

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – November 17, 2011

Lower Platte South NRD, Lincoln, Nebraska

Those in attendance were:

Garry Anderson, Member	Clint Johannes, Member	Doug Samuelson, LPSNRD
Kenneth Brockman, Member	Dan Watermeier, Chair	Mike Murren, LPNNRD
Bev Donaldson, Member	Ladd Reeves, Member	Jill Richters, NDNR
Jeff Steffen, Member	Lorrie Benson, UNL	Doug Hallum, NDNR
Dick Hadenfeldt, Member	Marilyn Tabor, NET	LeRoy Sievers, NDNR
Joseph Hergott, Member	Craig Derickson, NRCS	Rex Gittins, NDNR
Keith Rexroth, Member	Dean Edson, NARD	Kent Zimmerman, NDNR
Dick Mercer, Vice-Chair	Dave Clabaugh, LBBNRD	

CALL TO ORDER & ROLL CALL

The meeting was called to order by Commission Chairman Watermeier at 8:30 a.m. at the Lower Platte South NRD, Lincoln, Nebraska. The following members were absent: Stan Clouse, Dave Deines, Dave Kadlecek, Tom Knutson 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. 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. Nebraska Environmental Trust Annual Report
5. Expenditures Report
6. Resources Development Fund:
 - Status Report as of November 9, 2011
 - Quarterly Report – October 31, 2011
7. Small Watershed Flood Control Fund Status Report as of November 9, 2011
8. Nebraska Soil & Water Conservation Fund Status Report as of October 31, 2011
9. Nebraska Water Quality Fund Status Report as of October 31, 2011
10. Water Well Decommissioning Fund Status Report as of October 31, 2011
11. Interrelated Water Management Planning Program Funding Needs Table
12. Draft Changes to Commission Administrative Rules

MINUTES

Anderson moved and Brockman seconded a motion to approve the minutes of the Program Committee meeting on September 26, 2011, and the Commission meeting on September 27, 2011.

Motion Passed.

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

EXPENDITURES REPORT

Fund expenditures reports showing financial activity and ending balances for September and October were distributed prior to the meeting. No unusual expenditures were reported.

ADVISOR REPORTS

NRCS

Craig Derickson distributed a report from NRCS to the Commission and noted the following:

- The FY 2012 Federal Budget is in a state of flux. NRCS began the fiscal year on October 1, 2011, with a continuing resolution which limits the agencies spending level. The resolution expires this week, but another is expected to be signed.
- The regional heads of NRCS and FEMA co-chair a task force established by the US Army Corps of Engineers to deal with Missouri River Flood recovery. Six or seven working groups were established, Derickson is the lead for the agriculture lands group. A supplemental disaster bill to provide funds for the Emergency Conservation Program (ECP) and the Emergency Watershed Program (EWP) is expected to be enacted. Administered by FSA, ECP helps offset producers' costs for flood debris removal and repair of flood damaged fields. NRCS administers EWP which is a projects-oriented program to help offset costs for correcting infrastructure problems with roads, bridges, levees and communities. EWP requires a local sponsor, like an NRD or county, to agree to administer each project.
- Crop insurance rates for the 2012 crop year will likely be doubled or tripled in areas of the Missouri River bottoms where flood damage occurred.
- Sign-up for farm conservation programs like EQIP and others will continue even though there is not currently a budget in place. The first application ranking period ends November 18, 2011, although applications are accepted year round.
- Conservation Stewardship Program is currently making payments on 1,649 contracts within 91 of the 93 counties in Nebraska.
- NRCS is working to expand the number of Technical Support Providers in Nebraska.
- A National Watershed Coalition meeting in Oklahoma on December 6-7 will focus on watershed projects funding sources other than federal. NRDs, NDNR, and Nebraska NRCS plan to participate.

ENVIRONMENTAL TRUST

Marilyn Tabor, Grants Administrator, distributed the Trust's FY2011 annual report and described the status of applications for FY12 grants:

- Approximately 93 applications requesting over \$44 million were filed this year. With carry-over funding requests from last year, the total exceeds \$50 million, down \$5 million from last year.
- About \$18 million is expected to be available for FY 12 grants from lottery revenues (projected at about \$16 million) plus cancelation of over \$1 million in previous grants to Game and Parks for the Snake River project which has been abandoned.

UNL WATER CENTER

Lorrie Benson, Deputy Program Manager, UNL Water Resources Research Initiative, discussed the following topics.

- The 2012 Water and Natural Resources Tour will look at flooding impacts and recovery issues along the Missouri River. The tentative date is set for July 17th through the 19th.
- The Spring Water Lecture Series will include six to eight lectures related to water modeling. The power points and lectures will be made available on-line.
- The April 25th lecture will include three speakers addressing the technical, legal and other complexities for moving large quantities of water over great distances.
- Conservation & Survey Division will soon be interviewing to fill two new staff level positions – geologist and geo-hydrologist.
- The interim director of the Water Center will be leaving to become the interim director of Civil Engineering Department.
- It appears likely that the Water Center will be transitioned into the Water for Food Center.

DNR UPDATE

Doug Hallum, an Integrated Water Management Coordinator at NDNR, described the following during a presentation to the Commission.

- Definition of Light Detection and Ranging (LiDAR) and what it is used for.
- Completed projects and related land areas for which information has been obtained.
- Examples of uses for this information including cost and time savings realized.
- Public access to LiDAR information.

Gittins noted that a lot of NDNR staff time has been committed to the Republican River Compact lawsuit in the U.S. Supreme Court. Both Director Dunnigan and Deputy Director Schneider were finalizing the Nebraska Expert Report for submission to the Court this week.

LEGISLATIVE & BUDGET UPDATE

Dean Edson distributed a General Fund Financial Status report as of June 30, 2011, and offered the following observations.

- State senators will be going into the 60 day Legislative Session with an improved revenue forecast and the budget already set. Agriculture commodity prices and land values are strong, and the State's economy is in relatively good shape.
- The Special Session of the Legislature is meeting to address pipeline issues. Speaker Flood was one of the leaders in obtaining agreement to reroute the pipeline. Introduced bills call for Nebraska to spend \$2 million to study and analyze the new pipeline location to eliminate any perception of bias. The governor will ultimately be

given authority to approve pipeline routes. Further amendments are expected from Senator Haar (to prevent pipelines from going through environmentally sensitive areas) and Senator Dubas. Edson noted that many land rights (easements) had already been purchased along the originally planned route, and some power districts have begun construction to supply power to planned locations for pumping stations.

- LR 314, the interim study on funding sources for water programs, identified water-related projects in progress as well as those planned. NARD is working with NRD managers to finalize the project lists and estimated costs. Since the passage of LB 962 in 2004, NRDs have spent approximately \$63 million on planning and implementation of LR 483 plans.
- NARD will support introduction of a bill in the next Legislative session to allow the charging of administrative fees to cover expenses related to administrative hearings.
- In response to a question from the Commission, Edson suggested that commissioners keep the chair of the Appropriations Committee informed of funding needs. He added that LB 595 to set up a water resources revolving fund was introduced last year and remains in front of the committee.

PROGRAM COMMITTEE

Program Committee Chair Johannes reported that the Committee met on November 16, 2011, at the Holiday Inn Express on North 27th Street in Lincoln, to discuss program activities and review the status of projects. Johannes noted that no unusual activity was reported and that no action was taken. Following are highlights of discussion during the meeting.

Resources Development Fund

DNR staff met on November 3rd with all project sponsors seeking additional funding for FY 13. DNR staff reported that sponsors agreed to recommend that the Commission:

Fully fund the Little Sand Creek Project, with the remainder of the FY 2013 appropriation being divided equally among four projects: Lower Turkey Creek, Upper Prairie/Silver/Moores, Sand Creek Environmental Restoration (Lake Wanahoo), and Western Sarpy/Clear Creek. The group further recommended that upon close-out of the Little Sandy Creek Project, any unused obligation should be transferred to the Lake Wanahoo project.

Interrelated Water Management Plan Program Fund

Staff reported a November 3rd meeting had been held with 4 of the 6 project sponsors not yet fully funded. Sponsors discussed how to divide additional funding anticipated becoming available July 1, 2012. The outcome of the meeting was a group consensus to request the Commission:

Distribute FY 2013 funding based upon the proportion of each sponsor's unfunded balance to the total funding needs of all remaining projects. On that basis, each sponsor would receive just under 1/3 of the amount remaining to fulfill and complete their projects. Should any previously committed funds be freed up as a result of project close-outs, or if any sponsor does not require added funding in FY 2013, those funds will be added to the total available and divided in the same manner among the remaining projects.

Sponsors with multiple projects requested that they be allowed to allocate funds received among their approved projects as they choose, but must inform staff of those allocations prior to the May/June Commission meeting where formal action is taken to award the FY 2013 grants.

Subsequent to the meeting, staff received a request from one of the IWMPPF project sponsors who was unable to attend the meeting. That sponsor asked that a second meeting be held to allow further discussion of an alternative funding distribution. To simplify coordination, staff plans to schedule this meeting during the NRD Legislative Conference in time to report back to the Commission at its January meeting.

ADMINISTRATIVE RULES CHANGE

LeRoy Sievers, NDNR Legal Counsel, directed attention to two copies of Title 260 – Nebraska Administrative Code which were distributed for the Commissioners' consideration prior to the meeting. These were (1) a red line draft highlighting proposed changes which had been reviewed at the September Commission meeting, and (2) a final draft.

Sievers noted that some proposed modifications were made to conform to the Nebraska Administrative Procedures Act which requires any state body updating their rules to use model rules adopted by the Nebraska Attorney General's office whenever reasonable. The process for rules changes is covered in the Commission's Reference Guide.

Commission approval to proceed with this rules change would authorize staff to submit proposed rules to the Governor's Policy Research Office (PRO). Upon With PRO's go-ahead, a hearing date would be selected and the public notice published. The hearing would be conducted by an NDNR hearing officer, and results would be documented for consideration before the Commission acts on whether or not to adopt the revised rules. If adopted, the rules would be sent back to PRO and the Office of the Attorney General for approval. Following these approvals, the revised rules would be forwarded to Secretary of State for posting on the State website.

Johannes moved and Mercer seconded a motion to authorize staff to proceed with the formal rules change process.

Motion Passed.

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

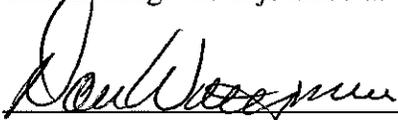
ANNOUNCEMENTS / OTHER BUSINESS

Chairman Watermeier announced the next Program Committee and Commission meetings will be held on January 24 – 25, 2012, in conjunction with the NARD Conference at the Embassy Suites Hotel in Lincoln. Agenda items will include election of the Commission chairperson and setting the meeting dates for calendar year 2012.

Anderson noted that the level of Commission business has decreased and suggested Commissioners think about how many meetings are necessary next year based on the reduced level of Commission business. Johannes noted that reducing the number of meeting dates for 2012 would not necessarily carry-over to following years.

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The meeting was adjourned at 10:12 a.m.



Dan Watermeier, Chairman



Brian P. Dunnigan, Director