

NEBRASKA NATURAL RESOURCES COMMISSION

DRAFT MEETING MINUTES – July 19, 2023

CALL TO ORDER – PLEDGE OF ALLEGIANCE & ROLL CALL

Chairman Batie called the meeting to order at 10:00 a.m. in the Younes Convention Center, Kearney, Nebraska. The roll was called following the Pledge of Allegiance.

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Rollie	Amsberry		X	Tim	Krause		X
Garry	Anderson	X		Rick	Kubat		X
Don	Batie		X	Tom	Mountford		X
Lawrence	Bradley	X		Keith	Rexroth		X
Devin	Brundage		X	Mick	Reynolds		X
Stan	Clouse		X	Lyle	Schroer		X
Mark	Czaplewski		X	LeRoy	Sievers		X
Dave	Deines		X	Scott	Smathers		X
Brad	Dunbar		X	Jeff	Steffen		X
Kevin	Fornoff		X	Dan	Steinkruger		X
Randy	Fox		X	Dennis	Strauch		X
Steve	Kelly		X	Greg	Wilke		X
Tom	Knutson		X	Vacant			
				Vacant			

DNR staff in attendance:

Kent Zimmerman, Jill Richters, and Isabella Peterson.

Others in attendance were:

Ryan Chapman, LPNNRD; Drew Ten Bensel, LPNNRD; Eric Gottschalk, LPNNRD; Curt Becker, LENRD; Dustin Wilcox, NARD; Scott Nelson, LBNRD; Jon Mohr, LRE Water, Chris Miller, Miller & Associates, Paul Woodward, HDR & Russ Callen, LLNRD.

ANNOUNCEMENTS

None were offered.

NOTICE OF THE MEETING AND PUBLIC MEETING LAWS

Notice of the meeting was published on the State Public Meetings Calendar and on the Natural Resources Commission (Commission) web site at <https://nrc.nebraska.gov>. A copy of Nebraska’s open meeting statutes was available in the room.

MINUTES

Smathers moved and Sievers seconded the motion to approve the minutes of the April 5th, 2023, Commission meeting.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat			X	
Anderson				X	Mountford	X			
Batie	X				Rexroth			X	
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski			X		Smathers	X			
Deines			X		Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	19	0	4	2

DNR UPDATE & PUBLIC COMMENTS

Staff announced DNR Director Tom Riley was unable to attend this meeting because a cabinet meeting had been called.

PROGRAM COMMITTEE

Staff led discussion on agenda topics pertaining to program activities. No unusual activity was reported during review of status reports for the following funds.

Resources Development Fund

The status report showed business as usual.

Eric Gottschalk, General Manager of Lower Platte North Natural Resources District (Gottschalk) described the amount of revenue from hay sales and dirt sales within the Sand Creek Environmental Restoration project and how the cost share split for different tracks of land determines the amounts returned to the Resources Development Fund. Gottschalk stated that the hay sales were bid out each year. The last revenue true up was for this project was April 2021. Chairman Batie noted these funds are returned to the Resources Development Fund and that staff is working with the governor’s staff to transfer the funds to the Water Sustainability Fund.

Kubat moved and Czaplewski seconded the motion to request staff transfer from the Resources Development Fund to the Water Sustainability Fund \$27,790.02 of revenue.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	23	0	0	2

Prior to this meeting, Gottschalk submitted a request to change the plan of development for the Sand Creek Environmental Restoration project to include a marina/dock system. Because no additional funds were requested to complete this dock, it was deemed the addition of a dock for public access would provide additional benefits with no additional costs as there are some obligated funds remaining. Therefore, the request met the cost/benefit requirement. Gottschalk described the plan for the additional public use development at the project site and answered a few questions.

Kubat moved and Mountford seconded the motion to approve the Lower Platte North NRD’s request to Change the Plan of Development for the Sand Creek Environmental Restoration (Lake Wanahoo) project to include a marina/dock system within the Recreation Component.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	23	0	0	2

Small Watersheds Flood Control Fund

This is currently an unfunded program.

Soil & Water Conservation Program Fund

The status report showed business as usual. Processing of claims filed through June 30th is underway. Once completed, remaining balance determination and possible fund redistribution will be calculated.

Prior to the meeting, Lower Elkhorn NRD (LENRD) requested “slip lining” and “cure in place pipe” be added to the list of eligible practices for repair (under NC-19 (A)) of dams. Curt Becker, LENRD, described the reasons for the request and the benefits of these practices. It was noted other NRDs, and DNR’s dam safety folks expressed support for this request. Mountford noted Rob Lawson, State Conservationist for NRCS sent a letter to LENRD supporting LENRD for addressing the need to repair dams and this concept. NRCS does not yet have this on the list of eligible practices but is reviewing the technology. It takes a while to become an approved practice with NRCS.

Kubat moved and Smathers seconded the motion to modify NSWCP Practice NC-19 (A), Repair of Practices – Eligible Components to add slip lining and cure in place pipe as eligible components.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			

Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	23	0	0	2

Natural Resources Water Quality Fund

The status report showed business as usual. The next distribution to the NRDs will be in August.

Water Well Decommissioning Fund

The status report showed business as usual.

Water Sustainability Fund

The status report showed business as usual. The amount of funds reimbursed during covid was about \$3 million in FY21 and \$4.7 million in FY22. Last year, FY23, sponsors received over \$13.1 million reflecting the increased pace of project progress post-covid.

Commissioner Jeff Steffen gave an update on the Cedar Knox project #10035. Specifically, the sponsor received a lot of push back from local landowners regarding concerns over quantity of withdraws at the proposed well field location. Within the application an alternate well field location was identified as a second choice and the sponsor is now moving in that direction. Chairman Batie noted that because both sites were identified within the application, this was determined to not be a change in scope. Batie asked if any commissioners disagreed with that determination, none did. Nonetheless, when the sponsor reported the change in plans to staff, staff suggested giving the Commission an update for the purpose of being open and transparent.

Chairman Batie mentioned the Program Committee will be reviewing project progress for some of the projects in this fund as well as the Resources Development fund.

EXECUTIVE COMMITTEE

Chairman Batie stated the Executive Committee met prior to this meeting. Batie led discussion on the closeout of the following projects.

**WSF Project Proposed Close Outs & Grant Reductions,
2023**

App No.	Year Filed	Approved Grant	Grant Released	Final Grant	Sponsor
4177	2016	6,711,449.00	0	6,711,449.00	PMNRD
5192	2017	144,716.00	1,387.90	143,328.10	UNL
5195	2017	1,224,000.00	0.00	1,224,000.00	LLNRD
5201	2017	2,269,194.00	2,062,626.65	206,567.35	LPNNRD
5243	2019	201,600.00	0.00	201,600.00	LENRD
5244	2019	52,260.00	0.00	52,260.00	LLNRD
5256	2019	210,000.00	77,952.82	132,047.18	Platte Center
5313	2021	250,000.00	0	250,000.00	LLNRD

Total 2,141,967.37

Steinkruger moved and Czaplewski seconded the motion to formally closeout each project listed in the table titled “WSF Project Proposed Close Outs & Grant Reduction, 2023” (above) reducing grants where necessary to that proposed in the Final Grant column; and to make available the unused balance of \$2,141,967.37 as unassigned.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			

Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	23	0	0	2

Chairman Batie reviewed the 2023 WSF available funding budget as follows.

	2023 Available
Appropriation	10,865,033.00
23 WSF closeout	2,141,967.37
Interest	900,258.68
Hay & Dirt Sales Est.	<u>27,790.02</u>
Total	13,935,049.07

Batie also reviewed the funding distribution based upon the Application Review Committee's recommendations as follows.

	Allocation Allotments	Proposed Allocation	Proposed Obligation
2023 CAP	3,623,832.87	3,623,832.87	3,623,832.87
CSO	1,086,503.30	1,086,503.30	1,086,503.30
Small	1,086,503.30	1,470,561.00	1,470,561.00
Large	5,068,193.53	<u>8,817,604.00</u>	<u>7,754,151.90</u>
		14,998,501.17	13,935,049.07

Unassigned 3,070,016.07

Total 13,935,049.07

2024 CAP
USED

1,063,452.10

#'s Check 14,998,501.17

Based upon the above budget, the Executive Committee's recommendation for assigning the unassigned funds are as follows in order to meet the funding recommendation of the Application Review Committee.

Assigned Small 384,057.70

Assigned Large 2,685,958.37

Total Assigned 3,070,016.07

Batie noted that if the recommendations of the Application Review Committee are changed, these numbers will need to be changed as well. Batie also asked if Commissioners followed how this money flows and if anyone had any questions. There were no questions.

Steinkruger moved and Steffen seconded the motion to assign the unassigned balance of \$3,070,016.07 in the WSF account as follows: \$384,057.70 to the Small Projects available balance account and \$2,685,958.37 to the Large Projects available balance account.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			

Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	23	0	0	2

APPLICATIONS REVIEW COMMITTEE

Committee Chairman Steinkruger announced the Committee met on June 26th & 27th, 2023 in Norfolk. Along with himself, Steinkruger listed the following Commissioners as being present for the meeting; Skip Amsberry, Garry Anderson, Don Batie, Larry Bradley, Brad Dunbar, Randy Fox, Tom Mountford, LeRoy Sievers, Scott Smathers & Jeff Steffen. Steinkruger stated that Larry Bradley served as the alternate from those elected and the Committee was short one member from those who had been appointed so there was no alternate from that group. The Committee reviewed past funding, the scoring process overview, criteria for large and small funding requests and an applications overview prior to scoring these applications. Steinkruger reviewed the “2023 NRC Application Review Committee Recommendation” (attached) table and gave an overview of each proposed project. Steinkruger stated the Committee saw a break in the scores for small requests between 41 and 38 points and chose to recommend funding those with scores of 41 or more. The Committee also recommended funding the top two scoring projects in the large category by partially funding the second highest scoring project committing all remaining available funds using the CAP (Title 261 Chapter 3 Subsection 002.03 and Neb. Rev. Stat § 2-1507 (4)).

Chairman Batie asked if any Commissioners want to discuss any of the projects or the scores. Staff also noted the Committee’s “2023 WSF Recommended Contract Conditions” (attached) document was distributed prior to the meeting. Reynold noted he liked the diversity of types of applications filed this year and Batie added he liked the increased statewide distribution of requests this year. Sievers stated that he likes the process that is used which allows all Committee members the opportunity to discuss applications, express any concerns they have and ask questions.

Batie stated that the Committee met the first day and went through each application question by question. Everyone was allowed time that evening to rescore any applications they wanted to because they understood the applications better based upon discussion with other Committee members regarding points, both pro and con, that they hadn’t thought about. The next morning

Committee members scores were locked down and the Committee voted on them. By having that two-day process, Batie believes the Committee ends up doing a better job of scoring. Sievers added that it is good to recognize that the Committee takes a good deal of time to do the very best job possible to come up with fair scores based upon all of the information available to the Committee and rely upon the information that is in the application relative to each specific question. Batie added that the practice of requiring any Committee members that were on the board of directors of the project sponsor or that had any connection to a project, to abstain was followed.

Steinkruger added that DNR Director Tom Riley sat in on the Committee meeting and answered some questions and provided some comments on the process and was very helpful.

Steinkruger moved and Knutson seconded the motion to obligate \$3,623,832.87 to WSF #10035 in accordance with Title 261 Chapter 3 Subsection 002.03 and Neb. Rev. Stat § 2-1507 (4); and to approve City of Omaha’s CSO application #10037 in the amount of \$1,086,503.30.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				

Krause	X				TOTALS	23	0	0	2
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Steinkruger moved and Mountford seconded the motion to approve the Application Review Committee’s recommended scores and fund all Small Project applications with a score of 41 or higher subject to the conditions proposed by the Application Review Committee.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat			X	
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer	X			
Clouse			X		Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox	X				Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	21	0	2	2

Steinkruger moved and Smathers seconded the motion to approve the Application Review Committee’s recommended scores and fund all Large Project applications with a score of 42 or higher subject to the conditions proposed by the Application Review Committee; and limiting the obligation for WSF #10056 to all remaining funding \$3,834,651.90 in

accordance with Title 261 Chapter 3 Subsection 002.03 and Neb. Rev. Stat. § 2-1507 (4). The allocation for WSF #10056 is \$4,898,104.00, the obligation is \$3,834,651.90 , and the remaining unobligated balance is \$1,063,452.10.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amsberry	X				Kubat	X			
Anderson				X	Mountford	X			
Batie	X				Rexroth	X			
Bradley				X	Reynolds	X			
Brundage	X				Schroer			X	
Clouse	X				Sievers	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar	X				Steinkruger	X			
Fornoff	X				Strauch	X			
Fox			X		Wilke	X			
Kelly	X				Vacant				
Knutson	X				Vacant				
Krause	X				TOTALS	21	0	2	2

Chairman Batie thanked the members of the Applications Review Committee for their hard work, and all Commissioners for reviewing the applications. Batie stated that being on this Committee is a labor of love, as he loves being on it and he hates being on it.

OTHER BUSINESS

- Chairman Batie announced the Program Committee will meet immediately following this meeting and that he asked Mick Reynolds, chair of the Comprehensive Planning Committee to begin reviewing the rules for the WSF.
- Reynolds asked members of the Comprehensive Planning Committee to meet briefly after the Commission meeting.

- Chairman Batie asked Commissioners to submit suggestions for a project tour and meeting location for the December 6th Commission meeting to himself and Kent Zimmerman. The format will likely be to hold a tour on the first day with committee meetings later that afternoon or evening, stay overnight in a hotel and then hold the NRC meeting on the second day.
- Isabella Peterson, an attorney with DNR was introduced to the Commission.

ADJOURNMENT

The meeting was adjourned at 11:07 a.m.

DRAFT