

MINUTES OF THE NEBRASKA NATURAL RESOURCES COMMISSION MEETING

MARCH 24, 2005

Those in attendance were:

Jim Van Marter, Chair
Richard Jiskra, Member
Joe Hergott, Member
Roger Korell, Member
Myron Lembke, Member
Keith Rexroth, Member
Wayne Davis, Member
Richard Hadenfeldt, Member
Garry Anderson, Member
Beverly Donaldson, Member
Dan Watermeier, Member
Clinton Johannes, Member
Arlond Garratt, Member
Vince Kramper, Member
John Burkholder, Member
A significant number of the public

Mark Walkenhorst
Eric Smith
Stan Staab
Ken Berney
Lynn Webster
Eldon Wesely
Ken Peitzmeier
Gerald Kratochvil
Bill Meyer
Steve Mossman
Dorothy Hillen
Mike Sotak
Roger Patterson, Director
Tom Pesek, Staff
Gayle Starr, Staff

CALL TO ORDER

The meeting was called to order by Commission Chair Jim Van Marter at 8:30 a.m. in the meeting room of the Holiday Inn Express in Columbus, Nebraska.

NOTICE OF THE MEETING

Notice of the meeting was placed in the LINCOLN JOURNAL & STAR and the COLUMBUS TELEGRAPH.

INFORMATIONAL MATERIAL

The following items of informational material were distributed during the course of the meeting and a copy of each is attached to the file copy of the minutes:

1. Water Well Decommissioning Cash Fund Summary.
2. Nebraska Resources Development Fund Present Financial Status.
3. Nebraska Resources Development Fund Quarterly Report.
4. Director's Recommendation on the Leigh Dam Project, LENRD.
5. Status of Small Watersheds Flood Control Fund.
6. Soil & Water Conservation Fund – Expenditures by Month, 1997-2005.
7. Republican River Basin Water Meter Program status report.
8. Natural Resources Water Quality Fund Status.
9. DNR Fund Expenditures for January & February 2005.

MINUTES

Motion was made by Kramper and seconded by Jiskra to approve the minutes of the January 26, 2005, Commission meeting as distributed. Motion carried.

Aye: Jiskra, Korell, Rexroth, Watermeier, Van Marter, Madsen, Kramper, Burkholder, Lembke, Donaldson, Davis, Garratt, Johannes, Hadenfeldt, Anderson, Hergott,

Nay: None

EXPENDITURES

Gayle Starr noted that the expenditure report for the various funds for the months of January and February 2005 had been made available to Commission members.

ADVISORS COMMENTS

Mark Walkenhorst, Resources Conservationist in Columbus for NRCS, indicated he was representing State Conservationist Steve Chick. Walkenhorst distributed a status report and some additional information and briefly commented about the Conservation Security Program, Conservation Reserve Program and the Administration's proposed budget for NRCS programs.

DIRECTOR'S REPORT

Director Roger Patterson briefly reviewed the Platte-Republican Basin CREP Program and the Water Conservation EQIP Program that are just now being initiated. He also commented briefly on the water supply situation in the Platte and Republican Rivers systems noting that at present it appears that another year of very limited water supply is in store. He also discussed the very limited water supply in the Missouri River system as well as the activities that are taking place regarding the operation of the Missouri River by the U.S. Army Corps of Engineers.

Patterson explained that significant staff activity in relation to the implementation of the provisions of L.B. 962 are taking place and in particular the negotiated rules and regulations process that is underway. He added that the Water Policy Task Force is continuing to work on various water policy issues including some concerns in relation to municipal water supplies.

ENVIRONMENTAL TRUST

Vince Kramper noted that the Environmental Trust received a total of 108 applications this year for \$31 million and that the funding committee's recommendation is to approve 72 projects for a total of \$9 million that is now available.

PROGRAM COMMITTEE

Clinton Johannes noted that the Resources Development Fund Status Report and Quarterly Report had been reviewed with committee members at the committee meeting on March 23 and noted that the first item for Commission action was the committee recommendation on the Leigh Dam Resources Development Fund Project application and noted that two individuals had asked to speak to the Commission and he called on Dorothy Hillen who reminded the Commission of the situation of over 20 years ago when the Lower Elkhorn NRD had proposed a dam in the same location as this proposed project and that landowners had agreed to install conservation measures in place of the dam being built. She added that those conservation measures had been established and she felt the NRD was breaking a promise to the landowners that the dam would not be proposed again.

Steve Mossman, an attorney representing some of the project opponents, noted that the Platte County Board of Supervisors had not agreed to any changes in the Platte/Colfax County's boundary road that would need to be raised for the proposed project. He added that while the attorneys for the NRD and the Department of Natural Resources felt that the law allows the NRD to proceed without the specific approval of Platte County, he expressed concern that this was a poor situation and might lead to some problems. Johannes briefly reviewed the Commission process. Motion was made by Johannes and seconded by Kramper that the Commission, having reviewed and considered the recommendation of the Director of Natural Resources, hereby makes the following findings of fact:

- (1) The Leigh Dam Project will be of general public benefit;
- (2) The project plan does not conflict with any existing state land plan;
- (3) The project has been determined to be technically, economically, and financially feasible and environmentally acceptable according to the Nebraska Resources Development Fund criteria;
- (4) The plan for development is satisfactory;
- (5) The plan minimizes any adverse impacts on the natural environment;
- (6) The Lower Elkhorn Natural Resources District (NRD) is qualified, responsible, and legally capable of carrying

- out the project;
- (7) Other plans and programs of the state were taken into consideration in preparing the plan of development in accordance with section 84-135, and resources development plans of the political subdivisions of the state were considered;
 - (8) The project will not jeopardize the continued existence of any threatened or endangered species or modify or destroy the habitat of any such species; and
 - (9) The project as presented would result in a change to the Village of Leigh's existing 100-year floodplain. As a participating community in the National Flood Insurance Program (NFIP), the village is responsible for submitting technical data to the Federal Emergency Management Agency (FEMA) to support this floodplain revision.

And therefore resolves that:

- (1) The Leigh Dam Project is eligible for funding from the Nebraska Resources Development Fund; actual funding to be subject to the condition that the money required from the Fund is available and the application of the assessment system for allocating funds.
- (2) The funding, if and when provided, should be in the form of a grant for up to \$3,500,362.80 not to exceed 55% of the total project cost, currently estimated to be \$6,364,296, including the cost of the feasibility study (\$187,000).
- (3) In view of the marginal economic feasibility of the project, the project's rate-of-return is to be recalculated after the land rights appraisals are completed and final design/cost estimates have been completed for the dam, in-lake features, county roads, and Highway 91. No funds will be obligated for any other work until this economic feasibility review is conducted and the continued economic feasibility of the project is demonstrated.
- (4) Any cost increase(s) associated with land rights acquisition will be the responsibility of the sponsor as no additional NRDF assistance will be provided for such cost increases.
- (5) After final design of the project is completed, the sponsor and Village of Leigh are to submit data under FEMA's Conditional Letter of Map Revision (CLOMR) process. The CLOMR request allows FEMA to issue a conditional determination regarding the effects of the proposed project and assures that the completed project will be in compliance with the minimum floodplain management requirements of the NFIP. It will also allow the village and the state to assure that the completed project will be in compliance with state minimum standards for floodplain management programs.
- (6) The Director of the Department of Natural Resources is authorized to negotiate and enter into a contract with the Lower Elkhorn NRD for carrying out the provisions of the project.

Motion carried.

Aye: Korell, Rexroth, Watermeier, Van Marter, Madsen, Kramper, Burkholder, Lembke, Donaldson, Davis, Garratt, Johannes, Hadenfeldt, Hergott, Jiskra,

Nay: None

Not Voting: None

Not Eligible to Vote: Anderson

Johannes explained that John Turnbull and Jay Bitner, representing the Upper Big Blue NRD, had briefed the Committee on the Kezan Creek Resources Development Fund Project Proposal. Motion was made by Johannes and seconded by Korell that the Natural Resources Commission advise the Upper Big Blue NRD that it may proceed with an application and feasibility report for the Kezan Creek Project and that it is to address the comments and questions contained in the letter from the Director of Natural Resources. Motion carried.

Aye: Rexroth, Watermeier, Van Marter, Madsen, Kramper, Burkholder, Lembke, Donaldson, Davis, Garratt, Johannes, Hadenfeldt, Anderson, Hergott, Jiskra, Korell

Nay: None

The Committee had also discussed the Pigeon/Jones Creek Site 15 Project Proposal. Motion was made by Johannes and seconded by Jiskra that the Natural Resources Commission advise the Papio-Missouri River NRD that it may proceed with an application and feasibility report for the Pigeon/Jones Creek Site 15 Project and that it is to address the comments and questions contained in the letter from the Director of Natural Resources. Motion carried.

Aye: Watermeier, Van Marter, Madsen, Kramper, Burkholder, Lembke, Donaldson, Davis, Garratt, Johannes, Hadenfeldt, Anderson, Hergott, Jiskra, Korell, Rexroth

Nay: None

Johannes noted that status reports on the Small Watersheds Flood Control Fund, Soil and Water Conservation Fund, Natural Resources Water Quality Fund, and Water Well Decommissioning Fund had been distributed to Commission members at the

committee meeting.

LEGISLATIVE AND BUDGET COMMITTEE

Keith Rexroth called on Gayle Starr who briefed the Commission on the status of the Commission budget and the Legislative process in adopting budgets for the various state programs. Starr also briefly reviewed the status of a number of Legislative Bills that are natural resources-related.

NEXT MEETING

The next meeting of the Commission will be May 18-19 in Wahoo. It was noted that the meeting would be at the Lower Platte North NRD office and the agenda would include a tour of the proposed Wanhoo Project just north of the Town of Wahoo.

ADJOURNMENT

The meeting was adjourned at approximately 9:45 a.m.

Chair

Director of Natural Resources