

CHAPTER 114

DAKOTA-MINNESOTA BOUNDARY WATERS

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114.01 COMMISSION CREATED. There is hereby created an interstate commission to be known as the South Dakota-Minnesota Boundary Waters Commission, which shall consist of the director of the game and fish commission of South Dakota and the commissioner of conservation of Minnesota, or their legal successors, and an engineer appointed by the mutual consent of the governors of South Dakota and Minnesota for a period of four years.

[1939 c. 60 s. 1] (53-81)

114.02 POWERS AND DUTIES. The South Dakota-Minnesota Boundary Waters Commission shall have power and authority:

(1) To investigate and determine the most desirable and beneficial levels of boundary waters artificially controlled and to prescribe a plan for controlling and regulating said levels;

(2) To prescribe and promulgate rules and procedure for the conduct of its investigations, surveys, and hearings;

(3) To make such orders as may be necessary to further the purposes of this chapter; and

(4) To hold hearings and take such evidence as may be presented, either after complaint or upon its own initiative, as to the desirability of any water level and plan of regulation, and to make such orders concerning the same as in its opinion are for the best interests of the public.

[1939 c. 60 s. 2] (53-82)

114.03 HEARINGS; PUBLICATIONS. Hearings shall be held at such time and place as may be designated by the commission, in either state, in any county affected by the subject matter. At least two weeks' published notice of the hearings shall be given by publication of the notice in a legal newspaper in each county bordering on the boundary waters which may be affected by the subject matter of the hearing. All final orders of the commission shall be published once each week for two consecutive weeks in a legal newspaper in each county bordering on the boundary waters which may be affected thereby. The printer's affidavit of publication of all notices and orders shall be filed with the commission.

[1939 c 60 s 3; 1959 c 661 s 1] (53-83)

114.04 ORGANIZATION. The South Dakota-Minnesota Boundary Waters Commission shall meet and organize within 30 days after the effective date of the compact.

[1939 c. 60 s. 4] (53-84)

114.05 NOT TO INCUR OBLIGATIONS. The South Dakota-Minnesota Boundary Waters Commission shall not incur any obligation for expenses except after an adequate legislative appropriation.

[1939 c. 60 s. 5] (53-85)

114.06 INJUNCTIONS. The South Dakota-Minnesota Boundary Waters Commission may upon verified petition apply to the district court or the circuit court in either state, as the case may be, in any county affected by the subject matter, for an injunction restraining the violation of any order, notice, rule or regulation made by it pursuant to the provisions of this chapter. The attorneys general of both states shall act as legal advisors to the commission.

[1939 c. 60 s. 6] (53-86)

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114.07 WHEN EFFECTIVE. Sections 114.01 to 114.08 shall become effective immediately after the passage of an act in substantial conformance herewith by the legislature of South Dakota.

[1939 c. 60 s. 7] (53-87)

114.08 APPEALS. Any party aggrieved by any order or any determination of the South Dakota-Minnesota Boundary Waters Commission establishing or regulating water levels, as provided for in sections 114.01 to 114.07, may appeal therefrom to the district court or to the circuit court, as the case may be, of any county in either state in which the subject matter of the order or the determination is wholly or partially located, or to the district court of the county in either state where the capitol thereof is located. Notice of appeal must be served upon the commission or any member thereof within 30 days from the last date of publication of the order appealed from. Appeals may likewise be taken from the judgments of the district court to the supreme court of its respective states.

[1939 c. 60 s. 8] (53-88)

114.09 TRI-STATE AREA. Subdivision 1. **Agreement.** The State of Minnesota does hereby enter into a compact with the states of North Dakota and South Dakota whereby it agrees to cooperate with those states in carrying out the following terms and conditions.

Subd. 2. Cooperation. Each of the states of North Dakota, South Dakota, and Minnesota undertakes to cooperate with the other two states for the most advantageous utilization of the waters of the Red River of the North, for the control of the flood waters of this river, and for the prevention of the pollution of such waters.

Subd. 3. District created. To that end these three states do hereby create a district to be known as the Tri-State Waters Area, which shall comprise that portion of the drainage basin of the Red River of the North lying within the boundaries of the states.

Subd. 4. Commission created. The said three states do hereby create the Tri-State Waters Commission, which shall be a body corporate and shall have the powers, duties, and jurisdiction herein set forth and such other powers, duties, and jurisdiction as shall hereafter be conferred upon it by acts of the legislatures of each of said three states, concurred in, when of a character to require such concurrence, by act of Congress.

Subd. 5. Membership. The Tri-State Waters Commission, hereafter in this compact called the commission, shall consist of nine commissioners, three from each state, appointed by each state in such manner and for such length of term as may be determined by the legislature thereof. Each commissioner shall be a citizen of the state from which he is appointed, and at least one commissioner from each state shall be a resident of the drainage area of the Red River of the North. Each commissioner may be removed or suspended from office in such manner as shall be provided by the law of the state from which he shall be appointed. Each commissioner shall receive such compensation as may be provided by the legislature of the state he represents, which compensation shall be paid by such state. Each commissioner shall be paid actual expenses necessarily incurred in the performance of his duties as such commissioner.

Subd. 6. Officers; powers; duties. The commission shall elect from its number a chairman and a vice-chairman and shall appoint, and at its pleasure remove, an executive secretary and such other officers and assistants as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications, and compensation.

It shall adopt a seal and suitable bylaws and promulgate rules and regulations for its management and control.

A majority of the members from each state shall constitute a quorum for the transaction of business, the exercise of any powers, or the performance of any duties, but no action of the commission shall be binding unless at least two of the members from each state shall vote in favor thereof.

The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor of each state setting forth in

detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the states which may be necessary to carry out the intent and purpose of this compact, and such changes in the area of the district as may seem desirable.

The commission shall not incur any obligations for salaries, office, or other administrative expenses prior to the making of appropriation adequate to meet the same; nor shall the commission pledge the credit of any of the states except by and with the authority of the legislatures thereof. Each state reserves the right to provide hereafter by law for the examination and audit of the accounts of the commission by its comptroller or other official.

Subd. 7. Study of water problems. It shall be the duty of the commission to study the various water problems relating to water supply within the Tri-State Waters Area.

Subd. 8. Plans, approval; water levels control. Plans for works on boundary waters in these drainage areas prepared by the state, municipal or industrial agencies, shall receive the approval of the commission before construction is begun.

It shall be the duty of the commission to maintain and control lake levels and stream flow on boundary waters within the area, but such action shall be taken only with the approval of the authorized county or state agencies, in which such lake or stream is located, but the commission shall have no power or jurisdiction over water levels or stream flow in the Otter Tail river which is known as that portion of the Red river originating in Becker and Otter Tail counties extending and flowing in a southerly and southwesterly direction through the counties of Becker, Otter Tail, and Wilkin, and emptying into the Red River of the North at the junction of the Bois de Sioux at Breckenridge, Minnesota, and its chain of lakes and its tributaries.

The commission shall have power to cooperate with any duly authorized federal, state, or municipal agency in studies and surveys, construction, maintenance, and operation of water projects within the scope of its jurisdiction.

The commission shall be authorized to exercise the power of eminent domain, to acquire such real and personal property as may be reasonably necessary to effectuate the purposes of this compact, and to exercise all other powers not inconsistent with the constitutions of the states of North Dakota, South Dakota, and Minnesota, or with the constitution of the United States, which may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes, and generally to exercise in connection with its property and affairs and in connection with property within its control any and all powers which may be exercised by a private corporation in connection with similar property and affairs.

Subd. 9. Financial studies. The commission shall study the methods of financing the construction, control, maintenance, and operation of projects and shall recommend for enactment to the legislatures of the states concerned such legislation as will effectuate the purposes and ends of the commission.

Subd. 10. States to share expense. Each state shall bear its proportionate share of the expense of the commission based on the pro rata value to such state of the activities of the commission, which expense shall be provided for by appropriation by the legislature.

Subd. 11. Construction. Should any part of this compact be held to be contrary to the constitution of any of the states or of the United States, such part of the compact shall become inoperative as to each state, but all other severable provisions of this compact shall continue in full force and effect.

Subd. 12. When effective. This compact shall become operative immediately after the passage of an act substantially conforming to the compact provisions of sections 114.09 to 114.11 by the legislature of each of the three states which are parties hereto, or, as to such state, in the event that either or both of the other two states parties hereto shall provide for the consummation of this compact by action of the governor, upon the entering into a compact signed by the governor of such state or states and the governor of this state substantially embodying the provisions of this compact. The governor of this state is hereby authorized to enter into such a compact.

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114.10 MEMBERSHIP OF COMMISSION. The three commissioners from this state on the Tri-State Waters Commission shall be appointed as follows: two of the commissioners shall be appointed by the governor from residents of the Tri-State Waters Area and shall serve for a term of two years. The third shall be the commissioner of conservation.

[1937 c. 234 s. 2] (6602-42)

114.11 COMMISSIONERS, PER DIEM AND EXPENSES. Each commissioner shall be reimbursed for actual expense in attending the meetings of the commission and in performing his duties as such commissioner and \$10 for each day of actual service.

[1937 c. 234 s. 3] (6602-43)

114.12 BIG STONE LAKE, SEASONAL WATER LEVEL. It is hereby determined that the most desirable and beneficial level for the waters of Big Stone Lake from May 1 to October 1 is elevation 967, project datum, and the South Dakota-Minnesota Boundary Waters Commission, the director of game and fish of South Dakota and the commissioner of conservation of Minnesota shall maintain and operate the Big Stone control dam in conformance herewith.

Stop logs shall be kept in place and maintained in the outlet dam of Big Stone Lake at all times when the water elevation of said lake is 967, or less, project datum, and during such time the outflow from the outlet dam shall be regulated so as not to exceed 100 cubic feet per second (c. f. s.).

Laws 1963, Chapter 648 shall become effective immediately after the passage of an act in substantial conformance herewith by the legislature of South Dakota.

[Ex1959 c 25 s 1; 1963 c 648 s 1]

NOTE: See Section 110.46.