

# NEBRASKA NATURAL RESOURCES COMMISSION

## MEETING MINUTES – September 27, 2011

Those in attendance were:

Garry Anderson, Member	Dick Mercer, Vice-Chair	LeRoy Sievers, NDNR
Kenneth Brockman, Member	Clint Johannes, Member	Rex Gittins, NDNR
Stan Clouse, Member	Keith Rexroth, Member	Kent Zimmerman, NDNR
Dave Deines, Member	Jeff Steffen, Member	Craig Derickson, NRCS
Dick Hadenfeldt, Member	Dan Watermeier, Chair	Mike Onnen, LBNRD
Joseph Hergott, Member	David Kadlecek, Member	John Miyoshi, LPNNRD
Tom Knutson, Member	Ladd Reeves, Member	Mike Murren, LPNNRD

### CALL TO ORDER & ROLL CALL

The meeting was called to order by Commission Chairman Watermeier at 2:00 p.m. at the Younes Conference Center in Kearney, Nebraska. The following members were absent: Beverly Donaldson and Dan Nelsen.

### NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on Department's web site at [www.dnr.ne.gov](http://www.dnr.ne.gov). A copy of Nebraska's public meeting statutes was available in the room.

### INFORMATIONAL MATERIALS

The following informational materials were distributed at the Program Committee and Commission meetings. A copy of each is attached to the file copy of these minutes.

1. Commission Meeting Agenda
2. Selected Agenda Topics Explanation Paper
3. NRCS Report to the NRC
4. Expenditures Report
5. Resources Development Fund
  - Status Report as of September 15, 2011
  - Quarterly Report – July 31, 2011
  - Turkey Creek Project Overview Map
  - Lake Wanahoo Dam Storm Release Rates Study Graph
6. Small Watershed Flood Control Fund Status Report as of September 19, 2011
7. Nebraska Soil & Water Conservation Fund Status Report as of August 31, 2011
8. Nebraska Water Quality Fund Status Report as of August 31, 2011
9. Water Well Decommissioning Fund Status Report as of August 31, 2011
10. IWMPP Active Projects Funding Needs Table
11. Little Blue NRD Project #45 Request Letter & Map
12. Draft Changes to Commission Rules

## MINUTES

Staff reported that two minor changes had been made to the draft minutes distributed to Commissioners. These included a correction to the title of one attendee and revising the distribution of the Lake Wanahoo Project's FY 2012 obligation among its components.

Rexroth moved and Anderson seconded a motion to approve the minutes of the Program Committee meetings held on June 8, 2011, and the Commission meeting on June 9, 2011, as amended.

### **Motion Passed.**

Aye: Anderson, Brockman, Clouse, Deines, Hergott, Knutson, Mercer, Rexroth, Steffen and Watermeier

Nay: None

Abstain: Reeves, Hadenfeldt, Kadlecek and Johannes

Not Present: Donaldson and Nelsen

## EXPENDITURES REPORT

Fund expenditures reports showing financial activity and ending balances for July and August were distributed prior to the meeting. No unusual expenditures were reported. Gittins reminded everyone that Cash Fund appropriation balances provide the authority, not actual money.

## ADVISOR REPORTS

### NRCS

Craig Derickson distributed and highlighted a report from NRCS to the Commission.

- Administratively, Nebraska's 77 NRCS Field Offices are now divided into three operations areas.
- A new budgeting method is being employed in all 50 states using a process designed to be more of a strategic planning based exercise. This will allow staff to address their resource concerns and problems using programs and funds that are best equipped to do that.
- Nebraska is working with North & South Dakota and Kansas to develop a regionalized conservation payment schedule to make incentive payment costs more consistent throughout the region.
- Nebraska received about \$55 million from the NRCS programs during 2011.
- Derickson has the lead in a new regional special initiative EQIP program dealing with quantity and quality issues of the Ogallala Aquifer. Nebraska received about \$2.5 million this year and looks for about the same level next year.

### UNL WATER CENTER

No report given.

### ENVIRONMENTAL TRUST

No report given.

## DNR UPDATE

Director Dunnigan was unable to attend the Commission meeting but had presented a briefing on Department activities in the NARD Conference as part of the general session.

### ADMINISTRATIVE RULES CHANGE

LeRoy Sievers referenced an initial draft of proposed rules distributed prior to the meeting for the Commissioners' consideration. The changes deal with administrative procedures like conducting hearings and are intended to bring Commission rules into compliance with applicable portions of model rules promulgated by the Attorney General's office. Sievers then explained that the next step of the process would be for the Commission to authorize staff to refine the draft rules into a final format for consideration at the next meeting. Upon approval by the Commission, the proposed rules would be submitted to the Governor's Policy Research Office and the Attorney General's Office for review. If approved, a public hearing would be scheduled and conducted, and results would be presented to the Commission for its final consideration and possible action.

*Knutson moved and Clouse seconded a motion to authorize staff to proceed with the formal rules change process.*

#### **Motion Passed.**

*Aye:* Anderson, Brockman, Clouse, Deines, Hergott, Knutson, Mercer, Rexroth, Steffen, Watermeier, Reeves, Hadenfeldt, Kadlecek and Johannes  
*Nay:* None  
*Abstain:* None  
*Not Present:* Donaldson and Nelsen

### PROGRAM COMMITTEE

Program Committee Chair Johannes reported that the Committee met on September 26, 2011, to discuss program activities and to review project statuses. Johannes noted that no unusual activity had been reported and then brought forward the following action items.

#### Resources Development Fund

Due to overstatement of the balance available for allocation on July 1, 2011, the balance of allocations exceeded the \$18.5 million statutory cap. To correct this error, it was recommended that the total allocation to the Pigeon/Jones Project be reduced by \$4,083.40 as it was awarded the remaining balance after needs of previously funded projects had been met.

*Johannes moved and Knutson seconded to correct the July 1, 2011, allocation for the Pigeon/Jones Creek project to \$1,086,404.24, a reduction of \$4,083.40.*

#### **Motion Passed.**

*Aye:* Anderson, Brockman, Clouse, Deines, Hergott, Knutson, Mercer, Rexroth, Steffen, Watermeier, Reeves, Hadenfeldt, Kadlecek and Johannes  
*Nay:* None  
*Abstain:* None  
*Not Present:* Donaldson and Nelsen

Johannes then briefly described the Committee's discussion on the Lower Platte North NRD's proposed lowering the Lake Wanahoo water elevation and possible implications of the reduced number of surface water acres with regard to the original basis for approving the request for cost share assistance.

Johannes moved and Anderson seconded to adopt the following resolution:

*WHEREAS, the Lower Platte North Natural Resources District (LPNNRD) is the sponsor for the Sand Creek Watershed Environmental Restoration (Lake Wanahoo) Project.*

*WHEREAS, the LPNNRD submitted an Application and Feasibility Study for the Lake Wanahoo Project to obtain financial assistance from the Nebraska Natural Resources Development Fund (NRDF).*

*WHEREAS, the Department of Natural Resources (DNR) performed project reviews and evaluations based on the submitted specifications to determine eligibility for NRDF cost-sharing.*

*WHEREAS, the Natural Resources Commission (Commission) relied upon the DNR staff finding of eligibility and sponsor's assertions of benefit realization from operation as specified over a 50 year project life in its decision to approve cost-sharing at 60% of local cost, a commitment of State funding not to exceed \$12,268,720.*

*WHEREAS, the Sponsors are responsible for assuring that projects for which State NRDF funds have been committed adhere to specifications unless changes are approved by the Commission.*

*WHEREAS, the LPNNRD now believes a change in operations resulting in maintaining a smaller reservoir than originally specified and upon which the Commission based its review and approval, would help to reduce flood flows resulting from certain small rain events under specific conditions for the benefit of a few private downstream landowners at the expense of environmental restoration and recreation.*

*WHEREAS, the five additional upstream dams are being constructed and are scheduled for completion next summer for the purpose of sediment retention and flood control. The additional upstream dams are unrelated to this NRDF project and are not eligible for cost share assistance through the RDF fund.*

*WHEREAS, the Commission has authority to adjust cost-share allocation and the Department may require return of funds previously provided if the approved Project is not constructed, maintained or operated as specified.*

*NOW THEREFORE BE IT RESOLVED that the Commission agrees to a temporary variance in the original number of lake surface acres, as determined by the surface elevation maintained through operations conducted by District staff, to no less than an elevation of 1209 for a period of one year from the date of this resolution.*

*NOW THEREFORE BE IT FURTHER RESOLVED that DNR staff will periodically review how Project is being operated and report observations to the Commission.*

Watermeier pointed out that the resolution will provide Lower Platte North NRD with a year to evaluate the benefits or lack of benefits realized by the proposed change. It was also pointed out that Mike Murren commented during the Program Committee meeting that the

lake has to be gradually lowered from February through July 1<sup>st</sup> each year to comply with stipulations of the U.S. Fish and Wildlife Service, a requirement which was not noted in the project application.

**Motion Passed.**

Aye: Anderson, Brockman, Clouse, Deines, Hergott, Knutson, Mercer, Rexroth, Steffen, Watermeier, Reeves, Hadenfeldt, Kadlecek and Johannes  
Nay: None  
Abstain: None  
Not Present: Donaldson and Nelsen

Johannes noted that the Program Committee had directed DNR staff to meet with project sponsors before the November meeting and report back on their views regarding distribution of the expected FY 2013 appropriation. He then invited John Miyoshi, Manager of the Lower Platte North NRD and sponsor of the Sand Creek Environmental Restoration Project, to explain his rationale for believing the Lake Wanahoo project should be entitled to receive a larger share of the FY 2013 funding distribution. Miyoshi noted Legislative action during the 2002-03 biennium that resulted in a \$1.7 million increase in appropriation to the NRDF "earmarked" for projects with large federal grants in progress during that budget biennium. The Lake Wanahoo Project had not yet been in progress at that time and thus received no benefit from the "earmark" which was removed from the budget bill language in all subsequent session.

**Interrelated Water Management Plan Program Fund**

Mike Onnen, Manager of the Little Blue NRD described the tools produced by JEO to allow the District staff to electronically score any of the components that go into the District's risk map. This score is used by the Little Blue NRD board to determine whether or not to assign conditions to any new irrigation permit. The District also sought legal review and a method to evaluate soils scoring.

Johannes moved and Clouse seconded to approve the Little Blue NRD's request to expand the scope of the IWMPP project #45 with no additional funding.

**Motion Passed.**

Aye: Anderson, Brockman, Clouse, Deines, Hergott, Knutson, Mercer, Rexroth, Steffen, Watermeier, Reeves, Hadenfeldt, Kadlecek and Johannes  
Nay: None  
Abstain: None  
Not Present: Donaldson and Nelsen

**LEGISLATIVE & BUDGET UPDATE**

Reeves announced that he invited Dean Edson to address the Commission during the November Commission meeting.

Knutson is Coordinator of one of the LR 314 work groups which was tasked with putting together the projected funds needed by cities, NRDs, environmental groups and irrigation districts for future water-related projects. The Legislature's Natural Resources Committee is holding a hearing on October 7<sup>th</sup> during which the six work groups created to address aspects of the interim study will present summaries of their findings. Staff was asked to send Commissioners the schedule and location of the hearing.

**DISCUSSION & POSSIBLE ACTION ON PROPOSED RESOLUTION – Dan Nelsen**

At the June Commission meeting, Nelsen discussed the potential benefits of trans-basin diversion for purposes of augmentation and damage mitigation during times of flooding. With Nelsen absent, there was no further discussion.

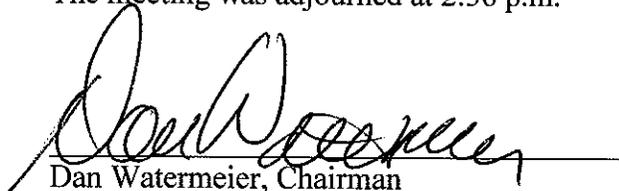
**ANNOUNCEMENTS/OTHER BUSINESS**

Commissioners were asked by Chairman Watermeier to plan on a group dinner on November 16<sup>th</sup>, the Wednesday evening before the November meeting.

The next Program Committee and Commission meetings will be held on November 16 and 17 in Lincoln.

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The meeting was adjourned at 2:36 p.m.

  
Dan Watermeier, Chairman

  
Brian P. Dunnigan, Director