

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – August 30, 2017

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Amen	Karen		X	Rains	Darrell M.	X	
Anderson	Garry		X	Reynolds	Michael (Mick)		X
Barels	Brian		X	Schroer	Lyle		X
Batie	Donald		X	Shields	James		X
Clouse	Stan		X	Smathers	Scott		X
Czaplewski	Mark		X	Smith	Lindsey		X
Deines	Dave	X		Steffen	Jeff		X
Dunbar	Brad		X	Strauch	Walter Dennis		X
Fornoff	Kevin		X	Sugden	Steven		X
Hadenfeldt	N. Richard		X	Taylor	Loren		X
Halligan	Bill		X	Thompson	Jim		X
Knutson	Thomas		X	Wilke	Greg		X
Kraus	Don		X	Wright	Chad	X	
Palm	Owen	X					

DNR staff in attendance:

Rex Gittins, Kent Zimmerman and LeRoy Sievers

Others in attendance were:

Curt Becker, LENRD; Katie Cameron, ENWRA; Russel Colby, Baker & Associates; Kristie Olmer, LENRD; Jeff Sprock, City of Mitchel; and Myron Taylor, NRCS.

CALL TO ORDER, ROLL CALL

Chairman Strauch called the meeting to order at 1:30 p.m. in the Holiday Inn & Convention Center, Kearney, Nebraska, and asked Zimmerman to call the roll.

NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on the Natural Resources Commission web site at <https://nrc.nebraska.gov>. A copy of Nebraska's public meeting statutes was available in the room.

MINUTES

Kraus moved and Smathers seconded the motion to approve the minutes of the June 20, 2017, Commission meeting.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains				X
Anderson	X				Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines				X	Steffen	X			
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
Palm				X	TOTALS	23	0	0	4

PUBLIC COMMENTS

Katie Cameron, ENWRA coordinator, gave a brief overview of the airborne HEM/Geo-Cloud Water Sustainability Fund projects.

Myron Taylor, NRCS Acting State Conservationist, offered comments on USDA's agency reorganization of the Department of Agriculture - Farm Conservation & Production which reports to the new Under Secretary. He also described Nebraska's new Ephemeral Gully Erosion Policy within the Highly Erodible Land Policy and the associated EQIP program and the Agency's renewed focus on conservation planning and soil health.

DNR UPDATE & EXPENDITURES REPORT

Gittins reported there had been no unusual expenditures, business as usual. He pointed out that the Cash Fund Balances report for June and July does not list the \$10,660,000 transfer into the Water Sustainability Fund which will likely not occur until next June.

PROGRAM COMMITTEE

The Program Committee did not meet so staff led the discussion on agenda topics pertaining to program activities. No unusual activity was reported during review of status reports for the following funds.

Resources Development Fund

- The status report reflected the available balance of funds obligated to each active project.

Small Watersheds Flood Control Fund

- Staff reported that the only activity in this fund since the June meeting was the addition of accrued interest.

Soil and Water Conservation Fund Program

- Staff noted that the FY2018 appropriation was \$436,000 lower than prior years. Including carry-over, \$2,690,000 has been allocated to the NRD's for this fiscal year.

Natural Resources Water Quality Fund

- The semi-annual funds distribution to NRDs in August totaled \$395,000.

Water Well Decommissioning Fund

- Well registrations were somewhat lower this past year in FY2017 as compared to recent prior years. As a result, \$120,000 was allocated across the 20 participating NRDs this year as compared to \$130,000 last year. In response to a question from the Commission, Gittins reported that the three NRDs that do not currently participate in this program are the Middle Niobrara, Lower Niobrara and North Platte NRDs.

Water Sustainability Fund (WSF)

- A status report was distributed showing for each project the approved grant amount, cumulative reimbursement total and remaining unclaimed balance.
- Michael Sousek, General Manager of the Lower Elkhorn Natural Resources District, submitted a written request dated August 2, 2017, for a scope change to their Lower Elkhorn Water and Soil Conservation Project (Project # 4122) asking the Commission to: (1) approve an expansion of eligible wells to cover other high capacity wells including any series of wells pumping over 50 gallons per minute at a cost share of \$500; and (2) allow LENRD to decrease cost share on irrigation wells to \$250 per meter for well owners that missed the initial cutoff date (60% from WSF = \$150 and 40% from LENRD = \$100). Curt Becker, LENRD, described the reasons for the request and fielded questions. He stated that all eligible well owners are required by the NRD to install meters. Thompson and Batie spoke in favor of obtaining metering data to aid in water management and noted that lowering the cost share rate would make the available funding go farther. This could result in benefits that exceed those projected in the application.

Anderson moved and Knutson seconded the motion to allow LENRD to (1) expand \$500 cost share to cover meters for other high capacity wells including any series of wells pumping over 50 gallons per minute; and (2) decrease cost share on remaining unmetered irrigation wells to \$250 per meter (60% from WSF = \$150 and 40% from LENRD = \$100). Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains				X
Anderson	X				Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines				X	Steffen	X			
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
Palm				X	TOTALS	23	0	0	4

- Russel Colby, P.E., Baker & Associates, spoke on behalf of the City of Mitchell, which had submitted a written request dated August 16, 2017, for scope changes to Mitchell’s Wastewater Improvements Project (Project # 4160). The request asked the Commission to allow cost share on: (1) an inventory of mains, locating damaged mains, and making spot repairs; and (2) a yearly land use payment in excess of the rental payment. Jeff Sprock, Mitchell’s City Administrator, and Colby described the following reasons for the request and fielded questions.
 - Main inventory, cleaning and repair was discussed but not included with the original application because these items had not been approved by the City Council and the Board of Public Works prior to submitting the WSF application. The benefit of this work was identification and repair of facilities where groundwater infiltration and possibly exfiltration were occurring.

Chairman Strauch asked if removing the infiltration would reduce the size of the system that was to be installed. Colby responded that it would not, but it would

reduce the amount of treated wastewater that had to be pumped and reduce the City's pumping cost. If wastewater was exfiltrating there would also be some water quality benefits to the aquifer.

- The owner of the land upon which the application system for this project is proposed to be located, had not signed the contract and is now demanding an annual usage fee that would be renegotiated every five years. The City is proposing a five year lump-sum payment.

Knutson asked for clarification on the five year agreement and whether an agreement was in place at the time the application was filed. Colby replied that they had a letter of intent, but not a contract.

Barels asked if it is fair to say that both items are operation and maintenance (O&M) items. Colby responded yes for each. Anderson pointed out that the Fund rules state cost share is not allowed for O&M.

Taylor stated that he understood the agreement with the landowner was final when scoring this application. Many other Commissioners agreed.

Knutson moved and Batie seconded the motion to deny Mitchell's request on the basis that the proposed scope changes must be considered operations and maintenance expense.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains				X
Anderson	X				Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines				X	Steffen	X			
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt		X			Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
Palm				X	TOTALS	22	1	0	4

The third round of Water Sustainability Fund applications were filed in July 2017. For the third time, funding requests have exceeded the amount of funds available to commit. Applications included:

- One Combined Sewer Overflow application for \$1,073,908.
- Nine applications for \$250,000 or less with requests totaling \$1,435,777. \$1,337,136 is available for this category.
- Fourteen applications for more than \$250,000 totaling \$17,795,479. These are competing for a balance of \$13,209,509 available to commit.

Applications are being reviewed by NeDNR staff and concurrently by the Game & Parks Commission for T&E issues. The target date to pass along the applications deemed “Satisfactory” by the director is October 1, 2017.

Chairman Strauch announced that members of the Applications Review Committee for the 2017 Water Sustainability Fund applications would be as follows: Don Kraus who was appointed Chair, Jeff Steffen who was appointed Vice-Chair, Don Batie, Lindsey Smith, Scott Smathers, Brad Dunbar, Greg Wilke, Jim Thompson, Karen Amen, and Bill Halligan. Loren Taylor and Garry Anderson will serve as the alternates.

EXECUTIVE ORDER REGARDING RULES CHANGE

Chairman Strauch announced that the Governor had issued an Executive Order suspending all new rule development and directing agencies to review existing rules for unnecessary burden. The Commission is responsible for reviewing two sets of rules, Titles 260 (Commission Practice and Procedures) and 264 (Water Sustainability Fund). Rules for the other funds are registered under NeDNR. Review results are due in the Governor’s office by November 15th, 2017. Sievers described the objectives of the Executive Order and the progress that has been made towards preparing responses.

The requirement to respond to the Governor’s Executive Order before the next scheduled Commission meeting was explained.

Strauch requested that the Commission authorize the Executive Committee to work with NeDNR staff to prepare and submit the responses for the Commission.

Sugden moved and Knutson seconded the motion to authorize the Executive Committee and NeDNR staff to prepare and submit the results of reviewing all Commission rules in response to Governor Ricketts Executive Order.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains				X
Anderson	X				Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines				X	Steffen	X			
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
Palm				X	TOTALS	23	0	0	4

COMPREHENSIVE PLANNING COMMITTEE

Committee Chairman Barels described the public comments received during each of the Commission's four public meetings held to describe and discuss changes being proposed by the Commission for the Water Sustainability Fund rules (Title 261). Barels had previously asked for feedback from Commissioners on items the committee has been unable to land on like obtaining permits prior to making application, but none was received.

Barels noted that the committee will proceed to meet prior to the November Commission meeting with the intension of being prepared to move forward when released by the Governor.

LEGISLATIVE COMMITTEE

Committee Chairman Dunbar reported the committee had met prior to the Commission meeting to discuss ways to proactively update senators on Water Sustainability Fund actions by the Commission and project sponsors. Since it appears FY2018 may be in another budget short year, there is concern the Legislature will be looking at all funds with large balances during the next session. The Committee has asked Department staff to create a one page, front and back, flyer with brief case studies to highlight a few WSF projects, sponsor quotes, and some history of the Commission and how we got to this point in management of the fund. Commission members

will be asked to contact their senators to describe the implementation and effective use of the Fund and to hand out the flyer.

OTHER BUSINESS

The next two meetings will be held on November 28, 2017 and February 21, 2018, in Kearney. The November meeting is scheduled to begin at 8:00 a.m.

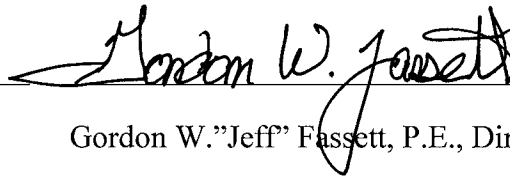
ADJOURNMENT

The meeting was adjourned at 2:53 p.m.

* * * * *



Dennis Strauch, Chairman



Gordon W. "Jeff" Fassett, P.E., Director