

**MINUTES OF THE  
NEBRASKA NATURAL RESOURCES COMMISSION MEETING  
September 25, 2007  
Kearney, Nebraska**

Those in attendance were:

Wayne Madsen, Chair	Steve Chick, NRCS	Ann Bleed, NDNR
Clinton Johannes, Vice Chair	Lalit Jha, JEO	Rex Gittins, NDNR
Jim Van Marter, Member	John Miyoshi, LPNNRD	Ron Theis, NDNR
John Burkholder, Member	Mike Murren, LPNNRD	Kent Zimmerman, NDNR
Richard Hadenfeldt, Member	Marlin Petermann, P-MRNRD	
Larry Moore, Member	Mike Onnen, LBNRD	
Roger Korell, Member	Stan Staab, LENRD	
Ladd Reeves, Member		
Garry Anderson, Member		
Joseph Hergott, Member		
Keith Rexroth, Member		
Dan Watermeier, Member		
Vincent Kramper, Member		
Myron Lembke, Member		
Beverly Donaldson, Member		
David Kadlecek, Member		

**CALL TO ORDER**

The meeting was called to order by Commission Chairman Wayne Madsen in the President's Room, Holiday Inn, Kearney, Nebraska, at 2:00 p.m.

**NOTICE OF THE MEETING**

Notice of the meeting was published in the KEARNEY HUB on September 12, 2007, and in the LINCOLN JOURNAL STAR on September 13, 2007.

**INFORMATIONAL MATERIAL**

The following items of informational materials were distributed 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. DNR Fund Expenditures for July - August 2007
3. NRCS 2007 Summary
4. Approved NRDF Projects Summary
5. Nebraska Resources Development Fund (NRDF):
  - Status Report(s)
  - Quarterly Report
  - Project Proposal & Application Ranking Worksheets
  - Proposed Obligations to Approved Projects for FY2008 - Exhibits B-1 & B-2
  - Recreation Benefit Computation Statutes & Rules Paper

6. Small Watersheds Flood Control Fund Status Report
7. Soil & Water Conservation Fund Status Report & FY 2008 Fund Distribution
8. Interrelated Water Management Plan Program Fund Status Report
9. Commission's Role: Interrelated Water Review Board
10. NRDF Project Status Allocated / Funded (DNR)
11. NRDF Project Funding Needs Projection (Papio-Missouri River NRD)

### MINUTES

Motion was made by Kramper and seconded by Van Marter to approve the minutes of the July 11, 2007, Commission meeting as distributed. Motion carried.

Aye: Hadenfeldt, Donaldson, Korell, Lembke, Hergott, Moore, Kramper, Watermeier, Burkholder, Anderson, Johannes, Rexroth, Madsen, Van Marter, Reeves, Kadlecek

Nay: None

Abstain: None

Not Present: None

### EXPENDITURES REPORT

The expenditures report for the various funds for the months of July and August 2007 had been distributed to Commission members. Extra copies were available. Gittins mentioned that staff plans to make a slight adjustment in the spreadsheet to more clearly show how much money we actually expect to have to spend versus what is budgeted (appropriated).

### ADVISOR'S COMMENTS

#### NRCS

Stephen Chick, NRCS, distributed a summary entitled "2007 NRCS in Nebraska" and briefed the Commission on the Farm Bill. Comments are summarized below:

- o The Farm Bill passed the House; the Senate has not set a date to review the Bill. Look for the Bill late this calendar year or early next year. The USDA will start FY 2008 with a continuing resolution. Impacts for Nebraska include the losses of surface and ground water conservation program within EQIP. This amounts to \$4.7 million in financial assistance to irrigation practices and \$1 million in technical assistance to NRCS. Conservation Security Program (CSP) and the new Regional Water Enhancement Plan would be grants programs, so NRCS would probably not get much in the way of technical assistance money from these new programs.
- o On the appropriations side, Chick expects continued reductions in their conservation technical assistance funding due to the agency's use of new formulas for allocations of funds, which does not treat the mid-western states very well. The Water Resources Planning Program will be reduced and may be eliminated. RC&D may be cut, but Congress will probably restore that program. NRCS is following through with the closure of the four offices as planned and any future consolidation will depend entirely upon the Farm Bill and the FY 2008 appropriation.

Madsen asked if there is any accountability or follow up with the Invasive Species Eradication Program going on in the Republican River below Harlan County Dam, and whether it puts any water back into the river. Chick stated that this is an RC&D project and that the NRCS is not directly involved with this project other than coordination. Vince Kramper complemented Chick on his explanation of the FY 2008 Farm Bill earlier during the NARD conference.

## **DIRECTOR'S REPORT & UPDATE ON PLATTE/REPUBLICAN ACTIVITIES**

Director Bleed followed up on Madsen's question stating that the DNR is working on the Republican River management activities with UNL to get a measurement of change in consumptive use before and after the plan is implemented. This plan contemplates the use of satellite imagery to create a tool using satellite imagery to assess consumptive use on a year-by-year basis taking into consideration changes in the amount of phreatophytes and riparian vegetation as well as crop and range land. If data gathered using satellite imagery proves reliable, the advantage would be that reviewers can go as far back in time as there are thermo-band satellite images available.

DNR has been working with the three Republican River Basin NRDs on integrated management plans. A tentative agreement has been reached with the Upper Republican NRD on an Integrated Management Plan using a performance/compliance standard format. The two compliance standards being discussed are: (1) to reduce groundwater pumping during average precipitation years by 20% from that of base line years of 1998-2002; and (2) to annually review the groundwater pumping allocations based upon the compact's allowable share for Nebraska, less the amount pumped by surface water users. This will put more water in the river for surface water pumping and keep us in compliance with the compact.

On the Platte, DNR is still working on the integrated management plans with the NRDs. Bleed has set a target deadline of about eight months from now for completing the plans, with the exception of the Tri-Basin NRD whose situation is more complicated. Rexroth asked what happens at the end of the eight months. Bleed stated the deadline could be extended.

Bleed also reported that DNR plans to issue the Fully Appropriated Report early this year with a preliminary draft being mailed out on or about October 15, 2007.

## **ENVIRONMENTAL TRUST**

Kramper reported that the Environmental Trust:

- Will look at and revamp the mini-grants program by next fall.
- Awarded money for carbon sequestration. Nebraska Farmers Union is working with farmers who want to offer acres by trading through the Chicago Climate Exchange.
- The Trust has given out \$112 million dollars in the last 14 years, this year they have 72 new applications and 22 applications for second- and third-year contracts. The requests total \$27 million dollars and they expect to give out \$9 to \$10 million dollars.
- The Trust's next meeting will be in Norfolk on November 13.

## **LEGISLATIVE & BUDGET COMMITTEE**

Chair Rexroth reported that the Committee met on September 24 with discussion focusing on planning and formalizing support of legislation or a deficit budget request for increasing the NRDF appropriation. He expects a Commission resolution will be prepared for adoption at the November meeting.

## **PROGRAM COMMITTEE**

### **Nebraska Resources Development Fund (NRDF)**

Chair Johannes reported that the Program Committee met on September 24, and he was bringing forward the following motions for recommended action.

Motion was made by Johannes and seconded by Lembke to revise ranking worksheets used in the evaluation of project proposals and project applications to reflect the following changes which were printed in red on the worksheets handed out to Commission members:

- Remove “Extent to which the sponsor NRD or other sponsoring public entity is already using its taxing authority and other potential revenue sources.” from item No. 8 on the Project Proposal worksheet and No. 10 on the Project Application worksheet and make this a stand-alone item on each sheet with 3 points given for 95% - 100%; 2 points given for 75% - 94%; and 1 point for 50% - 74%.
- Remove “Urgency for the project” from item No. 8 on the Project Proposal worksheet and No. 10 on the Project Application worksheet and limit the number of points for each individual “other aspect” to one point with a maximum of 6 points allowed in total for all “other aspects”.

There was no discussion. Motion carried.

Aye: Lembke, Rexroth, Van Marter, Reeves, Burkholder, Kadlecck, Kramper, Hadenfeldt, Donaldson, Hergott, Watermeier, Anderson, Johannes, Madsen and Korell

Nay: Moore

Abstain: None

Not Present: None

Motion was made by Johannes and seconded by Van Marter to reconsider the motion made at the July 11, 2007, Commission meeting adopting the FY 2008 obligation according to schedule B-1, on the basis that the US Army Corps of Engineers 404 Permit has not yet been obtained; to rescind the obligation of \$1,102,910.17 for Leigh Dam; to obligate FY 08 Resource Development Funds according to the B-2 staff recommendations; to incorporate the B-2 obligation amounts into the minutes; and modify project components as necessary to accomplish this obligation.

Johannes then summarized discussion that had taken place in the Legislative and Budget Committee regarding any proposed increase to the Resource Development Fund and discussion at the Program Committee regarding what might be construed as an unreasonably large balance of funds obligated but not expended at the end of each fiscal year. Johannes called upon sponsors of projects currently under way and staff to comment on the status of project commitments:

- Marlin Petermann explained that the balance in the Western Sarpy project was due to a hold up on construction caused by delays in receiving federal money and the obstacles associated with acquiring federal money.
- Mike Onnen stated that land rights acquisition slowed expenditures for the last two phases of the project, but these have been resolved and no issues are anticipated that would cause new delays in spending the carried over obligation this fiscal year.
- DNR staff reported on the Lower Turkey Creek Watershed Project based upon recent discussions with the project sponsor. Lower Big Blue NRD expects to spend its obligated funds and will be requesting an increase in their allocation to cover increased land rights costs.
- Lalit Jha, JEO was asked to provide comments on expenditure projections for the Upper Prairie/Silver/Moores Creek Project. Jha stated that the Central Platte NRD was closing on the purchase of 900 acres of land this fall and that the rain this spring and summer had slowed construction progress. DNR staff also reported on a conversation with Milt Moravek. Moravek had indicated that the NRD's would not be able to borrow additional capital required to continue contracting at the planned level due to the NRD's borrowing to finance the purchase of water. Based on the FY 2008 RDF obligation, the NRD reduced the size of the construction contract for calendar year 2008 from \$1.4 million dollars to \$900,000 for work to start in the spring. Moravek had also pointed out that the contracts are based on construction seasons which extend from spring through the fall, and this does not correlate with fiscal years.

Discussion about the balance of obligated funds continued with many Commissioners expressing their views on appropriate justifications for any unexpended balance, the need for clarifying any implications of the balance in order to find support for the Legislative & Budget Committee's agenda for increased appropriations, and relevance of this discussion topic to the motion at hand.

Rexroth urged that the issue of obligated funds carried over to FY2008 should not be considered in the vote regarding the Leigh Dam obligation motion. Johannes responded that the discussion was pertinent to the motion as Leigh Dam is more likely to spend this money before some of the other projects would. Watermeier reminded the Commissioners that at the last meeting it was agreed to revert to obligating funds per Attachment B-2 if Leigh Dam did not have the 404 permit in hand by the September meeting.

During further comments from several Commissioners both for and against the motion, Stan Staab was asked why the delay in obtaining the permit occurred. Staab responded that the review process had been changed and simply required more time than previously expected, adding that he was confident the permit would be received within 40 days. Discussion continued with clarification of the excess of project requests for obligations compared to FY 2008 funds available, and the requirement that the Commission finalize obligations. It was also noted that no funds could be disbursed until all necessary permits had been obtained.

A motion was made by Lembke to call for the question, and Kramper seconded.

Motion passed.

Aye: Moore, Donaldson, Hergott, Anderson, Johannes, Madsen, Lembke, Rexroth, Van Marter, Reeves, Burkholder, Kadlecek, Kramper, Hadenfeldt, and Korell

Nay: Watermeier

Abstain: None

Not Present: None

Chairman Madsen called for the vote on the original motion.

Motion defeated.

Aye: Donaldson, Watermeier, Johannes, Van Marter, Kramper, and Korell

Nay: Moore, Lembke, Reeves, Burkholder, Kadlecek, Madsen, Hadenfeldt, Rexroth, Hergott

Not Present: None

Abstain: Anderson

Following the vote, Korell requested that discussion on an open motion should be limited to items specific to that motion up for vote in the future. He observed that other topics should be addressed as separate agenda items.

Johannes also asked staff to add a column to the fund financial status report to more clearly show the total of unexpended obligated funds for each project. The revised report should be discussed at the optional refresher meeting on Commission member roles and responsibilities in November.

Johannes moved, and Kramper seconded, to reconsider and rescind the January 24, 2007, motion to adopt the draft amendment to the Soil and Water Conservation Program Fund rules to allow cost-share on landowner share of federally supported practices; and to direct staff to convey the Commissions' request to withdraw their request of the formal rules change to both the Governor and Secretary of State.

There was no discussion. Motion carried.

Aye: Korell, Watermeier, Johannes, Anderson, Madsen, Rexroth, Van Marter, Reeves, Burkholder, Donaldson, Kadlecek, Kramper, Hadenfeldt, Hergott, Moore and Lembke

Nay: None

Abstain: None

Not Present: None

## Interrelated Water Review Board

Chairman Madsen then called upon Ron Theis to explain the Commission's responsibilities in the event the Governor convenes the Interrelated Water Review Board (Board). Theis handed out a summary of the Commission's responsibilities under LB 962 stating that the role is limited to nominating members to the Board. The Board, if convened, would serve as the arbitrator of disputes between the DNR and the NRD board or between two NRD boards on agreements for Integrated Water Management Plans.

Madsen stated that he requested this item be placed on the agenda to get everyone thinking about who they would nominate. Bleed pointed out that this is an ad hoc board that might be convened to address a very narrow question which could relate to the Niobrara, the Upper Big Blue or anything else. She added that the Governor will define the question in his order to convene a Board, and she strongly recommended that the question be considered before identifying potential nominees. It could be a very narrow question about an aspect of the groundwater model or a very broad legal issue. Also, the eligibility of a person could depend upon where the dispute arises. Bleed suggested that the Commissioners develop a process that, upon notification of a dispute, could be used to guide Commission actions.

Madsen stated that the statute requires the Commission to present no fewer than six names to the Governor who then must select 3 names from the list. Johannes suggested that someone draft a proposed process that could be reviewed at the next meeting.

### ANNOUNCEMENTS, FUTURE MEETINGS, AGENDA ITEMS

- Korell mentioned that he appreciated the NRD and DNR newsletters he receives. Rexroth asked staff to request that each Commission member be added to all NRD's newsletter mailing lists.
- Madsen announced that the Holiday meal is scheduled to be held at the Misty's north location in Havelock during the next Commission meeting.
- Gittins noted that Commissioners had requested a brief workshop be held as a refresher on Commission responsibilities, the programs the commission oversees, and the various reports provided by the staff. This course be offered in November on the morning of the Committee meetings (November 14<sup>th</sup>) at LPSNRD.
- Madsen announced that an Executive Committee meeting will be held in conjunction with the meetings in November. Staff added that the Comprehensive Planning Committee will also meet in November to discuss key aspects of the Annual Plan of Work sent to Governor Heineman in September, and to discuss any suggested initiatives for Fiscal Years 2009-11.


Scheduled Commission meetings are as follows:

- November 14-15 at Lower Platte South NRD
- February 6, 2008 (NARD Legislative Conf. - February 4-6) – **NOTE DATE CHANGE**

### ADJOURNMENT

The meeting was adjourned at approximately 3:40 p.m.

  
Natural Resources Commission Chair

  
Director of Natural Resources