

**MINUTES OF THE  
NEBRASKA NATURAL RESOURCES COMMISSION MEETING  
STATE OFFICE BUILDING  
301 Centennial Mall South - Lincoln Nebraska  
May 14, 2009**

Those in attendance were:

|                           |                              |                      |
|---------------------------|------------------------------|----------------------|
| Dick Hadenfeldt, Chair    | Rod L. Horn, SPNRD           | Brian Dunnigan, NDNR |
| Myron Lembke, Member      | Dave Clabaugh, LBBNRD        | Rex Gittins, NDNR    |
| Clinton Johannes, Member  | Michelle Kahrs, LRNRD        | Kent Zimmerman, NDNR |
| Jim Van Marter, Member    | Jo Siel, LRNRD               | Jill Richters, NDNR  |
| Dan Nelsen, Member        | Mike Murren, LPNNRD          |                      |
| Dave Kadlecek, Member     | Pat O'Brien, NARD            |                      |
| Ladd Reeves, Member       | Greg Reisdorff, FSA, Lincoln |                      |
| Vince Krampfer, Member    | Dave Griffith, NRCS, Lincoln |                      |
| Beverly Donaldson, Member | Jim Cannia, USGS             |                      |
| Joseph Hergott, Member    | Rick Wilson, USGS            |                      |
| Garry Anderson, Member    | Robert Swanson, USGS         |                      |
| Keith Rexroth, Member     | Geoff Delin, USGS            |                      |
| Dick Mercer, Member       |                              |                      |
| Dan Watermeier, Member    |                              |                      |

**CALL TO ORDER & ROLL CALL**

The meeting was called to order by Commission Chairman Hadenfeldt in the State Office Building, 301 Centennial Mall South, 6<sup>th</sup> Floor, Lincoln, Nebraska, at 9:12 a.m. The following two members were absent: Korell and Moore.

**NOTICE OF THE MEETING**

Notice of the meeting was published on the Department's web site at [www.dnr.ne.gov](http://www.dnr.ne.gov) and in the Lincoln Journal Starr on April 29, 2009.

**INFORMATIONAL MATERIAL**

The following informational materials were distributed either prior to or during the course of the meeting, and a copy of each is attached to the file copy of the minutes.

1. Commission Meeting Agenda
2. Explanation Paper
3. Program Committee Working Agenda
4. Alphabetical List of NRC Members
5. DNR Fund Expenditures for March and April 2009
6. NARD Report from Dean Edson, NARD – May 8, 2009
7. Nebraska Resources Development Fund Status Report as of May 7, 2009
8. Nebraska Resources Development Fund Quarterly Report
9. Nebraska Resources Development Fund Map of Western Sarpy/Clear Creek Levee System from Marlin Petermann

10. Nebraska Resources Development Fund Chart - Obligation Requests/Early Recommendation Review with Sponsors
11. Small Watersheds Flood Control Fund Status Report
12. Soil & Water Conservation Fund Status Report
13. Letter from Lower Republican NRD Request to amend NSWCP Practice NC-17, C, 2 to waive irrigation requirement
14. Natural Resources Water Quality Fund Status Report
15. Water Well Decommissioning Fund Status Report
16. Little Blue Natural Resources District 2009 Spring Water Table Levels Comparison – 2009 to 2008 from Little Blue Natural Resources District
17. Interrelated Water Management Plan Program (IWMPP) FY 2010 Summary
18. IWMPP - Funding Request & Recommendation Summary - May 2009
19. IWMPPF – Applications Review Committee Structure – FY 2010
20. IWMPP – Projects Not Currently Recommended to be Funded May 2009
21. IWMPPF – Memo re Grant Recommendations for FY 2010
22. IWMPPF – New Project Scoring Summary - May 2009
23. IWMPP – Application Overviews Report – May 2009
24. Information on Selected Agenda Items (previously mailed to Commissioners)
25. Articles from ENR March 23, 2009 “What Drives ENR’s Cost Indexes & How to Use ENR’s Cost Indexes”
26. Little Blue NRD 2009 Spring Water Table Levels – 2009 Compared to 2008

### MINUTES

Minutes of the March 11-12, 2009, Commission and Committee meetings were approved.

### EXPENDITURES REPORT

Fund expenditures reports for the months of March & April, 2009, were distributed to Commission members. Extra copies were available. Gittins reported that the budget is doing fine as we enter the eleventh month of the fiscal year. However, there is a negative balance on the Water Well Decommissioning Cash Fund that will have to be resolved by the end of this fiscal year and which will impact NRD allocations for next year.

### ADVISOR REPORTS

#### Natural Resources Conservation Service (NRCS)

Dave Griffith, Water Resources Planning Staff - NRCS, distributed a report dated May 2009, entitled, “Natural Resource Conservation Service Report to the Nebraska Natural Resources Commission.” A copy of the report is attached to the official copy of these Minutes and available for review in the Department. Griffith reviewed highlights of the report:

- NRCS has been taking applications and will begin ranking them by June 1<sup>st</sup> and funding contracts in the major farm bill programs by August. There are several new incentives in the EQIP program this year.
- Applications are being accepted for the Grassland Reserve Program.
- NRCS is getting ready for the 2009 CSP sign-up.

- Additional funding was made available under ARRA for rehab work on aging structures in Washington County and the Blackwood Structure 32-A.
- Watershed rehabilitation work also received over one million dollars for technical assistance on three ongoing projects, previously approved remedial work on one dam, and three newly approved rehabilitation projects.

### **Farm Service Administration (FSA)**

Greg Reisdorff, Program Specialist – FSA reported the following:

- Dan Steinkruger is Acting Director until a permanent Director is appointed. Steinkruger's name is in the hat for Director.
- The State committee will be named at a later date.
- Doug Caruso is the new Administrator for FSA.
- The Deputy Administrator's position has not been named but Jonathan Coppess has been recommended for the job.
- Nationwide, CRP extensions were only allowed for 30% of the expiring contracts due to the new farm bill requirement which reduced the number of acres enrolled from 39.3 million acres to just over 32 million acres.
- In Nebraska, 151,835 acres expire, and 54,741 acres eligible for extension.
- CRP rental rates are based upon a three year average of cash rental rates.

### **Nebraska Environmental Trust**

Vince Kramper gave the following update.

- 81 applications for funding, including 34 carryover applications from last year, were submitted.
- \$4.6 million went to 34 carryover applications while \$9.9 million has been distributed to 47 new applications.
- Project categories eligible for funding are reviewed every 5 years. The current list of categories will be examined this summer in meetings across the state. Possible new categories include medium-sized wind power production grants.
- Next meeting will be July 30 & 31, 2009, at Ponca Park near South Sioux City.

### **University of Nebraska at Lincoln Water Center**

Lorrie Benson, Deputy Program Manager, Water Resources Research Initiative – UNL, was unable to attend but asked that the following information be shared with everyone.

- The Water Tour is scheduled for California from June 14 through June 19. Ten seats are still available if anyone is interested. The registration deadline is today, however, registrations will be accepted next week also. Tour information is available on their website.
- The call for abstracts for presentations at the Fall Platte River Symposium is open. Any NRDs working in this area may also want to review the website and consider presenting at that meeting.

### DNR UPDATE

Director Dunnigan made the following comments.

- The Republican River nonbinding arbitration trial was conducted for ten days in Denver, Colorado during March and early April. The arbitrator's decision is due out by June 17<sup>th</sup>. The states then have 30 days to accept or reject that decision, but acceptance must be unanimously approved by all three states. The trial was divided into three phases - Kansas' claims of damage, future compliance going forward, Nebraska's method of accounting for water under the compact. Dunnigan stated his belief that Nebraska made strong arguments in all areas.
- A preliminary determination that the Lower Platte Basin is fully appropriated was issued on December 16, 2008. Public hearings were conducted in Norfolk, Ord, Lincoln, and Fremont. This preliminary determination was reversed on April 8, 2009, based on additional information having been provided by the U.S. Geological Survey (USGS). This new information brought to light errors in the USGS model results upon which the preliminary determination was made. Dunnigan stressed that both decisions were based upon the best science available to DNR at the time each decision was made. Dunnigan also noted that LB 483 which recently passed places limits on new irrigation as we go forward after a change in status is made for a basin.
- Responding to a question by Rexroth, Dunnigan stated that DNR has solid expertise to conduct water management studies within the Department, but we recognize that available resources are not sufficient to do all needed work internally.
- Responding to a question by Johannes, Dunnigan explained that Nebraska's analysis of Kansas' actual damage ranged between \$600 - \$1.2 million in damage related to the Republican River Compact. Colorado's analysis of Kansas actual damage is about \$2.2 million, and Kansas' estimate is over \$9 million. If actual damage to Kansas is established, the percentage of Kansas' actual damages caused by Colorado would have to be determined such that repayment could then be split appropriately between the two states.
- Responding to a question by Rexroth, Dunnigan stated that no decision has been made as to filling the recent vacancy created by the resignation of DNR's chief Legal Counsel.
- Johannes thanked Dunnigan and passed on a complement as to how he treated the Lower Platte Basin situation and for the cooperation between Department staff and the NRD throughout the reversal process of the Lower Platte basin designation decision. Dunnigan stated that he intends to keep everything very transparent and cooperative with the NRDs as we go forward. Dunnigan stated, "anybody should know what we are thinking throughout the process".

### LEGISLATIVE & BUDGET COMMITTEE

- No action was taken during the committee meeting. Dean Edson briefed Commissioners on current legislative standings for bills of interest to Agriculture and Natural Resources.

## **PROGRAM COMMITTEE**

Program Committee Chair Hergott reported the following comments and brought forward the following motions:

### **Nebraska Resources Development Fund**

Mike Onnen updated the Program Committee on the Little Sandy Creek project. He stated that the NRD will reapply for a Corp of Engineers 404 permit for Dam Site 12 and must also obtain a permit for road work associated with Dam Site 73. Landowners have offered to donate land rights for site 12 and the Board is considering going forward with this site if the required 404 permit can be obtained.

Sponsors requested increases in project allocation for the projects listed below. Staff reported that all were reviewed to assure the projects' continued compliance with cost/benefit eligibility requirements.

#### **Lower Turkey Creek Project:**

- **Hergott moved and Watermeier seconded the motion to approve the Lower Big Blue NRD's request to increase the allocation for the Lower Turkey Creek Project by \$441,714; increasing the total allocation from \$4,411,736.11 to \$4,853,450.11, effective July 1, 2009, subject to final FY 2010 NRDF appropriations approval and obligation of those funds.**

Motion passed unanimously by members present.

#### **Sand Creek Environmental Restoration (Lake Wanahoo) Project:**

- **Hergott moved and VanMarter seconded the motion to approve the Lower Platte North NRD's request to increase the allocation for the Sand Creek Environmental Restoration (Lake Wanahoo) Project by \$257,020; increasing the total allocation from \$12,011,700.00 to \$12,268,720.00, effective July 1, 2009, subject to final FY 2010 NRDF appropriations approval and obligation of those funds.**

Motion passed unanimously by members present except Johannes abstained.

#### **Western Sarpy / Clear Creek Project:**

- **Hergott moved and Kramper seconded the motion to approve the Papio NRD's request to increase the allocation for the Western Sarpy / Clear Creek Project by \$1,795,112; increasing the total allocation from \$4,686,118.00 to \$6,481,230.00, effective July 1, 2009, subject to final NRDF FY 2010 appropriations approval and obligation of those funds.**

Motion passed unanimously by members present except Johannes abstained.

**Discussion & Possible Action on the Papio-Missouri River NRD Request to Transfer Obligated Funds between components on the Western Sarpy Project:**

- **Hergott moved and Kramper seconded the motion to transfer \$1,464,725.53 from component #3 to component #4 within the Western Sarpy / Clear Creek Project such that the land rights component (#3) is reduced to \$53,000 and the construction component (#4) is increased to \$1,464,725.53.**

Motion passed unanimously by members present except Johannes abstained.

**Discussion & Possible Action to Modify Project Components as Necessary for Obligation of FY 2010 Funds:**

- **Hergott moved and Lembke seconded the motion to modify components as necessary for obligation of FY 2010 funds.**

Motion passed unanimously by those present.

**Discussion & Possible Action to Tentatively Obligate FY 2010 Funds**

- **Hergott moved and Kramper seconded the motion to obligate FY 2010 funds to the following projects/components, effective July 1, 2009, provided anticipated funding in the amount of \$3,373,066 is appropriated to the Resources Development Fund:**
  - Maple Creek Recreation Area (Leigh Dam) Component #5 – Construction: \$656,978;
  - Lower Turkey Creek Watershed Project Component #4 – Construction: \$436,002;
  - Sand Creek Environmental Restoration Project (Lake Wanahoo) Component #4 – Construction: \$1,381,268;
  - Upper Prairie/Silver/Moores Creek Project Component #4 –Construction: \$898,752.

Motion passed unanimously by those present.

- Kramper expressed his appreciation to NRD managers and Department staff for working together to make everything go smoothly with the FY 2010 obligation process.

**Discussion & Possible Action to Temporarily Transfer Obligated Funds between Projects**

- **Hergott moved and Van Marter seconded the motion to reduce the balance of funds obligated to three projects for FY 2009 and prior (see below) in an amount equaling the Wanahoo Project's FY 2010 obligation, and increase the current obligation by the same amount to the Wanahoo Project to enable the funds to be used more efficiently.**
  - Maple Creek Recreation (Leigh Dam) Project's Component #5 - Construction will be reduced by \$500,000;
  - Lower Turkey Creek Project's Component #3 - Land Rights will be reduced by \$750,000;

- o Upper Prairie/Silver/Moores Creek Project's Component # 4 - Land Rights will be reduced by \$131,268; and
- o Sand Creek Environmental Restoration (Lake Wanahoo) Project's Component # 4 - Construction will be increased by \$1,381,268.

**In consideration for this action, the Wanahoo Project sponsors agree that the FY 2010 obligation approved above for their project will be redistributed to projects / components from which the funds were taken. This motion will become effective upon the date the FY 2010 Nebraska Resources Development Fund appropriation in the expected amount is signed by the Governor.**

Motion passed unanimously.

#### **Small Watersheds Flood Control Fund Status Report**

Interest of \$3,557.88 was received since the last meeting, no other activity took place.

#### **Soil & Water Conservation Program Fund**

##### **Discussion & Possible Action on Adding New Practice or Component:**

- **Hergott moved, Lembke seconded, to approve an additional component in practice NC-14: Planned Grazing Systems for NSWCP cost share to include perimeter fencing for lands remaining in grass for pasture upon completion of being enrolled in a federal conservation program within two years of program completion or crop land converted to grass land for pasture.**

Motion passed unanimously by those present.

##### **Discussion & Possible Action on a Request to Refine Eligibility for a Practice**

Richters introduced staff from the Lower Republican NRD who were on hand to answer questions. Gittins described the NRD's letter requesting this change which was included in the information available to Commissioners prior to the meeting. The NRD's primary concern is to not penalize water users who participated in federal conservation programs. The irrigation requirement would need to be met for the years prior and subsequent to enrollment in the federal program.

- **Hergott moved and Mercer seconded the motion to approve a revision in eligibility limitations for NC-17: Irrigation Water Management to disregard years enrolled in a Federal Conservation Program in determining whether land was irrigated in four of the last five years.**

Motion passed unanimously by those present.

#### **Interrelated Water Management Plan Program**

##### **Discussion & Possible Action to Tentatively Obligate FY 2010 Funds**

- o Johannes pointed out that all but one application was being funded, and the application denied was due to the funding request being a bit premature.

- **Hergott moved and Rexroth seconded the motion to approve the IWMPP grants and obligate FY 2010 funds as listed below, effective July 1, 2009, provided anticipated funding of \$2,312,066 is appropriated to the Interrelated Water Management Plan Program.**

Motion passed unanimously by those present.

| Project Number | Project Name                        | FY 10 Request      | FY 10 Obligation   |
|----------------|-------------------------------------|--------------------|--------------------|
| 18             | NPNRD Water Management and Modeling | \$90,240           | \$90,240           |
| 19             | Recharge Estimation Project CPNRD   | \$180,000          | \$180,000          |
| 30             | Republican River Augmentation Study | \$220,500          | \$220,500          |
| 31             | NPNRD Canals                        | \$466,338          | \$466,338          |
| 32             | NPNRD/SPNRD WWUM                    | \$169,200          | \$169,200          |
| 33             | UNWNRD Conj Mgmt                    | \$48,000           | \$48,000           |
| 34             | CPNRD Conj Mgmt                     | \$170,000          | \$170,000          |
| 35             | LBNRD GW Monitoring                 | \$50,700           | \$50,700           |
| 36             | ELM                                 | \$289,166          | \$289,166          |
| 37             | ENWRA 1(Study)                      | \$169,500          | \$169,500          |
| 38             | ENWRA 2 (Geophysics)                | \$318,000          | \$0                |
| 39             | Rep River Water Budget              | \$55,000           | \$55,000           |
| 40             | LCNRD Water Study                   | \$50,000           | \$50,000           |
| 41             | CPNRD ET                            | \$97,000           | \$97,000           |
| 42             | SPNRD Water Accounting              | \$96,000           | \$96,000           |
| 43             | CPNRD Riparian ET                   | \$67,900           | \$67,900           |
| <b>Totals</b>  |                                     | <b>\$2,537,544</b> | <b>\$2,219,544</b> |

**Other Programs**

- Status reports for other programs were reviewed at the committee meeting with no unusual activity to report.

**OTHER MATTERS**

**Discussion & Possible Action on Public Notice Regarding Commission Meetings**

Gittins noted that Donaldson questioned staff's change to the public meeting notice procedure during the March Commission meeting. After further reviewing statutes and explanation documents, staff agreed that a motion to change would be the proper means for implementing a change. He reiterated that the objective of the change was to recognize declining newspaper readership and help reduce administrative costs.

Kadlecek questioned whether others are using this method for public notice.

Anderson and Watermeier responded that the website can be kept current, and is probably a more effective method of reaching people when compared to placing notice in one paper that not everyone reads. Gittins stated that at least some other boards have gone to this procedure, and Zimmerman added that some commissions and boards are limited as statutes specifically designate how their notice must be made.

It was agreed that public notice requirement will remain the same for hearings and other actions where statutes govern notice requirements.

- **Watermeier moved and Lembke seconded the motion to designate the Department's website as the official site for public notice of regular Natural Resources Commission and committee meetings, and to authorize the Department to discontinue the practice of publishing those notices of in newspapers.**

**Announcements**

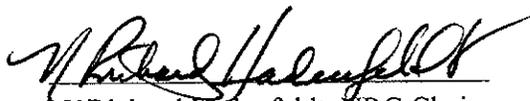
Kadlecek reviewed plans prepared by the Upper Niobrara-White NRD for the July Commission meeting.

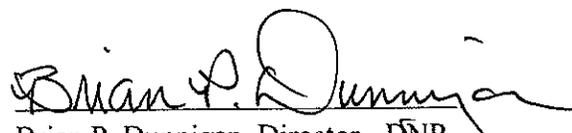
Gittins mentioned there would be a copy of the comprehensive report prepared by Steve Gaul available for Commissioner's review at or before the July meeting.

Following the Commission meeting, presentations on LiDAR and HEM were given.

\* \* \* \* \*

Meeting adjourned at 10:25 a.m.

  
N. Richard Hadenfeldt, NRC Chair

  
Brian P. Dunnigan, Director - DNR