

**NORTH DAKOTA**  
**SPORTFISHING**  
**CONGRESS**

P.O. BOX 2472 • BISMARCK, ND 58502

**Minutes of the North Dakota Sportfishing Congress Executive Board Meeting**  
**10:00 a.m. – Saturday, Oct. 30, 2004**  
**VFW Club – West Fargo, ND**

Members Present: President Duaine Ash; Board members Rick Eagelson, Paul Haug, Don Baasch, Emil Berard and Ed Dosch; Vic Gibbins, Doug Kelly, Chad Maloy, Ron Sahr, Lynn Schlueter, Lester Sjoblom, Terry Steinwand, Dean Hildebrand and Secretary Marie Hoerner.

- President Duaine Ash called the meeting to order at 10: 15 a.m. Attendees signed in prior to the meeting.
- Minutes of the April 3, 2004 annual meeting were approved as distributed. Motion by Paul Haug, seconded Ron Sahr and passed.
- Treasurer Rick Eagleson distributed a financial statement from the 2004 Fund Raiser revealing income of \$12,523.00 and expenses of \$8,923.42, for a net profit of \$3,599.58. Rick mentioned that a copy was sent to all directors a few weeks following the annual fund raiser. Ron Sahr recognized Paul Haug on the great job he does on the fund raiser. Rick also distributed the 10-30-04 Treasurer's Report showing a beginning balance of \$10,211.81 on 4-3-04 and an ending balance of \$12,155.57 on 10-3-04. This report revealed total income of \$14,404.00 and total expenses of \$12,460.24. A motion to approve these two financial statements was made by Lynn Schlueter, seconded by Ed Dosch and passed.
- Lynn Schlueter reported on the ANS and Red River issues saying that the ANS issues have not gone away. They haven't got worse, but we still need to address them. He said a Task Force was developed to address a statewide ANS plan, which will go public. There will be meetings for the public, which will eventually go to the Governor for approval and then to the Fed for their approval and we will hopefully get funds from the Fed. We have gotten a lot accomplished because of the support from the fishing groups, which is important. The North Dakota state plan is our big effort right now and Lynn has spent a lot of time on the ANS issue. The time line will probably be ready to go public next month. He asked that we wait until the internal comments are finished and then the policy will be emailed to the club delegates and board members, which will hopefully be available by November 11. They look to have meetings in Bismarck, Fargo and Minot. Lynn mentioned they are operating on shoestring budget.

Lynn also reported on the Red River issues – Red River Steering had a nice meeting. He said there are simple regulations that work and are effective.

- A Friends of Lake Sakakawea meeting was held this past Wednesday. The Corps has invited them to sit in on their shoreline access meeting. The gist of the meeting was that the Corps is looking at 14-18 usage areas and not going to allow any overnight camping and zero ATV usage at this time. ATV usage or a motorized vehicle that is not licensed is not allowed in the state park land either. The Corps is not going to hold public comment meetings. The Game & Fish has until Nov. 10 to provide comment. G&F is going to recommend 36 recreation areas on Lake Sakakawea. They have seen a reduction of shore fishing of 64% and they are pushing hard for shore fishing. They didn't talk about winter access. Corps is easy to work with but their meeting was very vague. On Nov. 18, the Friends of Lake Sakakawea will meet in Hazen – topics to include shoreline access. The city of Garrison got approval for funding of \$5 million from the Corps and waiting for the environmental impact. A lot of people are not happy that the \$5 million is being spent in one spot. The Friends didn't request the funding; it was the Garrison area requesting this funding.

■ Committee reports and assignments:

Fundraising – Mike Anderson was not present, so Duaine reported for Mike saying the only date available at the Elks for the 2005 annual meeting is Saturday, April 23, and the date is confirmed. Mike checked with the Amvets, but their available dates were limited. Duaine asked for Paul Haug, Jim Nagel and Dick Finke's continued involvement in the event. Members were asked to please contact Mike with any fund raiser suggestions or questions.

Paul Haug said there were complaints from the Fargo group about the prime rib being over cooked and asked if chicken or ham could be served. It was mentioned that possibly a buffet, but the Elks doesn't have the space for a buffet. Duaine asked if we need a bigger drum for mixing the tickets? Rick mentioned there were 4,000 tickets in 2004 and there has been as many as 6,000 in past years. Duaine mentioned he heard comments that some of the ticket drawers were looking at names before the tickets were drawn. Paul said he had never heard of that complaint and by using just numbers on tickets, and not names, would slow down the drawing process.

Website – Marie Hoerner mentioned we have used the space (20MB) allotted for the NDSFC website. If we continue to have webmaster Tony Burgan host our site, it would cost an additional \$120 a year to increase the space to 50MB and \$120/year for each additional 10MB. One member felt our current webmaster was charging us too much and the cost was too high. It was mentioned that FM Walleyes is including their monthly newsletters and this has taken about half of our current space. This is good as clubs are encouraged to put information on the NDSFC site to enhance the quality. FM Walleyes representatives offered to have their club pay extra to increase the space of the NDSFC website. After discussion, a motion was made by Lynn Schlueter, second by Ron Sahr and passed to increase the NDSFC website to 50MB for an additional of cost of \$120/year to be paid by the Congress, and if more space is needed at a later date, then we will address the issue of who will pay the additional cost.

■ Old business

NDSFC Brochure – Emil Berard helped with the implementation of the new membership brochure and it was approved as distributed with a few minor changes. If clubs need copies to distribute at their meetings, they can contact Emil or Marie Hoerner. It was suggested that we possibly raise the amount of the dues (currently \$5/individual and \$50/club), but Ron Sahr said we are successful right now and we don't need the money, so why raise the dues. The membership drive seems to begin in April at our annual meeting, but it is promoted in the every newsletter. It was decided that if dues are paid after October, they would include six months (through April) and the next year; however, we will not list this on the application form.

■ New business

- The winter meeting to discuss legislative issues has been set for Saturday, Jan. 8, 2005 at 10:00 a.m. at the Game & Fish in Bismarck. Terry Steinwand said the G&F has until Nov. 15 for bill drafts.
- The next newsletter is scheduled to be mailed the week of November 29. Marie Hoerner needs your club's article by November 20. Please e-mail articles to [sportfishing@bis.midco.net](mailto:sportfishing@bis.midco.net) (please put "Newsletter Article" in the subject line) and if you do not have e-mail, articles can be sent to Marie at 311 Laredo Drive, Bismarck ND 58504.
- Lobbyist for 2005 session – Duaine mentioned that Terry Fleck said he would not be able to lobby for NDSFC, but Duaine offered to take on the lobbyist position. Paul Haug said we would like Duaine to represent the Congress as a lobbyist during the 2005 session. Ron Sahr thought it would be a plus to have him be the lobbyist since his is also president of NDSFC. A motion was made by Paul Haug, second

by Ed Dosch and passed to have Duaine Ash be the NDSFC lobbyist during the 2005 legislative session. Lynn Schlueter asked what compensation Duaine should receive. Rick Egelson said that we paid the lobbyist \$2,400 for the 2003 session. Lynn made a motion that Duaine Ash be paid \$3,000 for his expenses and if that is not sufficient than it be revised. The motion was seconded by Ron Sahr and passed.

- Duaine received a letter from the Voices of Lake Oahe asking for \$50 for any other year's dues. Following a brief discussion, a motion was made by Paul Haug to renew this membership; seconded by Don Baasch and passed.
- Duaine received a letter from Governor's office regarding a recommendation from the NDSFC for a District 4 Advisory Board representative (Grand Forks area). Recommendations are needed before the November deadline. Duaine mentioned that his wife, Barb, has served on the Advisory Board for the past 8 years and has enjoyed it and that Tracy Gardner's name was submitted and approved by the Governor's office to replace Barb on the Advisory Board. Dean Hildebrand extended appreciation to Barb Ash for serving on this Board and said they do a whale of a job. Lynn Schlueter said he knows of people in Grand Forks that are interested in politics and he may contact an individual to see if he is interested in serving as a District 4 representative.

Terry Steinwand addressed S. 2978, relating to non-resident hunting and fishing, which the G&F are in favor of. A few years back, Arizona lost their ability to regulate the number of licenses. What happened in AZ was that elk hunting was very desirable and they placed their license fees very high and they were sued by out-of-state residents. MN has basically done the same thing to ND. Dean Hildebrand mentioned the Interstate Commerce Clause that says you cannot interfere with interstate commerce of the constitution. The Governor and Dean are being sued by MN, who claims they are being discriminated against regarding licenses in ND. Under the Freedom of Information Act, they want all information for the past five years on paper – it is a mess with a deadline by the end of next week to give to their attorneys. A judge will make a determination if ND discriminated on commerce. Dean was trying to regulate our wildlife for the good of ND public. We need to be careful about the number of out-of-state fishing licenses that are issued (this isn't really an issue at this time since we don't limit non-resident licenses but could be in the future), so we have to be careful about this issue. A bill to let states manage (under the State's Right Act) their fishing and hunting limitations. The more letters we can get to our Congressman to sign-on to S 2978, the better. Terry gave Duaine a sample letter (copy enclosed) for the clubs to send letters to the ND Congressional delegation. Dean said write a letter in long hand for your support of the legislation – it doesn't have to be in a fancy form letter – and follow up with an email, especially since 911 (restriction of mail).

Terry Steinwand provided Marie a sheet with the following summary:

- History behind the legislation — Congress was given the power to regulate interstate commerce by Article I of the Constitution. This power to regulate has been interpreted by the U.S. Supreme Court to also give Congress the power to regulate activities which negatively impact interstate commerce, commonly referred to as the “negative” or donnant Commerce Clause. The Court has cited the donnant Commerce Clause when denying the states the power to unjustifiable discriminate against or burden the interstate flow of articles of commerce. If a state regulation has a substantial effect on interstate commerce, then the subject matter of the state regulation, which could be regulated by Congress under the Commerce Clause, becomes subject to the donnant Commerce Clause. Congress does have the power to specifically exempt a state regulated activity from the donnant Commerce Clause. In 1890, when the Supreme Court decided that the regulation of alcoholic beverages lay beyond the reach of the states, Congress promptly overrode that decision with the Webb-Kenyon Act. Thereafter, the Court upheld Congress' authority to commit the regulation of liquor imports to state authority.

- Motivation for legislation – The Ninth Circuit Court of Appeals recently concluded that a state recreational hunting regulation substantially affects interstate commerce such that the dormant Commerce Clause applies and ruled that state laws that distinguish between state residents and non-residents for the purpose of affording hunting and related privileges are constitutionally suspect. Although the Ninth Circuit found the purposes of such regulation to be sound, the Court questioned the validity of tag limits for non-resident hunters. The Ninth Circuit ruling has spawned litigation in other states, and several pending lawsuits threaten each state’s wildlife regulatory authority.
  - What the Bill would do: The bill creates an exemption to the dormant Commerce Clause in order to give each state the right to regulate access to hunting and fishing. This is done by a renunciation of federal interest in regulating hunting and fishing. The reasons for creating this exception include the following: Allowing states to distinguish and/or discriminate between residents and non-residents ensures the protection of state wildlife and protects resident hunting and fishing opportunities. Protecting the public interest of individual states’ conservation efforts. Sportsmen and local organizations are extremely active in the conservation of fish and game. They support wildlife conservation through taxes, fees, and locally led non-profit conservation efforts. Respecting the traditional authority of individual states. The regulation of wildlife has traditionally been within a state’s purview. It is in the best interest of the state and federal governments to ensure that states retain the authority to regulate wildlife.
- Duaine Ash read a proposed letter (copy of letter below) to be sent to the U.S. Corps in response to a meeting they held. He asked if there were concerns about his sending this letter. After a brief discussion, a motion was made by Ed Bosch to have Duaine send the letter. The motion was seconded by Don Baasch and passed.

*Ms. Kelly Crane  
 U. S. Army Corps of Engineers, Omaha District  
 Attn: CENWO-PM-AE (Fleeger)  
 106 South 15th Street  
 Omaha, Nebraska 68102-1618*

*RE: Mechanical creation of emergent sandbar nesting habitat*

*Dear Ms. Crane,*

*I understand that your office held a meeting October 19th in Bismarck concerning the development of an Environmental Assessment of creating emergent sandbar nesting habitat for interior least tern and piping plover within the upper Missouri River Mainstem. I am told the creation of this habitat is part of the Corps’ plan to protect these listed species from jeopardy. This is a concern to me and to the organization I represent. The manipulation of sandbars in the Missouri River clearly has the potential to alter important aquatic habitat important to game fish such as the walleye. As you well know, the drawdown of the Missouri River reservoirs during the current drought has had a devastating impact on our walleye fishery in both Lake Oahe and Lake Sakakawea. Any further deterioration of habitat needs of aquatic species, even as an unintended consequence of your proposed project is unacceptable. If alteration of fish habitat occurs as a result of your proposed project, we believe this is a significant environmental impact.*

*My organization was not notified of the public meeting held October 19th so did not have anyone in attendance. I believe lack of notification was an oversight by your office. We wish to be involved in your decision making process as is our right under NEPA. I hope you will consider having a second public meeting here in Bismarck in the near future. If you decide to do so, I hope you will make a concerted effort to announce the meeting to the public so more people are aware and understand what is being proposed and the potential consequences. Thank you for considering this request.*

- Terry Steinwand showed a “PowerPoint” presentation on the G&F Fisheries Division and following are some of his comments and topics highlighted:

- What is the current budget of the Fisheries Division? – increased budget almost every biennium. Done fairly well — \$6-7 million a biennium. Terry has for an enhancement of about \$750,000 for the next biennium.
- What income or percentage of the income does the Fisheries Division provide to the Department? \$2.5 million is the five year average. \$500,000 to \$1.3 million max to be used for fisheries.
- Reported on money generated from fishing license sales, boat gas tax, tournament fees, commercial licenses, etc., with an average annual income for 1998-2003 equaling \$4,943,062 per year which does not all come back to the G&F.
- Current biennium budget in Fisheries is 15% of budget which is an estimate which varies and is set by federal standards. Terry said it may be closer to 25-40 percent.
- Do you need more in terms of funding and manpower? Terry would say absolutely YES. What do we need to get done – not want to get done. Terry looks at fisheries, which is the area he is accountable for.
- Do you have the staff to ensure our lakes aren't and will not be overharvested? We need to get good biological information to help support their request for funding.
- Graph shows the increase in staff to manage the increasing number of lakes. Not all are quality fisheries, but we don't have enough staff to get to the needed ones at the present time.
- What is the SOL budget? This is very important. We currently have \$194,284 budgeted for Save Our Lakes (SOL) work around the state. Examples of work accomplished – Dickinson Dike renovation; Velva Sportsmen's Pond watershed work, Fish Creek dredging outside of Mandan, Brewer Lake shoreline stabilization. The list is about 20-25 lakes.
- Breakdown of Fisheries Division Budget — Three components – fish to be caught, people to catch them and the area to catch them. Less than 7% of budget is administrative.
- What do you think you'll need for future SOL work? Do not know at this time. They are a low priority right now. Don't want to spend hours evaluating but want to make sure they get the best for the dollars spent.
- What do you anticipate needing, in excess of current budget, to deal with the ramp situation on Sakakawea and Devils Lake? We're in the process of analyzing data on Sakaskawea in preparation of this. Anticipate needing \$3 million for 18 access sites (handout distributed at meeting).

Lynn Schlueter has been attending ANS meetings. He said the State Water Commission and Water Districts are becoming concerned about carp getting into Devils Lake, which is an ANS issue. Lynn has meetings coming up to address the ANS issue. (Protect Our Water web page on the G&F website – Dean said this is so important to America – Terry is to make sure Duaine has this web page. The website is [www.protectyourwaters.net](http://www.protectyourwaters.net).) G&F is in the process of getting good documentation on ANS; however it is not yet available to the public. Terry is stressing to check for ANS, as it is being spread by boat droppings. Lynn said we are not that far from MN and the problems with ANS they have.

- Potential legislative items – budget, ANS legislation, bait vendors, increase of paddlefish tags. G&F has until Nov 15 to get legislative issues in.
  - How to deal with Cormorants? North Dakota does not have any options under the current policy. The cormorant population is about 17,000 (based on outdated information—believe it's higher) and they have had an influence on fish. The issue isn't over and not sure what we can do. Dean Hildebrand said cormorants eat about a pound of fish a day. He said he plans to write an issue in the G&F magazine but wants to do more research on the issue. This is a big issue to deal with, but at the current time our options are limited.
- Dean Hildebrand made the following comments:
  - Can't express enough on the work that Terry Steinwand and his team do – really dedicated people that know what they are doing. The NDSFC is terribly important and do more that you know for the

G&F. Duaine is more than welcomed at the G&F office during the legislative session.

- Vision on the Red River — Has Governor convinced to restore the wetlands for hunting, fishing, etc. G&F is in the process of purchasing these lands.
- State Water Commission – want to make a presentation to let them know how important the G&F is. They provide the forage base to keep the businesses going (like Cabellas, boat dealers, Gander Mountain) and need help from these people.
- Save of Lakes (SOL) has been successful for G&F and wants to put more money into it.
- Devils Lake – Doing a lot of work up there – i.e. road and bridge put it. Building a BAM (big ass marina) with the dirt taken out to build the road. Need to look at opportunities in the DL area. Would like to have a boat ramp in the far east lake. Talked about the building of marinas in other area.
- Not happy with the limit of perch.
- Think they're doing about as much as they can on the Jamestown Reservoir.
- Legislative – Dean is involved in some reservation issues, which is taking a lot of time. Reservation opening up reservation for hunting before the scheduled time.
- Fishing tournaments – we need to keep a balance.
- Long-range plans – wants strategic work done on where G&F will be in 5-10 years in the fisheries management.
- Voices of Lake Oahe wants a dam put in by Beaver Creek, to be able to hold water back and G&F have been meeting with them.
- Lake Ashtabula water surface area.
- State Prison Farm is south of Bismarck on the Missouri River. They have cut trees and the erosion taking place is drastic. G&F has worked with counties to rip raff shorelines to stop erosion and create fish habitat and has hopes to put in a nice boat ramp facility with toilets.
- Devils Lake – Carp from Canada getting into DL area. Getting prepared to visit with people and spend money to put rock to conserve and protect the DL fishery.
- Dean is planning to retire from the G&F and he says they need new blood. Doesn't know if he wants to go through the legislative session, but if so it would be the latest as his term ends in July 2005. Governor has been cooperating with the G&F.
- Land Purchase in DL (asked by Ed Dosch) – lease on guard property. Final stages of purchasing the land; already have permission from the Governor. Nov. 18 sign the warranty deed.
- SOL (Save our Lakes) – need to prepare our lakes; they get old and wear down. Wants to go to Water Commission to get support from them, who has money also and shouldn't be the support of only the G&F.
- Dean will push for additional dollars for G&F people in the upcoming legislative session.
- Attached to the minutes is a press release send out by the U.S. Fish & Wildlife Service entitled “*Hunters must avoid baited fields, says USFWS*”.
- The G&F may ask NDSFC for letters of support on S. 2978 dealing with the right to regulate access to hunting and fishing.

#### ■ Committees Reports:

Bylaws Committee – Ron Sahr, Rick Eagleson, Paul Haug – There were discussion on the need to make a few bylaws changes and the following were proposed:

- Take Article 5, section 1 – change it to read, “There shall be a minimum of three (3) to a maximum of ten (ten) directors at-large.” Motion by Don Baasch, seconded by Vic Gibbins and passed. This is the first reading and the second reading will be held at the annual meeting in April 2005.
- A motion was made by Lynn Schlueter, seconded Vic Gibbins and passed to eliminate Article III – Dues, Section 3 of the NDSFC Bylaws that reads “Family Membership shall be \$7.00 per family membership annually effective April 1, 1986.” This is the first reading and second reading will be held at the annual meeting in April 2005.

- A motion was made by Ron Sahr, seconded by Lynn Schlueter and passed that Article III-Dues: Section 2 of the NDSFC Bylaws be changed to read “Individual membership shall be \$5.00, which includes the immediate family effective at the annual meeting on April 23, 2005.” A second reading is to be held at annual meeting on April 23, 2005 in Bismarck. Motion passed.
- No being no further business, the meeting was adjourned at approximately 1:45 p.m.

Submitted by: Executive Secretary Marie Hoerner

Date submitted: Nov. 2, 2004