed \$27,500, contingent upon the availability of funds. All members voted aye; the motion unanimously carried.

LEGAL BRIEFING ON CASE OF
NEBRASKA V. REA INVOLVING
THE ENDANGERED SPECIES ACT
AND BASIN ELECTRIC

Murray Sagsveen briefed the Commission members on the case of Nebraska v. REA. The U.S. District Judge for the District of Nebraska has enjoined the further construction of the Grayrocks Dam,

which is a necessary part of the Missouri Basin Power Project. That power project involves 17 rural electric cooperatives in North Dakota, which could affect the power in North Dakota.

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He stated that one of the reasons the Judge stopped further construction of the Grayrocks project was that potential, or possible, impacts on the critical habitat for whooping cranes 250 miles downstream were not adequately discussed in the Environmental Impact Statement.

He noted the significance of the Endangered Species Act and how federal Judges are treating the Act for construction projects, such as the Missouri Basin Power Project.

Murray Sagsveen commented on amendments to the Endangered Species Act which have been passed by Congress to set up a cabinet-level committee to address conflicts between endangered species problems and projects that are being constructed. This committee was immediately instructed to investigate two problems: 1) the Telleco Dam problem (TVA); and 2) the Grayrocks problem. This committee is a six-member federal committee and the Governors of affected states. Immediately after passage of the law by Congress, awaiting the President's signature, Governor Link sent the following letter to Congress, dated October 17, 1978:

"Dear Mr. President:

The amendments to the Endangered Species Act passed recently by Congress are of vital concern to the State of North Dakota since they provide specific reference to the Grayrocks Dam and Reservoir Project in Wyoming. Seventeen rural electric cooperatives in the state are depending on power to be supplied from the Laramie River Station beginning in 1980. The power plant located near Wheatland, Wyoming, has been under construction for over two years and the Grayrocks Dam and Reservoir must be closed during the next year to provide cooling water for the plant. If the plant is delayed any further, power supply shortages will occur with severe consequences for rural consumers.

As I understand it, the amendments to the Endangered Species Act provide for a committee of federal officials and representatives of affected states to consider an exemption for the Grayrocks Dam and Reservoir. Because of the consequences to the State, I urge that the State of North Dakota be designated an affected state by the Department of the Interior and request that I be appointed as a member of the Endangered Species Committee.

/S/ Governor Arthur A. Link

cc: Secretary Andrus"

Governor Link indicated that he is considering becoming involved in the Grayrocks Case to protect the interests of North Dakota and requested the Commission's consensus that he further

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consider the advisability of North Dakota submitting a "friend of the court" (amicus curiae) brief in the matter.

It was the consensus of the Commission members that the Governor be authorized to take those actions necessary to support the State of North Dakota's interest of those items in the Grayrocks Case that might impact upon North Dakota.

STATUS OF CHANNEL "A"
LITIGATION
(SWC Project No. 842)

Murray Sagsveen reported that the adverse decision in the District Court for the District of Columbia has been appealed to the Court of Appeals in the District of Columbia. He stated that he is required to file a brief by November 6. Work is progressing on construction of Channel "A" and everything will be constructed except for the plug installed at the north end of the channel.

He then reported that North Dakota is involved in a similar case in Minnesota involving Lake Minnetonka. In Minnesota, the State won their case and the Department of Army appealed to the Eighth Circuit Court of Appeals. Mr. Sagsveen said that he recently filed a "friend of the court" (amicus curiae) with the Eighth Circuit Court of Appeals.

STATUS OF GARRISON
DIVERSION LITIGATION
(SWC Project No. 237)

Mr. Sagsveen reported on three cases pending on Garrison Diversion litigation: 1) concerning Presidential documents involving the Garrison Diversion Project - the Justice Department had been invoking procedural delays until this week when they notified the Eighth Circuit Court of Appeals and the State of North Dakota that they will not object to having the documents turned over when ordered by Judge Van Sickle; 2) involves the Master Contract Case, or the Impoundment Case, that's before Judge Van Sickle in Bismarck - the State of North Dakota filed a law suit against Secretary Andrus and others for violation of the Master Contract, for violation of the 1902 Reclamation Act, and the 1944 Flood Control Act. Recently, the Senate has passed Resolution 525 which ordered the release of nearly \$18 million. The Secretary of the Interior indicated that he will now expend \$18.7 million so construction will move forward; and 3) concerning the lawsuit brought by the Audubon Society against the Department of the Interior in which North Dakota intervened. That litigation had been stayed for a number of months pursuant to a stipulation signed between the Department of the Interior and Justice Department. The Audubon Society has now, however, declared that Interior is violating the stipulation and they are now seeking an injunction against the Department of the Interior in the District of Columbia.

STATUS OF RULES AND
REGULATIONS CONCERNING
APPLICATION PROCEDURE
FOR WATER PERMITS
(SWC Project No. 1400)

Murray Sagsveen indicated that immediately following the September 14 Commission meeting, the proposed rules and regulations as adopted by the Water Commission were submitted to the Attorney General's

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office, but to date they have not been approved.

**ADDITIONAL INFORMATION
ON THE CRITICAL HABITAT
FOR NORTH DAKOTA**

for the whooping cranes in North Dakota. The correspondence that was distributed is attached to these minutes and labeled as APPENDIX "A".

Murray Sagsveen distributed, for the Commission members' information, additional correspondence concerning the proposed critical habitat designation

**BILL DRAFT FOR
WATER COMMISSION
REVENUE BONDING
AUTHORITY**

Murray Sagsveen distributed copies of the bill draft for the Water Commission's Revenue Bonding Authority, attached hereto as APPENDIX "B".

**CONTINUED DISCUSSION OF
GARRISON DIVERSION
LITIGATION
(SWC Project No. 237)**

the need for proceeding with a project which would not impact Canada and which could total, on a phased-basis, about 170,000 acres within the original 250,000-acre project. He noted that a resolution has been passed in Congress authorizing us to proceed in areas that did not have an impact on Canada.

Secretary Fahy stated that the Governor has forwarded, through a meeting with Bureau of Reclamation Commissioner Keith Higginson, a proposal to the Department of the Interior outlining

**STATUS REPORT ON JOINT
POWERS AGREEMENT FOR
RED RIVER WATER MANAGEMENT
(SWC Project No. 1638)**

To date, 8 of the 15 water management districts have executed the agreement indicating their intentions to become a part of the board. Five other water management districts have indicated that they intend to join, and only two (Barnes and Cavalier) have indicated they do not wish to share in the responsibilities and benefits of a comprehensive water management approach.

Mike Dwyer reported that at the last meeting of the Red River Water Management Districts, final agreement was reached on the provisions to be included in the final agreement to establish a joint board.

An organizational meeting will be held the first part of November with the Chairman of each water management district. At this meeting, they will discuss the comprehensive approach that they hope to take toward their water management problems, legislative proposals, and bylaws for an organizational structure.

Commissioner Gray indicated that he met with the Barnes County Water Management District and their objection to not becoming a part of the board was that if they joined, immediately they would be obligated to the County of Barnes for two mills. Commissioner Gray assured them this was not the case.

**CONTINUED DISCUSSION OF
RULES AND REGULATIONS
GOVERNING WATER USE FEES
(SWC Project No. 1695)**

Governor Link distributed a copy of a letter from the North Dakota Association of Rural Electric Cooperatives, which is attached hereto as APPENDIX "C". He

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also said that he had been invited to attend the annual membership meeting of the Statewide Association of Rural Electric Cooperatives on October 13 to share the viewpoints and considerations prompting various Water Commission studies and proposals relative to imposing water use fees. Murray Sagsveen accompanied the Governor to this meeting and one of the questions asked was relative to the Commission's authority to charge for water.

Mr. Sagsveen replied that there are four authorities for the imposition of a fee: 1) in Chapter 61-02 of the North Dakota Century Code, Water Commission General Authorities Section, there is a provision that the Water Commission can promulgate rules and regulations concerning fees for the delivery of water; 2) conditions on water permits which would require the payment of fees; 3) contractual arrangement on more recent water permits whereby the recipient agreed to the payment of a fee as a condition for receiving the permit; and 4) 1977 Legislative Authority (§61-04-06.2).

Lengthy discussion then centered around the establishment of a special fund for water use fee revenues.

It was moved by Commissioner Just that the proposals now before the Commission concerning water fees be withdrawn; the issue concerning water fees be tabled until after the forthcoming session of the Legislative Assembly; and the Commission legal staff be directed to prepare draft legislation for consideration at the next Commission meeting which would establish a special fund for any water use fee revenues. The motion was seconded by Commissioner Gray.

In discussion of the motion, several amendments were suggested and approved by the Commission members. It was agreed that the Commission would recess for lunch before taking final action on the motion.

The Commission recessed the meeting at 12:00 noon and reconvened the session at 2:00 p.m.

Because of the many amendments that were incorporated into the original motion, Commissioner Just withdrew his original motion; Commissioner Gray withdrew his second to the motion.

Commissioner Just offered the following substitute motion: It was moved by Commissioner Just that the issue concerning water fees be postponed; and the Commission

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legal staff be directed to prepare draft legislation for consideration at the next Commission meeting which would provide for the establishment of a special fund for water use fee revenues; and an appropriation of monies to the Water Commission be requested for planning, research and development of certain water resource projects in North Dakota. The substitute motion received a second from Commissioner Gray.

In discussion of the substitute motion, it was suggested by Commissioner Wilhelm that instead of the phrase "water use fees", it be amended to read "fees from the sale of water". She noted that "fees from the sale of water" quotes the law. It was agreed by the Commission members that the language in discussion be amended to "from water marketing revenues".

There was lengthy discussion on the substitute motion, and a number of amendments were made and approved by the Commission members. The substitute motion, as amended, shall now read as follows:

It was moved by Commissioner Just that the decision concerning water marketing fees be postponed; and the State Water Commission legal staff be directed to prepare draft legislative proposals for consideration at the next Commission meeting which would provide for the establishment of a special fund from water marketing revenues; and the subsequent appropriation of monies to the Water Commission for planning, research and development of special water resource projects in North Dakota. The substitute motion was seconded by Commissioner Gray.

Commissioner Wilhelm expressed concern of the fact that should these proposals be defeated in the Legislature, how would this be construed by the public and the Legislature?

On the call of the question by the Chairman, Commissioners Kramer, Gray, Lanz and Just voted aye; Commissioner Wilhelm voted nay. The Chairman declared the motion as passed.

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STATUS REPORT ON
RUSSELL DIVERSION CASE
(SWC Project No. 1685)

Bottineau County Water Management District to enforce the state drainage law. The Judge ruled in the State Water Commission's favor on all issues stating that the law did require a permit for these types of situations and that the drain should be closed.

Mike Dwyer reported that a hearing had been held on October 11 on the Russell Diversion litigation, which involves a lawsuit against a number of landowners and the

However, the Judge did issue a stay of execution on his order until June, 1979. He issued the stay on the basis of the defendants' indication that they would do whatever is required to satisfy statutory requirements.

Mr. Jon Malcolm, Refuge Manager of the J. Clark Saylor National Wildlife Refuge, appeared before the Commission expressing concern that the J. Clark Saylor National Wildlife Refuge will receive the impacts from the additional water that will be coming into the Deep River and the Souris River and then into the Refuge as a result of the Russell Diversion project. He noted that much of the area that is drained by the Russell Diversion ditch was a non-contributing area prior to the ditching work.

A study was conducted by the Refuge consisting of measuring discharge and taking water quality samples from a number of locations of wetland drainage ditches, tributaries to the Souris River and to the Refuge, and at a number of points throughout the Refuge on the main river itself. As a part of this project, flows from the Russell Diversion project were measured daily. A total of 160 acre-feet of water was recorded as being discharged from the Russell Diversion ditch this spring.

He also expressed concern of the water quality. The loads of silt, the turbidity levels, and the nutrient levels that were measured from the Russell Diversion ditch were among the highest of some 182 samples that were taken in the vicinity.

Mr. Malcolm made reference to the amount of illegal wetland drainage that has occurred throughout the Souris River Basin. His concern is that the J. Clark Saylor National Wildlife Refuge is situated on the lower 73 river miles of the Souris River on its' loop through North Dakota, and is adversely affected by all of the illegal drainage.

Mr. Malcolm distributed a map which depicted a total of approximately 560 quarter sections of land which he stated had been drained in the fall of 1976 in all of the counties within the Souris River Basin.

Mr. Sprynczynatyk commented that members of the Commission staff have investigated 48 percent of the 560 quarter sections. Of those investigated, it was found that approximately 43 percent were drained

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prior to 1967. Also, many of those drained were less than 40 acres, thus not requiring a permit at the time of drainage. The law in effect at that time required a permit to drain 40 acres. Mr. Dwyer pointed out that presently the law requires a permit to drain 80 acres.

Mr. Malcolm referred to a letter from the Fish and Wildlife Service, dated April 15, 1977, to the Water Commission requesting that the State Engineer declare all wetlands in the Souris River Basin as being of statewide significance and that the State Engineer declare a moratorium on the issuance of any drainage permits in the Souris River Basin until a study could be made to determine the overall impacts of wetland drainage on the volume of water flows in the river and on water quality. This letter from the Fish and Wildlife Service is attached hereto as APPENDIX "D".

Mr. Malcolm made a formal re-request to the State Water Commission that a moratorium be declared on the issuance of any further drainage permits in the Souris River Basin.

DISCUSSION ON GENERAL
DRAINAGE POLICY
(SWC Project No. 1053)

Mike Dwyer discussed the memo attached hereto as APPENDIX "E", which explains the general drainage policy in the State of North Dakota. It also uses the Red

River Watershed as a prime example.

Secretary Fahy indicated that a thorough investigation of the cumulative impacts of drainage will take a considerable amount of time and that the State Water Commission should consider imposing some form of limitation on further drainage in the Red River Watershed until such time as informed decisions can be made on drainage applications.

He stated that he has directed his legal staff to prepare draft resolutions concerning drainage prior to the next meeting for the Commission's consideration. Hopefully, the dike criteria can be adopted by both North Dakota and Minnesota and along with the creation of the joint board, and a positive program to get a handle on the effects of drainage, North Dakota will be able to make definite progress toward resolving flooding problems in the Red River Watershed.

It was the consensus of the Commission members that the legal staff proceed in preparing the draft resolutions incorporating the suggestions of the State Engineer.

STATUS REPORT ON SOUTHWESTERN
NORTH DAKOTA WATER DELIVERY STUDY
(SWC Project No. 1674)

Dave Sprynczynatyk stated that on September 28, the Advisory Committee to the Southwestern North Dakota Water Delivery Study met to review "Southwestern North Dakota Supplemental Study, Second Preliminary Report" prepared by Houston Engineering and Kirkham, Michael and Associates, to discuss six sub-alternatives to select an alternative which will be the recommendation of the Advisory Committee in the final report, and to discuss potential

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management systems for this type of a project. The basic concept of the sub-alternatives involve the delivery of water to the entire southwest North Dakota area from three sources on the Missouri River: 1) the Missouri River near Mandan to be delivered into the southeast portion of the area; 2) water being withdrawn at the ANG pumping plant for the central portion of that area; and 3) a point near Williston for delivery into the McKenzie County area.

The Advisory Committee went through the ranking process of the six sub-alternatives and selected the sub-alternative known as Roman numeral X-2, which assumes some increase in population as a result of increased industrial development in some areas and delivery to 100 percent of the population.

In selecting this particular alternative, the Committee requested that a fourth treatment plant be added near the town of Richardton. The reason for this was some doubt among Committee members concerning the capability and capacity of the treatment plant at Dickinson to provide a consistent, dependable water supply to rural areas.

The estimated cost of this particular alternative is \$81.9 million. Total annual operating and maintenance costs amortized over a 20-year period, is estimated to be approximately \$11 million per year. The cost per thousand gallons assuming everyone in the area would sign up for delivery of water was approximately \$2.85 per thousand gallons.

Also discussed at the September meeting were alternatives related to management of the delivery system. Four options were presented to the Committee: 1) the establishment of a conservancy district in that area; 2) the establishment of a joint powers agreement; 3) a non-profit corporation; and 4) the idea of the State Water Commission handling the management with an Advisory Board from that area - with the State Water Commission doing all of the necessary studies and the actual construction of the project.

The Committee ranked these four options and favored the non-profit corporation as the particular system that it would like to see recommended in the final report. The State Water Commission option was the second most favored, followed by the conservancy district and the least favored was the joint powers agreement.

The draft of the final report will be available November 1; it appears that this schedule will be met without too much difficulty. There will then be a 10-day review period of the draft with a series of public meetings held throughout the area to distribute the information and to distribute copies of the draft report. The final report will be available approximately December 1 for distribution to the State Legislature. The public meetings will be held the first three days of the week of November 13 in Watford City, Elgin, Beach, Hettinger, Dickinson, Richardton, Bowman, Halliday and New Salem.

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Governor Link commended Dave Sprynczynatyk and staff, the Advisory Board, the Consultants and others involved for the manner in which the study has been handled.

CONTINUED DISCUSSION OF
POLICY CONCERNING FINANCIAL
PARTICIPATION WITH LOCAL
UNITS OF GOVERNMENT

Secretary Fahy distributed a memorandum which addressed the involvement of the Engineering Division in financial participation with local units of government.

A request for this information was made by Commissioner Wilhelm at the last meeting. The memo is attached as APPENDIX "F".

Commissioner Wilhelm requested a breakdown of expenditures by county and project for the last three bienniums.

CONSIDERATION OF WATER
PERMIT REQUESTS
(SWC Project No. 1400)

Secretary Fahy presented APPENDIX "G" for the Commission's consideration, which represents water permit actions.

Secretary Fahy indicated that each application has been reviewed and appropriate conditions attached.

Dave Ripley briefly explained that the majority of the requests on the agenda are from the backlog of the past two years. The priority date and consideration of other development in the area are the two basic factors taken into consideration when reviewing the backlog.

It was moved by Commissioner Gray and seconded by Commissioner Kramer that the actions of the State Engineer pertaining to the water permit requests be confirmed. Commissioners Gray, Kramer, Just and Wilhelm voted aye; Commissioner Lanz voted nay. The Chairman declared the motion as passed. (SEE APPENDIX "G")

The following requests were approved:
No. 3121 - Fradet's Subdivision Water Company, Inc., Horace; No. 2909 - Ray Pasternak, Grenora; No. 3031 - Mrs. LaVerne Ptacek, Cogswell; No. 3054 - Paul White, Bowman; No. 1954 - Traill County Rural Water Users, Inc., Portland (this was a request for a change in the points of diversion); No. 2763 - Wallace Froemke, Sheldon; No. 2620 - Arley Hammer, Englevale (this grants an additional portion of the request which has been held in abeyance); No. 2772 - Lester, Leonell and Ronald Friese and Connie Mann, Leonard (this grants an additional

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portion of the request which has been held in abeyance); No. 2460 - Lester J. Trnka, Oakes (this grants an additional portion of the request which has been held in abeyance); No. 2622 - Lyons Brothers, Lisbon; No. 3017 - Wayne R. Anderson, Straubville (this grants an additional portion of the request which has been held in abeyance); No. 2958 - Vern Williams, Milnor; No. 2728 - Eldon L. Huether, Lisbon; No. 2862 - Lawrence Cross, Milnor; No. 2790 - Robert Moellenkamp, Lisbon; No. 2827 - Lowell Duval, Lisbon; No. 2779 - Severt Odegard, Milnor; No. 2619 - Floyd Storhaug, Milnor; No. 2608 - Earl Heath, Milnor; No. 2577 - Mooreton Ventures, Mooreton; No. 3002 - Thomas W. Mund, DeLamere; No. 2667 - Donald Olstad, Galesburg (this grants an additional portion of the request which has been held in abeyance); No. 2413 - Andy Anderson, Lisbon (this grants an additional portion of the request which has been held in abeyance); and David P. Nelson, Lisbon (this grants an additional portion of the request which has been held in abeyance).

The following requests were deferred at this time: No. 3120 - B. Anthony Petterson, Binford; No. 3125 - Irwin G. Heinle, Tioga; No. 3126 - Franklin Weyrauch, Tioga; No. 3127 - Clem J. Dietrich, Menoken; and No. 2941 - Ervin E. Martin, Fairview, Montana.

The following requests were denied: No. 2624 - Traill County Rural Water Users, Inc., Portland; and No. 2506 - Robert E. Berg, Lisbon (a portion of the request that has been held in abeyance is being denied).

**CONSIDERATION OF
FINANCIAL STATEMENT**

Secretary Fahy presented the financial statement for the Commission's consideration noting that the percentages are well within the limits of the budget.

**DECEMBER STATE WATER
COMMISSION MEETING**

North Dakota Water Users Association's Annual Convention, be changed to December 4.

It was suggested that the Commission's December meeting, which is scheduled for December 5 in conjunction with the

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Secretary Fahy indicated that he would consult with the Governor's schedule and then a decision would be made. (The Governor's schedule will not permit a change.)


There being no further business to come before the Commission at this time -

It was moved by Commissioner Gray, seconded by Commissioner Wilhelm, and carried, that the meeting adjourn.



Arthur A. Link
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

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NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting

DATE October 20, 1978 PLACE Minot, N. Dakota

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Bob Roos	Minot	Minot Daily News
Hetcher H. Poling	Bismarck	Basin Electric Power Cooperative
LOREN STADIG	Bismarck	UNITED POWER ASS'N.
John Clement	Bismarck	ANG
CHUCK RUPE	BISMARCK	NIGPL
Russ DUSHINSKI	DEVILS LAKE	N. D. WATER USERS
LAURENCE McMERTY	MINOT	N. D. WATER USERS
GARY WILLIAMSON	MINOT	CENTRAL POWER
Brad Pladson	Carrington	Irrigation Systems, Inc.
Jon Malcolm	Upham, N.D.	U.S. Fish and Wildlife Service
Donald Humphreys	Minot, ND	
Rich Strayhorn	Devils Lake, ND	
Scott Schlieke	Bismarck, N.D.	U.S. Fish & Wildlife Service

STATE OF NORTH DAKOTA

EXECUTIVE OFFICE
BISMARCKARTHUR A. LINK
Governor

October 9, 1978

Colonel James W. Ray, District Engineer
Department of the Army
Omaha District, Corps of Engineers
6014 U.S. Post Office & Court House
Omaha, Nebraska 68102

Dear Colonel Ray:

This concerns the proposal to designate all areas that would be inundated or surrounded by the maximum pool level of Oahe Reservoir and Lake Sakakawea (including all lands and waters of Audubon National Wildlife Refuge) as critical habitat for the whooping crane (43 FR 36588 et seq).

The draft environmental assessment prepared in conjunction with the proposed designation indicates that the operation of main stem reservoirs by the Corps of Engineers would be affected if the proposed rules are adopted. Extracts from the draft EIA follow:

- a. "At this point, there is no way of knowing all future Federal actions which will be affected by complying with this measure; each agencies' action will have to be evaluated, as appropriate, on its own merits."
- b. "Federally funded or authorized water projects proposed for the Niobrara and Missouri River systems have the potential of further reducing the annual spring floods and the annual total flow down the reivers [sic]; the spring flood scours the vegetation, exposes large flats, and deposits large quantities of sidiments [sic] (sands and gravels). The Garrison Diversion Project might dramatically alter wetlands along the route of the Diversion Canal (e.g., Audubon National Wildlife Refuge and Adjacent wetlands may become larger, but too deep for crane use). Operation of Garrison or Oahe Dams should not be affected, if present and past operation methods are generally continued."
- c. While this measure [the proposed designation] would enhance the long-term productivity of these areas by requiring Federal agencies to insure against the adverse modification or destruction of Critical Habitat, certain short-term uses of the areas may

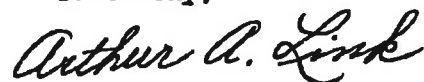
Colonel James W. Ray
October 9, 1978
Page 2

have to be abandoned or modified. An example might possibly include: modification, denial, or restriction on any Federal Niobrara or Missouri River water project because of possible modification or elimination of whooping crane Critical Habitat in that area. As indicated previously, the past and present operation of Garrison and Oahe Dams has been to the general benefit of the whooping cranes."

These statements concern me. They clearly indicate that the operation of the Missouri River system may be modified, if deemed necessary for the whooping crane, without regard for needs of states such as North Dakota. This, of course, is completely contrary to the Pick-Sloan concept.

The proposed regulations provide that I may comment until November 15, 1978. So that I may better respond to the proposal, would you please advise concerning the probable impacts of a critical habitat designation, as proposed in the Federal Register on August 17, on your management of the Missouri River?

Sincerely,



ARTHUR A. LINK
Governor

AAL:pjw

STATE OF NORTH DAKOTA

EXECUTIVE OFFICE

BISMARCK

ARTHUR A. LINK
Governor

October 9, 1978

Darrell Krull, Projects Manager
Missouri-Souris Projects
Bureau of Reclamation
P. O. Box 1017
Bismarck, North Dakota 58501

Dear Mr. Krull:

This concerns the proposal to designate all areas that would be inundated or surrounded by the maximum pool level of Oahe Reservoir and Lake Sakakawea (including all lands and waters of Audubon National Wildlife Refuge) as critical habitat for the whooping crane (43 FR 36588 et seq).

The draft environmental assessment prepared in conjunction with the proposed designation indicates that Missouri River Water Projects would be affected if the proposed rules are adopted. Extracts from the draft EIA follow:

- a. "At this point, there is no way of knowing all future Federal actions which will be affected by complying with this measure; each agencies' action will have to be evaluated, as appropriate, on its own merits."
- b. "Federally funded or authorized water projects proposed for the Niobrara and Missouri River systems have the potential of further reducing the annual spring floods and the annual total flow down the reivers [sic]; the spring flood scours the vegetation, exposes large flats, and deposits large quantities of sidiments [sic] (sands and gravels). The Garrison Diversion Project might dramatically alter wetlands along the route of the Diversion Canal (e.g., Audubon National Wildlife Refuge and Adjacent wetlands may become larger, but too deep for crane use). Operation of Garrison or Oahe Dams should not be affected, if present and past operation methods are generally continued."
- c. While this measure [the proposed designation] would enhance the long-term productivity of these areas by requiring Federal agencies to insure against the adverse modification or destruction of Critical Habitat, certain short-term uses of the areas may

Darrell Krull
October 9, 1978
Page 2

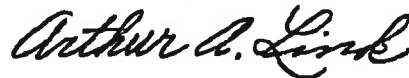
have to be abandoned or modified. An example might possibly include: modification, denial, or restriction on any Federal Niobrara or Missouri River water project because of possible modification or elimination of whooping crane Critical Habitat in that area. As indicated previously, the past and present operation of Garrison and Oahe Dams has been to the general benefit of the whooping cranes."

These statements concern me. They clearly indicate that the operation of the Missouri River system may be modified, if deemed necessary for the whooping crane, without regard for needs of states such as North Dakota. This, of course, is completely contrary to the Pick-Sloan concept.

The proposed regulations provide that I may comment until November 15, 1978. So that I may better respond to the proposal, would you please advise concerning the probable impacts of a critical habitat designation, as proposed in the Federal Register on August 17, on the Garrison Diversion Unit.

Further would you please advise concerning the status of Section 7 consultations with the Fish and Wildlife Service on the Garrison Diversion Unit. Due to the vital role these consultations will have in the future of the project, it is requested that the State be allowed to participate in future consultations.

Sincerely,



ARTHUR A. LINK
Governor

AAL:pjw

STATE OF NORTH DAKOTA

EXECUTIVE OFFICE

BISMARCK

ARTHUR A. LINK
Governor

October 17, 1978

The Honorable Cecil Andrus
Secretary of Interior
Interior Building
C Street between 18th & 19th Sts. N.W.
Washington, D.C. 20240

Cecil
Dear Secretary Andrus:

This letter concerns the proposal contained in the August 17, 1978, Federal Register (43 FR 36588-90) to designate major sections of North Dakota as critical habitat for the whooping crane.

The proposed regulations concern me. Indeed, after the recent Missouri Basin Power Project case, I am alarmed by the proposed regulations. Therefore the following requests are made.

Section 7 of the Endangered Species Act requires that you consult with the states prior to the designation of critical habitat. There has been no consultation with the State of North Dakota concerning the proposed designation, although an opportunity to comment has been offered. However, an opportunity to "comment" is not the equivalent of "consulting". Accordingly, it is requested that formal consultations be initiated with at least the following state and federal agencies represented: Fish and Wildlife Service, Bureau of Reclamation, Corps of Engineers, Garrison Diversion Conservancy District, and the Governor of North Dakota (I would designate representatives from agencies under my supervision to attend the consultations). Further, detailed consultations would require that the comment period be indefinitely extended.

My review of the proposed regulations included a review of the accompanying draft environmental impact assessment. It is unfortunate that the assessment contains no useful information concerning such a controversial federal proposal. Upon inquiring about the availability of an environmental impact statement, I was advised that a determination will be made at the time of final rulemaking as to whether the proposed designation is a major federal action requiring the preparation of an environmental impact statement. Preparation of an environmental impact statement at that time would frustrate the purpose of the National Environmental Policy Act: an environmental impact statement should be prepared and circulated prior to a final determination so that the comments of the

Cecil Andrus
October 17, 1978
Page 2

states and public can be reviewed and considered. Therefore, it is requested that an environmental impact statement be prepared in conjunction with the consultation process so that any final decisions concerning critical habitat for the whooping crane may be made on a sound informational foundation.

Your personal consideration of these requests would be appreciated.

Sincerely,


ARTHUR A. LINK
Governor

AAL:pjw

*Personal greetings and best wishes -
A.A.L.*



United States Department of the Interior

BUREAU OF RECLAMATION
MISSOURI-SOURIS PROJECTS OFFICE
P. O. BOX 1017
BISMARCK, NORTH DAKOTA 58501

IN REPLY REFER TO: 100

OCT 16 1978

Honorable Arthur A. Link
Governor of North Dakota
State Capitol Building
Bismarck, ND 58505

Dear Governor Link:

This is in response to your letter of October 9, 1978 concerning the proposed designation of critical habitat areas for the whooping crane in North Dakota and the probable impact of the proposed designation on the Garrison Diversion Unit.

The critical habitat proposal as published in the August 17, 1978 Federal Register would include Lake Sakakawea and Lake Audubon in the Garrison Diversion Unit area. The Snake Creek Pumping Plant, the principal diversion facility for the Garrison Diversion Unit, is situated in Lake Sakakawea and could be impacted should the critical habitat designation be implemented and operating levels of Lake Sakakawea be regulated in a different manner than at present. A lowering of the lake below normal operating levels would increase the cost of pumping at the Snake Creek Plant.

The most severe impact of the proposal on the Garrison Diversion Unit could occur at Lake Audubon depending on the operational plan approved for the lake. Under the authorized Garrison Diversion plan the Snake Creek Pumping Plant will be utilized to maintain the elevation of Lake Audubon at 1850 feet above sea level. From Lake Audubon the Garrison water will flow by gravity through the headworks of the McClusky Canal and thence down the canal to Lonetree Reservoir. The McClusky Canal, now essentially completed, is designed and constructed in such a manner that the 1850 elevation at Lake Audubon is necessary in order to divert the design capacity of 1950 cubic feet per second into the canal. In the Sierra Club's petition to the Fish and Wildlife Service for a critical habitat designation for Lake Audubon they suggested that Lake Audubon's elevation be held at 1840.4 feet, or 9.6 below the authorized elevation. At the 1840.4 elevation it would be possible to divert only 340 cubic feet per second into the McClusky Canal (17.4 percent of the design flow) and this flow would be adequate to irrigate only 20,000 acres.

It is apparent, therefore, that any reduction of the operating level of Lake Audubon below the authorized 1850 foot elevation would inflict serious limitations on the ability to divert water into the McClusky Canal in sufficient quantities to meet project needs.

The authorized plan for the Garrison Diversion Unit includes freshening and filling Lakes Brekken and Holmes near the city of Turtle Lake to provide a fresh water fishery and public recreation area at those lakes. Should these lakes or the adjacent Lake Williams be designated as critical habitat for the whooping crane, it may be difficult or impossible to freshen the lakes as planned. If the lakes cannot be filled and freshened there would be no fishery developed nor would recreation facilities be constructed.

Pursuant to Section 7 of the Endangered Species Act, the Bureau of Reclamation entered into consultation with the Fish and Wildlife Service on July 11, 1977 relative to the effects of the Garrison Diversion Unit on the whooping crane. A portion of the consultation process was completed late this summer when the Fish and Wildlife Service approved the construction and operation of a fish screen test structure at Lake Brekken near the city of Turtle Lake.

At the request of the Fish and Wildlife Service pursuant to the consultation process, the Bureau of Reclamation agreed to conduct a whooping crane survey during the spring and fall migration periods in the Garrison Diversion Unit area. The surveys were initiated this fall and will continue for three years. Areas of principal concern are Lake Audubon, the Lake Brekken-Lake Williams chain, and Lonetree Reservoir area. Other areas within the project may be surveyed also if deemed appropriate.

Currently we have six biologists or biological technicians in the field conducting surveillance of the study areas using ground observation blinds at Lakes Audubon and Williams and aerial surveys over the entire area. The surveys were initiated on September 3rd and to date there have been no sightings of whooping cranes within the study area.

The Fish and Wildlife Service has entered into a two year contract with a Dr. Stanley A. Temple from the University of Wisconsin to monitor the entire migration route of the whooping crane from Canada to Texas with the objective of attempting to determine what types of habitat are preferred by the cranes during their migration flights. The Bureau of Reclamation has entered into a supplemental contract with Dr. Temple to

perform specific studies on areas within the Garrison Diversion Unit:

1. To make observations of any Whooping Cranes that migrate through the Garrison Diversion Unit (GDU) project area during fall 1978 and spring 1979, noting especially their habitat preferences and feeding behavior.
2. To identify and delineate those specific areas of habitat within the GDU project area which are presently suitable to serve as migration stop-over locations for Whooping Cranes.
3. To provide detailed guidelines and assistance to the U.S. Fish and Wildlife Service and Bureau of Reclamation in identifying those areas of habitat which, after completion of the GDU project, will be suitable to serve as migration stop-over locations for Whooping Cranes, and in cooperation with these agencies attempt to delineate those localities within the GDU project area.
4. To provide general habitat-management guidelines for improving the suitability, for use by migrating Whooping Cranes, of those areas that will remain after or will be created by the completion of the GDU project.
5. To provide an overall assessment of the impact that the GDU will likely have on Whooping Cranes.

Dr. Temple's report to the Bureau will be completed on December 31, 1979.

We would be pleased to have the State participate in these consultations. A meeting between Bureau of Reclamation, Fish and Wildlife Service and Dr. Stanley Temple is scheduled to be held on Friday, October 20, 1978 in this office to discuss Dr. Temple's contract. Your participation in this meeting and any ensuing meetings on this topic is invited. Please contact Dick McCabe of my Environmental Staff for meeting information.

I sincerely appreciate your interest in this matter and should there be additional information that you desire, I would be pleased to provide whatever is available to me.

Sincerely yours,

R E Dorothy
Robert E. Dorothy
Acting Project Manager



DEPARTMENT OF THE ARMY
OMAHA DISTRICT, CORPS OF ENGINEERS
6014 U.S. POST OFFICE AND COURTHOUSE
OMAHA, NEBRASKA 68102

MROPD

13 OCT 1978

Honorable Arthur A. Link
Governor of North Dakota
Bismarck, North Dakota 58505

Dear Governor Link:

This is in response to your letter of 9 October 1978 concerning the proposal to designate areas around Lake Oahe and Lake Sakakawea as critical habitat for the whooping crane. I fully agree with the national policy of protecting endangered and threatened species and with the designation of critical habitat areas. The proposal to designate all areas that would be inundated or surrounded by the maximum pool levels of Lake Sakakawea and Lake Oahe is, however, unacceptable.

Section 7 of the Endangered Species Act of 1973 states that all Federal departments and agencies would be required to ensure that actions authorized, funded, or carried out by them would not result in the destruction or modification of the critical habitat of the endangered species. If the designation is finalized, Section 7 of the Act would require the Corps of Engineers to consult with the Secretary of the Interior on any action which may affect any of the critical habitat. The Endangered Species Act would circumvent the authorized project purposes for both Lake Sakakawea and Lake Oahe.

The designation could affect the following project proposals and operation and maintenance activities:

- a. Additional potential hydropower development proposals at Garrison and Oahe
- b. Potential pumped storage facilities at Garrison
- c. The existing agricultural leasing program

13 OCT 1978

Honorable Arthur A. Link

- d. Consumptive uses of water for irrigation, municipal, and industrial purposes
- e. Recreational developments
- f. The Garrison Diversion proposal

The Lake Sakakawea and Lake Oahe projects were intended to have fluctuating pool elevations and releases. During the April and May migration period, the pool levels at Lake Sakakawea and Lake Oahe can be expected to be rising. At this time, the annual refill of Lake Audubon takes place. The lake levels of the two main stem projects during the fall migration period are gradually lowered. Releases from both projects can be expected to fluctuate during both migration periods. With these annual cycles in pool elevations and the fluctuating releases from the dams, the reservoir areas at the two projects below the maximum pool operating level will not provide the most desirable habitat for the whooping crane. This would result in requests from the Fish and Wildlife Service for the modification of regulation plans for the main stem projects during the migration periods of the whooping cranes. In most cases, these special regulation plans could not be provided without jeopardizing the authorized project purposes.

Scientific data on the habits and habitat required by the whooping crane have not been presented to me or to the general public. This data should be made available before a judgment can be made concerning which areas should be designated as critical habitat. Based on our evaluations, it appears the following areas could possibly be designated as critical habitat areas:

- a. Lake Pocasse National Wildlife Refuge
- b. Pollock Bay between the mouth and Pocasse subimpoundment provided it does not interfere with recreational use of the area. (This would provide habitat on the north side of the bay but not on the south side.)
- c. Gravel pit area about 8 miles upstream from Oahe dam on the east side of the lake.

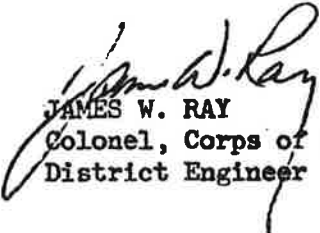
MROPD

13 OCT 1978

Honorable Arthur A. Link

Since the area being considered is extensive and the proposals to designate these areas for critical habitat could have a significant effect on the quality of human environment, I believe that an environmental impact statement should be prepared and circulated for review and comment prior to the designation of specific areas.

Sincerely yours,


JAMES W. RAY
Colonel, Corps of Engineers
District Engineer

Forty-sixth
Legislative Assembly
of North Dakota

Introduced by

APPENDIX "B"

WATER COMMISSION REVENUE BONDING AUTHORITY

1 A BILL for an Act to amend and reenact sections 61-02-46 and
2 61-02-50 of the North Dakota Century Code, relating to the
3 amount and negotiability of revenue bonds issued by the water
4 commission.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
6 STATE OF NORTH DAKOTA:

7 SECTION 1. AMENDMENT.) Section 61-02-46 of the 1977
8 Supplement to the North Dakota Century Code is hereby amended
9 and reenacted to read as follows:
10 61-02-46. COMMISSION MAY ISSUE BONDS FOR ACQUIRING LANDS
11 FOR IRRIGATION - LIMITATION - PRINCIPAL AND INTEREST - HOW
12 PAID.) The commission, in order to participate with state
13 agencies, political subdivisions or the federal government, may
14 provide by resolution, at one time or from time to time, for
15 the issuance of state water commission revenue bonds not
16 exceeding a total of three twenty million dollars, for the
17 purpose of paying the cost of any one or more of the works
18 authorized by this chapter and for the purpose of acquiring
19 lands and preparing and developing the same for irrigation.
20 The commission may, upon authorization by the legislative
21 assembly, issue revenue bonds in excess of twenty million
22 dollars for any of the purposes referred to in this section.

Forty-sixth
Legislative Assembly

1 The principal and interest of such bonds shall be payable from
2 the special fund provided for in this chapter for such payment.

3 SECTION 2. ANENDMENT.) Section 61-02-50 of the North
4 Dakota Century Code is hereby amended and reenacted to read as
5 follows:

6 61-02-50. BONDS ISSUED ARE NEGOTIABLE.) All the bonds
7 issued by the commission under the provisions of this chapter
8 shall have all the qualities and incidents of negotiable
9 instruments under ~~the-Negotiable-Instruments-Law-of-this-state~~
10 chapter 41-03.



NORTH DAKOTA ASSOCIATION OF RURAL ELECTRIC COOPERATIVES

P.O. Box 727 - Mandan, N. Dak. 58554 - 701-663-8501

16 October 1978

Honorable Arthur A. Link, Governor
State of North Dakota
Capitol Building
Bismarck, North Dakota, 58505

Dear Governor Link:

The Statewide Association of Rural Electric Cooperatives concluded their Annual Membership meeting last week Friday, October 13, 1978.

Among the resolutions adopted by this Association during their business session was the following position statement on Industrial Water Use Fees:

"We agree in principle that the North Dakota Water Commission is entitled to an adequate fee to cover all expenses and costs attendant upon the granting and administering of water permits. Any fee exceeding such direct costs in effect constitutes a tax and may be an improper, unlawful delegation of powers to the State Water Commission or usurpation of legislative authority by the Commission. The additional financial burden contemplated in high industrial water use fees augments the cost-price squeeze in an energy-intensive agricultural economy."

Since the State Water Commission is presently deliberating the subject of Industrial Water Use Fees and will again be discussing the matter at their meeting scheduled in Minot on Friday of this week, the concerns of the Statewide REC Association on the proposed Water Use Fees are set forth in the above resolution for information of Commission members.

Since we will not personally be in attendance at the Water Commission meeting in Minot, if you have any questions relating to the action taken by this Association, we trust that your office will not hesitate to call.

On behalf of the NDAREC Resolutions Committee, please be assured that we deeply appreciate your visit with the Committee at their September meeting to share viewpoints and considerations prompting various Water Commission studies and proposals on this subject. The exchange of information did serve to bring both the ramifications and long-range effects of this proposal into sharper focus.

Warmest personal regards,


JAMES A. KETTERLING
NDAREC Legislative Representative

JAK:ar

OFFICERS

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Thomas M. Selberg
Baker, Cando

1st VICE PRESIDENT:
Loren Richards
Sheyenne Valley, Finley

2nd VICE PRESIDENT:
Harry Hjeltnes
Nodak, Grand Forks

SECRETARY
R. J. Lloyd
RSR, Minot

ASST. SECRETARY
James Klesalek
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MOR-GRAN-SOU
(Fisher)
Emil J. Riehl

NORTH CENTRAL
(Billings)
Sidney Olsen

OLIVER-MERCER
(Hazen)
Eldor Rasch

SHEYENNE VALLEY
(Finley)
Richard Thompson

SLOPE
(New England)
Earl Nelsen

TRI-COUNTY
(Carrington)
Lester Debbert

UPA
(ER River, Minn.)
Jacob A. Nordberg

UPPER MISSOURI
(Sidney, Mont.)
Gerard J. Jacobs

WILLIAMS
(Williston)
Morris Stromme



Arthur A. Link
Governor

October 19, 1978

Mr. James A. Ketterling
Legislative Representative
North Dakota Association of
Rural Electric Cooperatives
P.O. Box 727
Mandan, North Dakota 58554

Dear Mr. Ketterling:

Thank you for bringing to my attention the resolution adopted by the Statewide Association of Rural Electric Cooperatives regarding water fee permits.

I appreciate your thoughtfulness in sending this resolution along to me.

I will bring this to the attention of the State Water Commission.

With best regards,

Sincerely yours,

ARTHUR A. LINK
Governor

AAL:ab

APR 27

APPENDIX "D"

Dist. Mgr.	<input checked="" type="checkbox"/>
Asst. Mgr.	<input type="checkbox"/>
Wetlands	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Comm. Staff	<input type="checkbox"/>
Records	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

APR 15 1977

Mr. Vern Fahy
 State Engineer and Secretary
 North Dakota State Water Commission
 900 East Boulevard
 Bismarck, North Dakota 58501

Dear Mr. Fahy:

The rash of new wetland drainage which occurred during the dry fall of 1976 has been a matter of concern for both your office and ours in recent months. While the accelerated wetland drainage rate on private lands has reached problem proportions in several locations around the State, drainage in the Souris River Basin has perhaps been the most widespread. The Souris passes through several counties in North Dakota and also flows from here into Manitoba. Hence, we believe that any drainage in the basin has statewide, national and international implications. Wetlands in the Souris Basin should, therefore, be declared as having statewide significance.

Our special concern is that the nationally-renowned J. Clark Salyer National Wildlife Refuge is located on the lowermost 73 Souris River miles in North Dakota. This refuge, therefore, will receive all the additional cumulative runoff from any new drainage. While the exact volume of additional runoff from new drainage will vary greatly in different years, and cannot be determined accurately without detailed study, we are convinced it will be sufficient to cause adverse impacts on the Salyer Refuge.

We first expressed our concern on this matter last fall when it became evident that very few of the landowners putting in new drainage ditches had permits as required by State law. At that time, we made complaints to your office, and to the Bottineau, Ward and McHenry County Water Management Boards. We also advised the Bottineau County State's Attorney by letter of our policy not to sign any flowage easements, as required by law, for drainage into the refuge (copy enclosed). At the request of your office, we also documented every known case of drainage involving watersheds of over 40 acres. This was done in conjunction with our wetlands easement enforcement activities. The cases, involving drainage from some 560 quarter sections of land in five Souris River Basin counties, have been turned over to your office for processing.

On April 6, 1977, Fish and Wildlife Service personnel met with Messrs. Hoetzer and Sprynczynatyk of your office to discuss drainage problems in the Souris River Basin. At this meeting, it was agreed that the question of additional runoff volume cannot be resolved without more detailed study. It was also agreed, however, that drainage activity in the Souris Basin has reached problem levels. Mr. Hoetzer advised that your office intends to review and process every case as time permits.

In processing the cases, we assume your office will deny any applications for drainage which meets the current criteria of statewide significance. We make this assumption based on the fact that the Souris River does not have sufficient capacity to handle a 25-year flood (No. 1, Page 9 of Rules and Regulations). Data from USGS flood stage levels and flow curves is compared to Corps of Engineers 25-year flood curves for Bantry and Westhope as follows:

	<u>Bantry</u>	<u>Westhope</u>
USGS Flood Stage	10.00	10.00
USGS Flood Stage Channel Capacity From Gauging Station Curves	900 cfs	1,550 cfs
Peak Flow From Corps of Engineers 25-year Flood Curves	5,800 cfs	8,600 cfs
Duration Above Flood Stage From Corps of Engineers 25-year Curves	49 days	100 days

Mr. Hoetzer also advised that drainage applications will be sent to the County Boards for action after review and action by your office. He suggested that we advise County Boards in writing of our position. We are, therefore, advising the County Boards at this time of our policy, which will be essentially the same as stated in our October 22, 1976 letter to Mr. Benson.

At Mr. Hoetzer's suggestion, we are taking this opportunity to identify the types of damages which will be sustained as a result of additional runoff from new drainage, which fall in two categories.

First are the physical damages to refuge facilities as a result of flooding. The flood control values of wetlands are widely recognized and, in fact, are pointed out in Section 61-02-01 of the North Dakota Century Code pertaining to drainage. A review of runoff records indicates that approximately 85 percent of additional runoff volume attributed to wetland drainage can be expected during the month of April. We expect additional volumes in years of above normal runoff will be sufficient to add several inches to one foot, in succession from south to north, to our five major marsh units. The additional stage rise can easily cause overtopping and washing of dikes with resulting damage to water control structures, roads, trails, fences, nesting structures and other facilities. The enclosed 8 X 10 photos from recent flood years will illustrate these types of damages.

Secondly, and more important in the long run, are adverse impacts to the marsh ecosystems and productivity as a result of decreased water quality. The role of natural wetlands in maintenance of water quality is a well known fact and, likewise, is recognized in Section 61-02-01 of the State Drainage Law. Research Biologists from the Northern Prairie Research Center have advised that runoff from wetland drainage in highly intensified agricultural lands will carry tremendous loads of sand and silt, along with fertilizers, salts and other chemicals. Runoff from drained wetlands has been shown to be particularly high in phosphorous. Sand and silt deposition will disrupt the substrate of aquatic invertebrate life, an important source of waterfowl food. Higher turbidity levels which accompany the silt loads will be detrimental to the production of submerged aquatic plants. Salts, phosphorous and other chemicals will disrupt productivity of marsh organisms. In addition, sand and silt deposition will physically fill the marsh units, requiring some type of expensive cleanout process, if they are to be maintained.

Enclosed are photos illustrating that these types of problems are already with us as a result of runoff in recent flood years. Sand and silt loads in 1976 at the mouths of two local tributaries are shown in the slides. In addition, the Polaroid prints taken recently illustrate salt problems beginning to cover extensive areas of refuge pool 326 which is in drawdown status this year. Please return the slides and photos after you have reviewed them. We can have copies made for you if desired.

We also anticipate one other problem as the result of new wetland drainage in the Souris Basin. We have wetland protection easements on approximately 115,000 wetland acres scattered throughout the Souris Basin counties. Without a doubt, some of these easement landowners will be damaged by upstream private drainage. Our easement contracts, of course, will not allow them to drain as a solution to these problems. The magnitude of this, as well as disputes between individual private landowners will not be evident until the first year of good runoff. However, it is a certainty that some of these problems will arise.

We trust this letter adequately explains our concerns and supports our position regarding drainage in the Souris River Basin. We are ready to cooperate with your office in any way possible to make more detailed studies of the problems discussed and seek acceptable solutions. In the meantime, we trust that something can be learned from the myriad of problems caused by past indiscriminate drainage in other areas such as the Devils Lake Basin.

We are, therefore, hopeful that you will consider designating wetlands in the Souris Basin of statewide significance and deny any further drainage applications until comprehensive studies are completed and adequate solutions are found.

We appreciate the comments attributed to you in the Ifnot Daily News concerning the Northwest Regional Water Management Districts Association Meeting. Retarding the peak flows is certainly a step in the right direction.

Sincerely yours,

EYLE J. SCHROEDER

fa Wm. Aultfather
Area Manager

Enclosures

JMMalcolm:jt:4-15-77



NORTH DAKOTA

STATE WATER COMMISSION

APPENDIX "E"

300 east boulevard
701-224-2750

Bismarck 58505
north dakota

MEMO TO: State Water Commission
FROM: Vern Fahy, State Engineer
SUBJECT: Drainage SWC#1053
DATE: October 4, 1978

This is to inform you that I have placed the topic of drainage on the agenda of our next meeting set for October 20, 1978, in Minot. This is a matter that is of great concern to many, especially those who live in the eastern part of North Dakota.

As you know, Section 61-01-22 of the North Dakota Century Code requires that a permit be secured before the drainage of a pond, slough, or lake, or any series thereof, which is greater than 80 acres. The statute states that the State Engineer shall refer drainage permit applications to the appropriate Water Management District for consideration and approval, unless the application proposes drainage of statewide or interdistrict significance. In that event, the State Engineer may require that the application be returned to him for final approval.

Rule 89-02-01-09 of our drainage rules provides guidelines for determining when drainage is of inter-district or statewide significance. That rule provides, in part:

89-02-01-09. CRITERIA FOR APPLICATIONS OF STATEWIDE OR INTERDISTRICT SIGNIFICANCE. In determining whether the proposed drainage is of statewide or interdistrict significance, the state engineer shall be guided by the following criteria:

1. Drainage which would affect property owned by the state or its political subdivisions is of statewide or interdistrict significance.
2. Drainage which would cause drainage of sloughs, ponds, or lakes having recognized fish and wildlife values is of statewide or interdistrict significance.
3. Drainage which would reduce the storage capacity of a slough, pond, or lake to be drained by twenty-five acre-feet (30.83 cubic dekameters) or more is of statewide or interdistrict significance.
4. Drainage which would drain or partially drain a meandered lake is of statewide or interdistrict significance.

GOVERNOR ARTHUR A. LINK
Chairman

ALVIN A. KRAMER
Minot

ARTHUR J. LANE
Dev. District

MYRON JUST, EX-OFFICIO MEMBER
Comm. of Agriculture

RICHARD P. GALLAGHER
Vice Chairman - Mandan

GORDON K. GRAY
Valley City

ARLENE W. BELV
Dev. District

VERNON FAHY
Secretary & State Engineer

5. Drainage which would have a substantial effect on another water management district is of statewide or interdistrict significance.
6. Drainage which would place previously noncontributing areas (based on twenty-five year event - four percent chance) into permanently contributing areas, is of statewide or interdistrict significance.

At the present time, we are receiving an average of five applications to drain per day. In addition to the applications which are approved, there is an undetermined amount of illegal drainage being constructed. Commission counsel Michael Dwyer has reported to the Commission on various occasions actions which have been brought by the State Water Commission and the State Engineer to enforce illegal drainage. The Russell Diversion litigation is a good example of extensive illegal drainage. A watershed of approximately 20 square miles, a large majority of which is non-contributing, has been completely drained without any requests for authorization. Extensive illegal drainage of this nature completely prohibits the proper operation of our state drainage law, which is to determine downstream effects before drainage is constructed.

Of course, the extensive illegal drainage is only a part of the problem. Presently, we are in the process of establishing a Joint Board of Water Management Districts in the Red River Valley. One of their primary concerns will be to determine methods to alleviate re-occurring flooding. The question thus arises, what effect does upstream drainage have, whether it be authorized or unauthorized, on downstream flooding. An individual drainage application in the Maple River basin may not have any effect on the capacity of the Maple River, the Sheyenne River, and finally the Red River. However, 250 applications in the Maple River basin may have a very substantial effect on those rivers which must receive the drained water. To be perfectly frank, we do not know what the effects will be.

Section 61-01-22 also provides that, "A permit shall not be granted until an investigation shall disclose that the quantity of water which will be drained from the pond, slough, or lake, or any series thereof, will not flood or adversely affect lands of lower proprietors."

While the cumulative impacts of a number of drainage proposals are not definitely known, there is good reason to believe that the impacts are substantial. For that reason, the following steps are proposed for your review and approval.

1. First, the State Engineer shall attempt to investigate and determine the cumulative downstream impacts of drainage. (All applications are presently investigated to determine immediate downstream impacts.) For example, what impact will 250 drainage applications in Cass and Barnes County have on the capacity of the

October 4, 1978

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Maple River, the Sheyenne River, and finally on the Red River. In considering the impacts on the Red, what will be the impact near Fargo at the confluence of the Sheyenne and Red Rivers, and what will be the impacts on Walsh and Pembina counties.

2. During the time the State Engineer is conducting this thorough investigation, drainage applications that are received from areas within the Red River watershed which have a potential substantial impact downstream shall be declared (with certain exceptions) to be of interdistrict or statewide significance. Of course, those situations where Rule 89-02-01-09 clearly would not apply would not be declared of statewide or interdistrict significance. The reasons are three-fold. First, our regulations urge this type of action. Second, this will involve local water management districts in the decision-making process, since the drainage regulations require the local board to conduct a hearing on applications of statewide or interdistrict significance. It is essential for the local water managers to be totally involved in seeking answers to this complex subject, especially in light of our recent and successful efforts to create the Red River Joint Board. Third, these applications, along with the information obtained via hearings and otherwise, must be referred back to the State Engineer for final approval. This will then provide an opportunity to utilize the results of the investigation of impacts as well as the information garnered at hearings held during the time the investigation is being conducted. The final result will be informed decisions on drainage applications.

3. It is anticipated that a thorough investigation of the cumulative impacts of drainage will take a considerable amount of time. Therefore, perhaps the State Water Commission should consider imposing some form of limitations on future drainage in the Red River watershed until such time as informed decisions can be made on drainage applications.

I have directed Commission counsel Michael Dwyer to prepare draft resolutions for your review. These will be provided to you before our next meeting. I am enclosing, for your information, a copy of my letter to Mr. Joe Alexander, Commissioner of the Department of Natural Resources in Minnesota. Hopefully, the dike criteria can be adopted by both states, and along with the creation of the joint board, and a positive program to get a handle on the effects of drainage, North Dakota will be able to make definite progress toward resolving flooding problems in the Red River watershed.



Vern Faby
State Engineer

VF:MD:pjw
Incl.: as

NORTH DAKOTA STATE WATER COMMISSION

OFFICE MEMO

MEMO TO: Vern Fahy, State Engineer
FROM: David A. Sprynczynatyk, Director, Engineering Division
SUBJECT: Cost Participation in Development of Water Resource Projects
SWC Project #1
DATE: October 17, 1978

At the last Water Commission meeting it was requested that the Staff prepare a listing of criteria used to evaluate water resource projects for possible cost participation. I will attempt to address the involvement of the Engineering Division in this process.

The first cost participation by the Commission in a water resource project is normally in the preliminary investigative study of the project. When a local entity develops interest in a project for one reason or another they will come to the Commission and request that we do a preliminary engineering study of the project to determine the estimated cost, benefits and other factors relating to the project. After the request is received we prepare an investigation agreement, asking for a deposit from the local entity. The amount of the deposit asked is normally equal to 50% of the estimated "field costs" that will be encountered to do the study. "Field costs" are surveyor's time, per diem and expenses, inspectors field time, etc. and necessary field soil exploration expenses. Although the intent is not to recover all field costs associated with investigation, it does force each local entity to determine local interest before any money is expended. This in turn discourages local entities from making a large number of requests for engineering assistance.

Once a preliminary engineering study is completed, the local entity must decide if they wish to go ahead with the project. If they decide to proceed, they will ask for further cost participation from the Commission, the percentage of which is dependent on the type of project. The Commission staff

will then determine in more detail the benefits of the project, the amount of eligible cost share items, and prepare a recommendation to the Commission. Since eligible cost share items are different for different types of projects, I will address each individually.

Water based recreation projects probably have the most complex cost share arrangement of any type project. Before consideration of the project is given by the staff the project area must exhibit a strong demand for this type of recreation. This must be a regional demand and is determined with the State Game and Fish Department and the State Outdoor Parks and Recreation Agency. Next the engineering feasibility of the project must be determined: can the project be built without any major problems; are soils foundations good; will natural runoff sustain a viable pool; and etc? This determination will also yield a biological determination if the Game and Fish Department is involved. Next the question of whether the benefits will offset the costs is addressed. This is usually done by the State Outdoor Parks and Recreation Agency. Environmental factors are also determined at this point. The Game and Fish Department determines whether or not the necessary land around the project can be obtained. If all answers to the above questions are positive, financial arrangements are discussed. Normally the Game and Fish Department acquires all land for the project. Fifty percent of all remaining costs for construction is usually funded by the Heritage Conservation and Recreation Service (formally Bureau of Outdoor Recreation). The remaining 50% is usually split three ways, between the State Water Commission, the State Outdoor Recreation Agency, and the local entity. If two local entities are involved, the split could be four ways. Thus normal participation by the State Water Commission ranges from 10% to 20% depending on the particular project.

Municipal water supply projects are normally split on a fifty-fifty basis

between the State Water Commission and the city if no other benefits are associated with the project. But before a recommendation is made by the staff for financial participation, the demand and need for the project is determined. The engineering feasibility is also determined as well as the environmental effects. Although the staff does not employ a professional biologist, our engineers have become somewhat educated in what to look for regarding environmental problems, and biologists from the Game and Fish Department have been consulted as the need arises. We also try to determine if there is any other alternative water supply that would be more feasible.

Flood control projects are also normally split on a fifty-fifty basis between the State Water Commission and the local entity if only one local entity is involved. We try to split the costs three or four ways if other entities can be involved. Questions answered before a recommendation for cost sharing is presented to the Commission include those such as: Is there a strong local need and desire for the project? Can the project be designed to be feasible engineering-wise? Will the benefits offset the costs? Are there any environmental problems that would be encountered by construction of the project? Will there be any additional flooding problems created by completion of this project? Is this the best alternative for flood control?

Many of these same questions are answered regarding drainage projects before a recommendation for funding is made. The determination of local interest and need is made, the engineering design and feasibility is done, the benefited area is delineated. Although we do not have access to an economist, we determine the benefit areas and try to compare them with the project costs. If a project will only benefit one or two individuals the project is not considered. The environmental effects in the immediate area are determined as well as possible downstream effects. This question is normally quite hard to answer, especially since there may be a cumulative effect with other drains in

the area, some of which no information is available. If the project is set up as a legal drain, a majority of the landowners in the assessed area must be in favor of the project before final design is completed. Once these questions are answered, consideration is given to a maximum 40% cost sharing on eligible costs. Eligible costs are defined as those which are a part of the project, and for which other agency funds are not available, such as State or county highway funds, township road funds or railroad construction funds.

It should be noted that it is not always the Commission staff that completes the preliminary investigations and final engineering design on these types of projects. But even if a request for funding comes into our office we go through the same review procedure of the project.

River snagging and clearing participation by the Commission is again somewhat different. On these projects the same questions as those for drainage are answered. If the decision is made to go ahead, the recent policy has been that an agreement is prepared that requires the State Water Commission to only provide technical assistance and supervision of workers supplied by the County Water Management Board. We will also supply equipment if it is available. The agreement is prepared in this manner to encourage local Boards to set up their own stream maintenance program utilizing their own equipment and forces.

Cost sharing for project maintenance is generally based on the original cost sharing arrangement by the project sponsors if the maintenance is considered to be major. Major maintenance is considered to be that which results from complete failure of part of the project by an extreme hydrologic event or by design failure. Normal wear and tear on a project and the resulting required maintenance is the responsibility of the local owner of the project as spelled out in the original agreement with the Commission.


David A. Sprynczyhatyk
Director, Engineering Division

DAS:dm

Dist.

VF:MS:ME:GK:DAS:MOL:MD

* INDICATES PRIOR
PERMIT STATUS

WATER PERMIT AGENDA FOR OCTOBER 20, 1978 MEETING

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3120	Petterson, B. Anthony - Binford (Griggs County) Priority: 8- 7-78 Hearing: 9-25-78	Ground Water * NO PRIOR PERMITS	Irrigation	624.0 acre-feet 312.0 acres	It is recommended that this request be deferred at this time because of lack of time to properly review.
3121	Fradet's Subdivision Water Company, Inc. - Horace (Cass County) Priority: 8- 1-78 Hearing: 9-25-78	Ground Water * NO PRIOR PERMITS	Municipal - (Rural Domestic)	24.0 acre-feet	24.0 acre-feet
3125	Heinle, Irwin G. - Tioga (Mountrail County) Priority: 7-17-78 Hearing: 10- 2-78	White Earth River and Unnamed Tributary, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	289.0 acre-feet (30.0 acre-feet storage from Unnamed Tributary; 259.0 acre-feet annual use from White Earth River)	It is recommended that this request be deferred at this time because of lack of time to properly review.
3126	Weyrauch, Franklin - Tioga (Williams County) Priority: 8-11-78 Hearing: 10- 2-78	Lake Sakakawea * #8A (Priority Date: 6-18-1901) Granted 64.0 acres	Irrigation	452.0 acre-feet 226.0 acres	It is recommended that this request be deferred at this time because of lack of time to properly review.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3127	Dietrich, Clem J. - Menoken (Burleigh County) Priority: 3- 6-78 Hearing: 10- 2-78	Dam on Non-Contributing Slough, trib. to Missouri River * #1663 (Priority Date: 9-22-69)	Irrigation	76.6 acre-feet (32.48 acre-feet storage) 38.3 acres Granted 32.48 acre-feet storage and 10.11 acre-feet annually for stockwater, fish and wildlife use	It is recommended that this request be deferred at this time because of lack of time to properly review.
2941	Martin, Ervin E. - Fairview, Mont. (McKenzie County) Priority: 9- 6-78 Hearing: 10- 2-78	Four-Mile Creek, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	160.0 acre-feet 80.0 acres	It is recommended that this request be deferred at this time because of lack of time to properly review.
2909	Pasternak, Ray - Grenora (Williams County) Priority: 6-20-77 Hearing: 10- 4-77 Deferred: 12- 7-77	Ground Water (Little Muddy Aquifer) * NO PRIOR PERMITS	Irrigation	720.0 acre-feet 480.0 acres	675.0 acre-feet 450.0 acres
3031	Ptacek, Mrs. LaVerne - Cogswell (Dickey County) Priority: 4-12-78 Hearing: 5-22-78 Deferred: 6- 1-78	Ground Water (Unnamed Aquifer) * #2000 (Priority Date: 7-31-75) #2294 (Priority Date: 7-10-75)	Irrigation	863.0 acre-feet 575.7 acres Granted 135.0 acres to Lloyd Ptacek Granted 220.0 acres to Lloyd Ptacek	Recommend for approval: 285.0 acre-feet 190.0 acres (Remainder of request shall be held in abeyance pending further analysis of the aquifer)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3054	White, Paul - Bowman (Bowman County) Priority: 3-22-77 Hearing: 6- 5-78 Deferred: 6-23-78	Unnamed Creek, trib. to North Grand River * NO PRIOR PERMITS	Irrigation - Waterspreading	100.0 acre-feet 54.0 acres	54.0 acre-feet 54.0 acres
1954	Traill County Rural Water Users, Inc. - Portland (Traill County) Priority: 8- 8-73 Hearing on Amendment: 5-15-78 Amendment Deferred: 6- 1-78	Ground Water * NO PRIOR PERMITS	Municipal - (Rural Domestic)	This is a request for a change in points of diversion.	It is recommended that the requested change in points of diversion be approved.
2624	Traill County Rural Water Users, Inc. - Portland (Traill County) Priority: 11-22-76	Ground Water	Municipal - (Rural Domestic)	644.0 acre-feet	It is recommended that this request be voided because it appears that it is a duplication of the amended request for water permit No. 1954.
2763	Froemke, Wallace - Sheldon (Ransom County) Priority: 2- 1-77 Hearing: 5-23-77 Deferred: 5-27-77	Ground Water (Sheyenne Delta Aquifer) * NO PRIOR PERMITS	Irrigation	1280.0 acre-feet 640.0 acres	670.0 acre-feet 490.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2620	Hammer, Arley - Englevale (Ransom County) Priority: 11-16-76	Ground Water (Unnamed Aquifer)	Irrigation	480.0 acre-feet 320.0 acres	<p>On March 24, 1977, the applicant was granted 135.0 acre-feet of water to irrigate 135.0 acres; remainder of request to be held in abeyance.</p> <p>The staff has reviewed the balance of the request and recommended that the applicant be granted an additional 180.0 acre-feet to irrigate an additional 245.0 acres.</p> <p>Total amounts granted would then be 315.0 acre-feet of water to irrigate 380.0 acres. This would release the remainder of the request.</p>
		* #2664 (Priority Date: 12-23-76) Granted 135.0 acres; remainder of request being held in abeyance - (Total request is 940.0 acre-feet to irrigate 629.08 acres)			
2772	Lester Friese, Leonell Friese, Ronald Friese, and Connie Mann - Leonard (Ransom County) Priority: 3-28-77	Ground Water (Unnamed Aquifer)	Irrigation	900.0 acre-feet 600.0 acres	<p>On March 16, 1978, the applicants were granted 337.5 acre-feet to irrigate 225.0 acres; remainder of request to be held in abeyance.</p> <p>The staff has reviewed a portion of the amount being held in abeyance and recommends that the applicants be granted an additional 188.5 acre-feet to irrigate an additional 277.0 acres.</p> <p>Total amounts granted to date would then be 526.0 acre-feet to irrigate 502.0 acres.</p> <p>(The remainder of the request would remain being held in abeyance.)</p>
		* #698 (Priority Date: 11-20-56) Granted 264.5 acres to Lester Friese #1241 (Priority Date: 9-22-64) Granted 504.0 acres to Lester Friese #2771 (Priority Date: 3-28-77) Granted 270.0 acres to Lester and Florence Friese			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2460	Trnka, Lester J. - Oakes (Dickey County) Priority: 6- 1-76	Ground Water (Oakes Aquifer) * #2272 (Priority Date: 5-30-75)	Irrigation	1000.0 acre-feet 552.0 acres Granted 135.0 acres	On September 28, 1976, the applicant was granted 322.0 acre-feet of water to irrigate 215.0 acres; an additional 480.0 acre-feet were held in abeyance. The staff has reviewed a portion of the amount being held in abeyance and hereby requests that an additional 120.0 acre-feet of water to irrigate an additional 80.0 acres be granted to the applicant. (The remaining 360.0 acre-feet of water shall continue to remain held in abeyance.) Total amounts granted would then be 442.0 acre-feet to irrigate 295.0 acres.
2622	Lyons Brothers - Lisbon (Ransom County) Priority: 11-18-76 Hearing: 12-20-76 Deferred: 2-11-77	Ground Water (Sheyenne Delta Aquifer) * #2209 (Priority Date: 3-7-75)	Irrigation	240.0 acre-feet 160.0 acres Granted 135.0 acres	202.5 acre-feet 135.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3017	Anderson, Wayne R. - Straubville (Sargent County)	Ground Water (Spiritwood Aquifer)	Irrigation	640.0 acre-feet 325.3 acres	<p>On May 2, 1978, the applicant was granted 210.0 acre-feet to irrigate 140.0 acres; the remainder of request was held in abeyance.</p> <p>The staff has reviewed that portion held in abeyance and recommends releasing an additional 210.0 acre-feet of water to irrigate an additional 140.0 acres. No additional water or acres requested will be held in abeyance.</p> <p>Total amounts granted would be 420.0 acre-feet of water to irrigate 280.0 acres.</p>
	Priority: 1- 3-78	* NO PRIOR PERMITS			
2506	Berg, Robert E. - Lisbon (Ransom County)	Ground Water (Sheyenne Delta Aquifer)	Irrigation	1120.0 acre-feet 560.0 acres	<p>On March 24, 1977, the applicant was granted 202.5 acre-feet of water to irrigate 135.0 acres; remainder of request held in abeyance.</p> <p>On March 16, 1978, the applicant was granted an additional 97.5 acre-feet to irrigate an additional 65.0 acres; remainder of request held in abeyance.</p> <p>The staff has reviewed the portion of request held in abeyance and recommends that the portion be denied; therefore, no additional water or acres will be held in abeyance.</p>
	Priority: 8-12-76	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2958	Williams, Vern - Milnor (Ransom County) Priority: 8-22-77 Hearing: 12- 5-77 Deferred: 12- 7-77	Ground Water (Sheyenne Delta Aquifer)	Irrigation	960.0 acre-feet 480.0 acres	202.5 acre-feet 135.0 acres * #716 (Priority Date: 4-25-57) Granted 50.0 acres #987 (Priority Date: 4-3-62) Granted 248.0 acres
2728	Huether, Eldon L. - Lisbon (Ransom County) Priority: 2-22-77 Hearing: 4- 5-77 Deferred: 4-15-77	Ground Water (Milnor Aquifer)	Irrigation	533.5 acre-feet 320.1 acres	Recommend to approve: 202.5 acre-feet 135.0 acres (Remainder of request to be held in abeyance) * #1749 (Priority Date: 11-27-70) Granted 109.0 acres #2005 (Priority Date: 11-27-73) Granted 160.0 acres #2221 (Priority Date: 2-21-75) Granted 135.0 acres
2862	Cross, Lawrence - Milnor (Ransom County) Priority: 5-16-77 Hearing: 9-26-77 Deferred: 12- 7-77	Ground Water (Milnor Aquifer)	Irrigation	1280.0 acre-feet 640.0 acres	Recommend to approve: 525.0 acre-feet 350.0 acres (Remainder of request to be held in abeyance) * #2515 (Priority Date: 8-20-76) Granted 102.0 acres
2790	Moellenkamp, Robert - Lisbon (Ransom County) Priority: 3-21-77 Hearing: 7- 5-77 Deferred: 7- 8-77	Ground Water (Milnor Aquifer)	Irrigation	320.0 acre-feet 160.0 acres	120.0 acre-feet 80.0 acres * NO PRIOR PERMITS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2827	Duval, Lowell - Lisbon (Ransom County) Priority: 4-18-77 Hearing: 7-18-77 Deferred: 8-16-77	Ground Water (Milnor Aquifer)	Irrigation	320.0 acre-feet 160.0 acres	202.5 acre-feet 135.0 acres
		* NO PRIOR PERMITS			
2779	Odegard, Severt - Milnor (Ransom County) Priority: 3-14-77 Hearing: 7-19-77 Deferred: 8-16-77	Ground Water (Milnor Aquifer)	Irrigation	640.0 acre-feet 320.0 acres	405.0 acre-feet 270.0 acres
		* NO PRIOR PERMITS			
2619	Storhaug, Floyd - Milnor (Ransom County) Priority: 11-15-76 Hearing: 1-31-77 Deferred: 2-11-77	Ground Water (Milnor Aquifer)	Irrigation	447.9 acre-feet 298.6 acres	367.5 acre-feet 245.0 acres
		* NO PRIOR PERMITS			
2608	Heath, Earl - Milnor (Ransom County) Priority: 11-12-76 Hearing: 1-18-77 Deferred: 2-11-77	Ground Water (Milnor Aquifer)	Irrigation	640.0 acre-feet 320.0 acres	405.0 acre-feet 270.0 acres
		* #330 (Priority Date: 1-18-50) Granted 20.0 acres			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2577	Mooreton Ventures - Mooreton (Ransom County)	Ground Water (Milnor Aquifer)	Irrigation	640.0 acre-feet 320.0 acres	405.0 acre-feet 270.0 acres
	Priority: 10-11-76 Hearing: 11-23-76 Deferred: 12- 7-76	* NO PRIOR PERMITS			
3002	Mund, Thomas W. - DeLamere (Sargent County)	Ground Water (Milnor Aquifer)	Irrigation	225.0 acre-feet 150.0 acres	225.0 acre-feet 150.0 acres
	Priority: 11-18-77 Hearing: 1-23-78 Deferred: 3-16-78	* #2496 (Priority Date: 7-20-76) Granted 255.0 acres to Thomas & Marvin Mund			
2667	Olstad, Donald - Galesburg (Cass County)	Ground Water (Page Aquifer)	Irrigation	1425.0 acre-feet 952.8 acres	<p data-bbox="1598 987 2018 1166">On March 24, 1977, the applicant was granted 202.5 acre-feet of water to irrigate 135.0 acres; remainder of request to be held in abeyance.</p> <p data-bbox="1598 1182 2018 1482">The staff has reviewed that portion held in abeyance and recommends that the applicant be allowed an additional 202.5 acre-feet of water to irrigate an additional 135.0 acres; the remainder of request shall continue being held in abeyance.</p> <p data-bbox="1598 1498 2018 1581">The totals granted would then be 405.0 acre-feet of water to irrigate 270.0 acres.</p>
	Priority: 1- 4-77	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2413	Anderson, Andy - Lisbon (Ransom County)	Ground Water (Sheyenne Delta Aquifer)	Irrigation	1280.0 acre-feet 640.0 acres	<p>On June 16, 1976, the applicant was granted 80.0 acre-feet of water to irrigate 80.0 acres; remainder of request to be held in abeyance.</p> <p>On September 28, 1976, the applicant was granted an additional 202.0 acre-feet to irrigate an additional 135.0 acres; remainder of request to continue being held in abeyance.</p> <p>On July 8, 1977, the applicant was granted an additional 80.0 acre-feet of water to irrigate an additional 80.0 acres; remainder of request to continue being held in abeyance.</p> <p>The staff has reviewed that portion being held in abeyance and recommends releasing an additional 402.5 acre-feet of water to irrigate an additional 215.0 acres. No further amounts shall remain being held in abeyance.</p> <p>Total amounts granted would be 764.5 acre-feet to irrigate 510.0 acres.</p>
	Priority: 3-23-76	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2566	Nelson, David P. - Lisbon (Ransom County)	Ground Water (Milnor Aquifer)	Irrigation	960.0 acre-feet 480.0 acres	<p>On April 7, 1977, the applicant was granted 210.0 acre-feet to irrigate 135.0 acres; remainder of request to be held in abeyance.</p> <p>The staff has reviewed that portion held in abeyance and recommends releasing an additional 202.5 acre-feet to irrigate an additional 135.0 acres; remainder of request shall continue to be held in abeyance.</p> <p>The total amounts granted thus far would be 412.5 acre-feet to irrigate 270.0 acres.</p>
	Priority: 12-20-76	* NO PRIOR PERMITS			