

**MINUTES OF THE
NEBRASKA NATURAL RESOURCES COMMISSION MEETING**

MAY 23, 2002

Those in attendance were:

Joseph Hergott, Chair	Jerry Sandeen
Richard Jiskra, Member	Lynn Heng
Dan Watermeier, Member	Ken Berney
Vince Kramper, Member	Stan Staab
Garry Anderson, Member	Mike Onnen
Wayne Davis, Member	Allen Schroeder
Frank Bartak, Member	Steve Oltmans
Arlond Garratt , Member	Marlin Peterman
Don Roberts, Member	Nelson Carpenter
Robert Hahn, Member	Mike Murren
LeRoy Pieper, Member	Roger Patterson, Director
Roger Korell, Member	Jim Cook, Staff
Wayne Madsen, Member	Steve Gaul, Staff
Jim Van Marter, Member	Mahendra Bansal, Staff
Glenn Johnson	Tom Pesek, Staff
Paul Zillig	Gayle Starr, Staff

CALL TO ORDER

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The meeting was called to order by Commission Chair, Joseph Hergott, in the conference room of the Lower Platte South NRD in Lincoln, Nebraska at approximately 9:30 a.m.

NOTICE OF THE MEETING

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Notice of the meeting was placed in the LINCOLN JOURNAL & STAR on May 15, 2002, notifying the public of meetings.

INFORMATIONAL MATERIAL

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The following items of informational material were distributed during the course of the meeting and a copy of each is attached to the file copy of the minutes.

1. Letter to Commission Members from DNR Director on Recommendation on the Little Sandy Creek Watershed Project.
2. Letter to Director from Lower Platte South NRD on Stevens Creek Watershed Project requesting an increased allocation.
3. Letter from Nemaha NRD – appraisal listing for land rights – Small Watersheds Flood Control Fund, Site 23 in the Upper Little Nemaha Watershed.
4. Letter to Commission Members from DNR Director on Recommendation on Western Sarpy/Clear Creek Project.
5. Draft letter to Lower Elkhorn NRD to proceed with Leigh Dam Project.
6. Draft letter to Village of Winslow to proceed with Winslow Levee Project.
7. Status of Small Watersheds Flood Control Fund.
8. Nebraska Resources Development Fund Present Financial Status.

9. Soil & Water Conservation Fund – Expenditures by Month 1994-2002.
10. NE Soil & Water Conservation Fund – Republican Basin Water Meter Program Summary.
11. Natural Resources Water Quality Fund Summary.
12. Water Well Decommissioning Cash Fund Summary.
13. Department of Natural Resources Budget – FY 2001-02 and 2002-03.
14. NSWCP Fund Distribution 2002-2003.
15. NRCS Report to the NNRC and NARD.

MINUTES

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Motion was made by Kramper and seconded by Pieper to approve the minutes of the March 21, 2002, Commission meeting as distributed. Motion carried.

Aye: Madsen, Van Marter, Johannes, Hahn, Roberts, Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Hergott

Nay: None

Not Present: Donaldson

EXPENDITURES

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Gayle Starr noted that the expenditure report for March and April of 2002 had been mailed to Commission members for their information.

ADVISOR'S COMMENTS

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Steve Chick, NRCS State Conservationist, noted that he had distributed information to Commission members concerning the conservation title of the newly-enacted farm bill and briefly described various portions of the conservation title and itemized the authorized funding for each of the provisions. He noted that funding had only been authorized but not made available to USDA at this point. He explained that the provisions of the conservation title would provide a significant challenge and opportunity for conservation in the State of Nebraska. He also explained the funding that is to be available for the High Plains aquifer and noted that these funds should be a great help to the water conservation efforts in the Republican Basin as well as other parts of the state.

DIRECTOR'S REPORT

Roger Patterson explained that the Blue River Compact Commission had recently held their annual meeting and that the compact was working well and the two states involved (Kansas and Nebraska) were working well together on this compact.

Patterson explained the lawsuit filed by the State of South Dakota against the Corps of Engineers to prevent the Corps from utilizing water stored in the Oahe Reservoir to supplement downstream flows. He added that several basin states had instituted various legal maneuvers in relation to this lawsuit to try to protect their interests. He explained that Nebraska tried to intervene in the lawsuit but that was denied by the court. He added that there could be further lengthy and expensive legal proceedings before this issue is resolved.

ENVIRONMENTAL TRUST

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Vince Kramper explained that the Environmental Trust had approved the grants recommended by the Ratings Committee with the exception of delaying action on two grants because of some questions. He added that the Trust had later approved one of the delayed grants for a paper recycling operation in the amount of \$1,000,000 but had not taken action on a \$300,000 grant to NRCS to supplement the EQIP program because of the federal funds that are now available for that program. Kramper added that the Trust board had developed a revised ratings system for applications to utilize in the future which they feel better meet their needs.

PLATTE RIVER

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Patterson reported that the Governance Committee had met earlier this week in Denver and that they are making slow progress on the various issues. He noted that a decision on a program is now scheduled for July of 2003 but will likely be delayed until December 2003. Patterson explained that Congressman Osborne had suggested to the Cooperative Agreement Governance Committee a peer review of the science utilized in the various aspects of the cooperative agreement and that the Governance Committee would probably do so. He also noted that because of state budget cuts, an economic analysis that was scheduled to be done could not be funded from the department's budget and that he and Jim Cook were soliciting contributions from various involved and interested entities and it appears that the funding might be made available.

REPUBLICAN RIVER

Patterson reported that he, Ann Bleed, and Jim Cook of the department staff, and Dave Cookson of the Attorney General's office were continuing to meet with Kansas representatives to discuss the various issues involved and that some progress was being made. He added that the Special Master had given them until mid-December to try to reach a settlement.

PROGRAM COMMITTEE

Robert Hahn indicated that the Program Committee had reviewed status reports on the Resources Development Fund, Small Watersheds Flood Control Fund, Soil and Water Conservation Fund, Natural Resources Water Quality Fund, and Water Well Decommissioning Fund. He noted that the first item for action was approval of the Little Sandy Creek Watershed Project application. Motion was made by Hahn and seconded by Kramper that the Natural Resources Commission, having reviewed and considered the recommendations of the Director of Natural Resources, hereby makes the following findings of fact:

- (1)The Little Sandy Creek Watershed Project will be of general public benefit;
- (2)The project plan does not conflict with any existing state land plan;
- (3)The project has been determined to be technically, economically, and financially feasible and environmentally acceptable according to the Nebraska Resources Development Fund criteria;
- (4)The plan for development is satisfactory;
- (5)The plan minimizes any adverse impacts on the natural environment;
- (6)The Little Blue Natural Resources District (NRD) is qualified, responsible, and legally capable of carrying out the project;
- (7)Other plans and programs of the state were taken into consideration in preparing the plan of development in accordance with section 84-135, and resources development plans of the political subdivisions of the state were considered;
- (8)The project will not jeopardize the continued existence of any threatened or endangered species or modify or destroy the habitat of any such species;

and therefore resolves that:

- (1)The Little Sandy Creek Watershed Project be determined eligible for funding from the Nebraska Resources Development Fund; actual funding to be subject to the condition that the money required from the Fund is available and the application of the assessment system for obligating funds.
- (2)The funding, if and when provided, should be in the form of a grant for up to \$2,020,200.00 not to exceed 70% eligible total local project cost of \$2,886,000.00.
- (3)The Director of Natural Resources is authorized to negotiate and enter into a contract with the Little Blue NRD for carrying out the provisions of the project.

Motion carried.

Aye: Van Marter, Johannes, Hahn, Roberts, Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Madsen

Nay: None

Not Eligible to Vote: Hergott

Not Present: Donaldson

Hahn explained that the committee had reviewed the director's recommendation that the Village of Winslow may proceed with an application and feasibility report for their levee project.

Motion was made by Hahn and seconded by Pieper that the Natural Resources Commission advise the Village of Winslow that it may proceed with an application and feasibility report for the Winslow Levee Project and that it is to address the comments and questions contained in the letter from the Director of Natural Resources.

Motion carried.

Aye: Johannes, Hahn, Roberts, Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Madsen, Van Marter, Hergott

Nay: None

Not Present: Donaldson

Hahn explained that the committee had reviewed the recommendation of the director concerning the Leigh Project and had recommended that the Lower Elkhorn NRD may proceed with an application and feasibility report. Motion was made by Hahn and seconded by Anderson that the Natural Resources Commission advise the Lower Elkhorn NRD that it may proceed with an application and feasibility report for the Leigh Dam/Reservoir Project and that it is to address the comments and questions contained in the letter from the Director of Natural Resources.

Motion carried.

Aye: Hahn, Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Madsen, Van Marter, Johannes, Hergott

Nay: Roberts

Abstain: Watermeier

Not Present: Donaldson

Hahn explained that Paul Zillig of the Lower Platte South NRD had reviewed their request for an increased allocation for Component #2 of the Stevens Creek Watershed Project and the committee was recommending approval of their request. Motion was made by Hahn and seconded by Jiskra that the Natural Resources Commission approve the Lower Platte South NRD's request for an increased allocation of \$21,214.50 for Component #2 (Engineering Services – Design and Geotech) of the Stevens Creek Watershed Project, increasing the total project allocation from \$1,777,181.75 to \$1,798,396.25. Motion carried.

Aye: Roberts, Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Madsen, Van Marter, Hahn, Hergott

Nay: None

Not Present: Donaldson, Johannes

Hahn explained that the committee had then taken action to recommend obligation of funds for the next fiscal year for Resources Development Fund projects. Motion was made by Hahn and seconded by Kramper that the Commission establish the following components and obligate FY 2003 funds as follows:

NEBRASKA RESOURCES DEVELOPMENT FUND				
Project Components and Request for FY 2003 Funds				
May 22, 2002				
Project	#	Project Component	Request for FY 2003	
Lake Ericson	2	Final Design	\$ 2,264.22	
	3	Land Rights	4,347.00	
	4	Construction, Structural	269,640.00	

	5	Construction, Recreation	94,815.00	
			Subtotal:	\$371,066.22
Antelope Creek	4	R-O-W Acquisitions and Relocations	1,574,666.67	
			Subtotal:	\$1,574,666.67
Little Sandy Creek ^{1/}	1	Feasibility Study & Soils Investigation	74,900.00	
	2	Engineering Sites 30, 40 & 61	133,000.00	
	3	Lands & Easements Sites 30, 40 & 61	139,160.00	
	4	Construction & Inspection Sites 30 & 61	121,100.00	
			Subtotal:	\$468,160.00
Stevens Creek	2	Engineering Services - Design/Geotech (Increased Allocation)	21,214.50	
	4	Engineering Services - Construction Observation at A2-1, A3-2, A5-1, A11-2 & Sky Ranch	60,000.00	
	5	Construction of A2-1, A3-1, A5-1, All-2 & Sky Ranch	492,300.00	
			Subtotal:	\$ 573,514.50
			TOTAL:	\$2,987,407.39

Motion carried.

Aye: Davis, Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Madsen, Van Marter, Hahn, Roberts, Hergott

Nay: None

Not Present: Donaldson, Johannes

Hahn then explained that Lynn Heng, Manager of the Nemaha NRD, had briefed the committee on their request for the use of Small Watersheds Flood Control Funds for 10 separate easements at Site 23 of the Upper Little Nemaha Watershed Project. Motion was made by Hahn and seconded by Watermeier to approve the following appraisals at Site 23 of the Upper Little Nemaha Watershed Project:

- (1) The Kempkes tract (26.8 acres) and commit 50% of \$27,581.00 or \$13,790.50 for easement;
- (2) The Starr tract (38.2 acres) and commit 50% of \$43,858.00 or \$21,929.00 for easement;
- (3) The Stolte tract (41.7 acres) and commit 50% of \$21,352.00 or \$10,676.00 for easement;
- (4) The Starr tract (8.6 acres) and commit 50% of \$16,849.00 or \$8,424.50 for easement;
- (5) The Kempkes tract (19.5 acres) and commit 50% of \$14,387.00 or \$7,193.50 for easement;
- (6) The Stolte tract (26.1 acres) and commit 50% of \$12,639.00 or \$6,319.50 for easement;
- (7) The King tract (5.0 acres) and commit 50% of \$1,232.00 or \$616.00 for easement;
- (8) The Siefert tract (0.7 acres) and commit 50% of \$231.00 or \$115.50 for easement;
- (9) The Kempkes tract (0.4 acres) and commit 50% of \$161.00 or \$80.50 for easement; and
- (10) The Novak tract (0.7 acres) and commit 50% of \$139.00 or \$69.50 for easement.

Motion carried.

Aye: Jiskra, Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Watermeier, Madsen, Van Marter, Hahn, Roberts, Davis, Hergott

Nay: None

Not Present: Donaldson, Johannes

Hahn explained that the committee had been briefed on the availability of Soil & Water Conservation funds for the coming year and that the Legislature had made a significant cut in the amount of available funds. Motion was made by Hahn and seconded by Jiskra to distribute the available funds among the NRDs as follows:

1. \$1,000,000.00 divided equally among the 23 NRDs.
2. Remaining available funds divided based on the NRI formula.

Motion carried.

Aye: Bartak, Anderson, Garratt, Kramper, Korell, Pieper, Madsen, Van Marter, Hahn, Roberts, Davis, Jiskra, Hergott

Nay: None

Abstain: Watermeier

Not Present: Donaldson, Johannes

Hahn then called on Steve Oltmans, Manager of the Papio-Missouri River NRD, who along with Assistant NRD Manager Marlin Petermann and Nelson Carpenter of the Corps of Engineers briefed the Commission on the Western Sarpy/Clear Creek Project. It was noted that action on the project would be on the agenda for the July Commission meeting. It was also explained that in accordance with Commission policy, a tour of the project by a delegation of Commission members is to be conducted prior to project approval. Gayle Starr noted that tentatively a tour was planned for the afternoon of July 23, and that Commission members would be advised of the detailed plans before the tour.

LEGISLATION

Dave Vogler distributed the final legislative memo for the 2002 legislative session and briefly reviewed the budget actions taken by the Legislature as well as LB 458, relating to various aspects of well registrations and LB 1003 which among other things establishes the Water Policy Task Force which will be charged with the responsibility of studying and making recommendations on various water issues. Roger Patterson noted that the Governor's office is receiving numerous recommendations for individuals to be appointed to the Water Task Force and he anticipated that the Governor would be making appointments in mid-June.

Jim Cook noted that LB 1003 also authorized the use of the Soil and Water Conservation Fund to assist landowners installing sediment control structures on land being converted to urban uses. He added that he was not certain at this time whether or not this would require any changes in the Soil and Water Conservation Fund rule and regulations but if changes were necessary a hearing would be scheduled in connection with the July Commission meeting regarding any proposed changes.

COMPREHENSIVE PLANNING COMMITTEE

Steve Gaul briefed the Commission on several Planning and Assistance Division topics including the National Hydrographic Dataset, the Carbon Sequestration Study, Floodplain mapping, digitization of soils maps, and the CoHyst Study. Mahendra Bansal briefed the Commission on progress being made on displaying various GIS mapping features over the internet and the priority being given to development of the surface water data base.

NEXT MEETING

The next meeting of the Commission will be July 24 and 25 at the Central Platte Natural Resources District office in Grand Island. A tour of several NRD projects in the Grand Island vicinity will be conducted for the Commission by the Central Platte NRD in connection with that meeting.

ADJOURNMENT

The meeting was adjourned at approximately 11:30 a.m.

Chair

Director of Natural Resources

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