

# MINUTES OF THE NEBRASKA NATURAL RESOURCES COMMISSION MEETING

September 26, 2006  
Holiday Inn Hotel & Convention Center – Kearney, Nebraska

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Those in attendance were:

Garry Anderson, Chair	Gene Stoklasa, CPNRD	Beverly Franzen, Columbus, NE
Wayne Madsen, Vice Chair	Scott Sabotka, LBBNRD	Myron Franzen, Columbus, NE
Jim Van Marter, Member	Ken Berney, LENRD	Sharon Kumpf, Leigh, NE
John Burkholder, Member	Mike Murphy, LENRD	Eugene Hertz, Leigh, NE
Richard Hadenfeldt, Member	Robert T. Mohler, LLNRD	Steve Chick, NRCS
Vince Kramper, Member	John Miyoshi, LPNNRD	
Beverly Donaldson, Member	Mike Murren, LPNNRD	Ann Bleed, Staff
Richard Jiskra, Member	Mike Clements, LRNRD	Jim Cook, Staff
Clinton Johannes, Member	Dan Smith, MRNRD	Rex Gittins, Staff
Joseph Hergott, Member	Bob Hilske, NNRD	Jill Richters, Staff
Arlond Garratt, Member	Scott Nelson, NNRD	Jeremy Gehle, Staff
Myron Lembke, Member	Jasper Fanning, URNRD	
Dan Watermeier, Member	Jay Bitner, UBBNRD	
Wayne Davis, Member		
Keith Rexroth, Member	Keith Maaske, Olsson Assoc.	
Roger Korell, Member	Kevin Prior, Olsson Assoc.	

## CALL TO ORDER

The meeting was called to order by Commission Chair Garry Anderson in the Executive Conference Room of the Kearney the meeting room of the Holiday Inn Hotel & Convention Center at approximately 1:50 p.m.

## NOTICE OF THE MEETING

Notice of the meeting was published in the LINCOLN JOURNAL & STAR and the KEARNEY HUB on September 19, 2006, notifying the public of the meeting.

## 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. Natural Resources Conservation Service Report
3. Nebraska Resources Development Fund Status Report
4. Letter from Lower Elkhorn NRD regarding Leigh Dam Project
5. Status of Small Watersheds Flood Control Fund
6. Small Watersheds Flood Control Fund – Projected Funding Requests
7. Soil & Water Conservation Fund – Expenditures by Month, 1998-2006
8. Letter from NRCS Scottsbluff Office to North Platte NRD regarding Land Leveling practice and costs.
9. Natural Resources Water Quality Fund Status
10. Water Well Decommissioning Fund Status
11. Proposed Rules and Regulations Changes for Water Well Decommissioning Fund
12. Republican Basin EQIP & Platte – Republican CREP Report
13. DNR Fund Expenditures for July & August 2006

## MINUTES

Motion was made by Kramper and seconded by Van Marter to approve the minutes of the July 13, 2006, Commission meeting as distributed. Motion carried.

Aye: Burkholder, Hergott, Davis, Jiskra, Watermeier, Donaldson, Kramper, Lembke, Garratt, Johannes, Hadenfeldt, Van Marter, Anderson, Korell, Rexroth

Nay: None  
Abstained: Madsen

### EXPENDITURES

Rex Gittins noted that the expenditures report for the various funds for the months of July and August 2006 had been distributed to Commission members. No unusual items were noted.

### ADVISOR'S COMMENTS

Steve Chick, NRCS State Conservationist, updated the Commission, distributed a report to the Commission members, and briefly commented on the Environmental Quality Incentives Program (EQIP), the Wildlife Habitat Incentives Program (WHIP), the Wetland Reserve Program (WRP) and the Conservation Security Program (CSP) along with the Conservation Innovation Grants in Nebraska that have been approved. He stated that interest appears high for a new 5-year program to convert irrigation pivot corners to wildlife habitat, and interest has been noted in the Pumpkin Creek, Lodgepole Creek, and Republican River basin areas for leveraging EQIP funds to convert irrigated farmland to dry-land. He also noted that a new NRCS Chief has been appointed.

### ACTING DIRECTOR'S REPORT

Ann Bleed noted that the Department's planned legislation requests are limited to clean-up issues. The department budget request for 2007-2009 is the same as this year's budget with one notable reduction, that being the one-time funding in Fiscal Year 2007 for purchasing water supplies from irrigation districts in the Republican Basin. Ann also noted several staff additions: Jesse Bradley has been hired to fill the role of technical coordinator to the NRDs, Beth Eckles has filled a new surface water program specialist position, and recruiting is in progress to hire both a senior and a junior modeler.

### PUBLIC HEARING ON WATER WELL DECOMMISSIONING FUND RULES CHANGES

At approximately 2:00 p.m., the Commission meeting was halted for a public hearing on proposed changes to the Water Well Decommissioning Fund rules changes. Jim Cook, Department of Natural Resources legal council, served as the hearing officer. He explained that modifications to the water well decommissioning fund rules were necessary to comply with changes to the fund's governing statutes with the passage of LB 508 in 2006. The following documents were entered into the record:

1. Notice of public hearing published in the Lincoln Journal Star on August 25, 2006.
2. Letter to the Secretary of State
3. Notice to Senator Patrick Engle
4. August 10, 2006, document to Governor Heinemann
5. Working draft of the revised rules and regulations
6. Letter to NRD offices with copy of the proposed rules and regulation changes

Jim then briefly described the changes which included:

- ⊙ Reference changes to incorporate new statute references and the way references are identified
- ⊙ The increase in the eligible cost for which NRDs must allow cost share, from \$300 to \$500 per well decommissioned
- ⊙ The increase in the WWDF maximum cost for which state cost share will be available
- ⊙ The change in the procedure for allocating available WWDF funds to NRDs to incorporate a 3-year averaging process

Jim then invited Commission members to comment or ask questions. In response to a question as to why the eligible costs were increased, he noted that this was a change requested by the NRDs and likely was due to increased costs of performing decommissioning procedures. In response to another question regarding why 3-year averaging was imposed, he explained that this helps level out the annual funding available to the NRDS.

There being no further comments or questions for Commissioners, Jim then invited public testimony. Being none, he stated that the Commission could take action to adopt the modified rules and regulations during the meeting and closed the hearing.

### ENVIRONMENTAL TRUST

Vince Kramper noted that applications for the Executive Director of the Environmental Trust will be accepted through September 30<sup>th</sup>, 2006. He added that this year's application period for Environmental Trust grants is now closed. 119

applications totaling \$32 million in requests were received. This marks the 14<sup>th</sup> year of the Environmental Trust and \$100 million has been granted to date. A new category of grant, the Public Information & Education MiniGrant (PIE), was added this year. MiniGrants have simpler application criteria and are limited to no more than \$2,500. MiniGrant applications will be accepted on a quarterly basis, and a total of \$50,000 will be available each year.

### PLATTE AND REPUBLICAN RIVER ACTIVITIES

Ann Bleed reported that the Republican River Study Group met in August. Next year will be first time that Nebraska's compliance with the compact must be determined. Nebraska expects to have plans and measures in place that will assure Kansas that we are taking action to come into compliance. On the Platte River Cooperative Agreement, public meetings have been held in Gering and Grand Island, and the last will be in Lincoln on October 10<sup>th</sup>. A decision by Governor Heineman is expected before the election. The Fully Appropriated Report for this year has been distributed to the NRDs for comments. No new basins were designated as fully- or over-appropriated.

### WATER POLICY TASK FORCE

Clint Johannes reported that the Water Policy Task Force is to meet on November 15<sup>th</sup> in Kearney, with funding being the major issue to be discussed. The Instream Flow Sub-committee meets in early October. Rule changes may prompt a review of timing of flow. The Water Policy Task Force has requested that no legislative action be requested until this is resolved.

### PROGRAMS COMMITTEE

#### Resources Development Fund

Johannes reported that DNR received a project proposal for the Elm Creek Watershed Project. Gene Stoklasa with Central Platte Natural Resources District and Kevin Prior with Olsson Associates presented the project proposal to the Commission. Kevin noted that this project will be unique in the fact that they are applying benefits for release of storage water to aid in meeting the instream flow requirement using a conservative value of \$60 per acre foot. In response to a question, Kevin noted that they have not yet sought other sponsors for this project but would like to involve Buffalo and Dawson Counties as well as possibly NPPD. A Commission member asked if there is unmet demand for recreation in this area considering that Harlan County Reservoir is 40 miles to the south and Johnson Lake is 40 miles to the west. Kevin and Gene related that unmet demand exists and added that the proposed reservoir's close proximity to Interstate 80 would draw from greater distances. Gene noted that the DNR Review Committees will be visiting the site on October 17<sup>th</sup> and that detailed geological work will be conducted this fall. It was further noted that the over-appropriated area starts at Elm Creek, and that abandonment of irrigation wells within the project area could result in water credits.

Jeremy Gehle distributed the Resources Development Fund Status Report. He provided status highlights for each active project described more detail in the quarterly report provided to Commission members

Jeremy Gehle briefed the Commission on staff efforts to update participation rates and recreation day value. DNR has committed funding to participate in the NASIS survey this fall and expects the results by early summer 2007. The agency is also exploring the possibility of commissioning a study to identify recreation day values specific for Nebraska.

Clint Johannes reported that the Lower Elkhorn NRD has requested to rescind the clause in the Commission's approval action on the Leigh Dam Project regarding cost increases associated with land rights acquisition. The clause stated that "Any cost increase(s) associated with land rights acquisition will be the responsibility of the sponsor as no additional NRDF assistance will be provided for such cost increases." It was noted that Tom Pesek's findings from review of appraisals were that the land rights costs increases since the original proposal were in line with the UNL survey of land value increases and that appraised values by land type appeared reasonable. Myron Franzen, a property owner in the Maple Creek watershed impacted by the project, presented testimony regarding the project. He stated that offers extended by the Lower Elkhorn NRD have been significantly less than comparable recent land sales prices, the amount of land required may be underestimated, recreational benefits appear to be overstated, road construction costs may be underestimated, and initial concerns noted by DNR and DEQ have not been adequately addressed. In response to a question by Roger Korell about who performed land appraisals, Ken Bernie informed the Commission that they were conducted by Reininger Appraisals, a licensed appraisal firm in Leigh. Motion was made by Davis and seconded by Madsen to deny the Lower Elkhorn NRD's request to rescind the clause in the approval action on the Leigh Dam Project regarding cost increases associated with land rights acquisition.

Motion was made by Hergott and seconded by Jiskra to table the motion.

Motion to table failed.

Aye: Hadenfeldt, Donaldson, Hergott, Jiskra, Kramper, Garratt

Nay: Davis, Lembke, Watermeier, Burkholder, Johannes, Rexroth, Madsen, Korell,  
Van Marter

Abstain: Anderson

Action was then taken on Davis' motion to deny the Lower Elkhorn NRD's request to rescind the clause in the approval action

on the Leigh Dam Project regarding cost increases associated with land rights acquisition.

Motion carried.

Aye: Van Marter, Korell, Madsen, Johannes, Burkholder, Garratt, Watermeier, Kramper, Jiskra, Davis, Donaldson

Nay: Rexroth, Hergott, Lembke, Hadenfeldt

Abstained: Anderson

The application and project plan for the Leigh Dam Project identified increased construction and land rights costs of \$508,602. The Lower Elkhorn NRD requested an increase in the NRDF allocation for the Leigh Dam Project of \$279,371 based on the approved cost-share rate of 55%. Based on the previous motion, the request was adjusted to exclude land rights cost increases of \$149,352, resulting in a revised request for an additional \$197,587.50 for increased construction costs.

Motion was made by Johannes and seconded by Lembke to increase the NRDF allocation for the Leigh Dam Project by \$197,587.50 to cover construction cost increases, bringing the total RDF allocation to \$3,697,950.50. Motion carried.

Aye: Burkholder, Hergott, Davis, Jiskra, Watermeier, Kramper, Lembke, Garratt, Johannes, Hadenfeldt, Van Marter, Madsen, Korell, Rexroth

Nay: Donaldson

Abstained: Anderson

The Lower Elkhorn NRD requested that \$683,156 be obligated to begin project work, including engineering and acquisition of land rights related to the Leigh Dam Project.

Motion was made by Rexroth and seconded by Kramper to obligate \$683,156 in Fiscal Year 2007 to the Leigh Dam Project for engineering and land rights acquisition. Motion carried.

Aye: Burkholder, Hergott, Jiskra, Watermeier, Kramper, Lembke, Garratt, Johannes, Hadenfeldt, Van Marter, Madsen, Korell, Rexroth

Nay: Donaldson, Davis

Abstained: Anderson

Discussion on agenda items 11.A.8 (Lower Platte South NRD's request to amend the Antelope Creek Project application) and 11.A.9 (the Milburn Dam proposal) was deferred pending staff's receipt and review of additional information that had been requested.

Other Funds

Jeremy Gehle reported that there was no change in the Small Watershed Flood Control Fund status. No requests have been received to date. Jill Richters reviewed status reports on the Soil and Water Conservation Fund, the Natural Resources Water Quality Fund, and the Water Well Decommissioning Fund. She pointed out that the Water Well Decommissioning Fund allocations have decreased due to a decline in well registrations.

Rex Gittins reported that Ron Cacek, North Platte NRD manager, submitted a request that the Commission approve an average cost of \$300 per acre for the Land Leveling practice which is listed as an eligible practice for within the Soil and Water Conservation Fund. A letter from the NRCS District Conservationist in Gering supporting Mr. Cacek's request was included in the packet sent to Commission members. Discussion focused on explaining the practice and related conservation benefits, and that NRDs decide whether or not the practice will be allowed in their respective areas.

Motion was made by Jiskra and seconded by Davis to approve an average cost of \$300 per acre for the Land Leveling practice.

Motion carried.

Aye: Burkholder, Hergott, Davis, Jiskra, Watermeier, Donaldson, Kramper, Lembke, Garratt, Johannes, Hadenfeldt, Van Marter, Anderson, Madsen, Korell, Rexroth

Nay: Hergott

Abstained: None

Staff requested that the Commission act on the proposed Water Well Decommissioning Fund rules and regulation changes as distributed to Commission members for review prior to the July meeting and as presented in the earlier public hearing.

Motion was made by Johannes and seconded by Korell to approve the Water Well Decommissioning Fund rules and regulations as proposed. Motion carried.

Aye: Burkholder, Hergott, Davis, Jiskra, Watermeier, Donaldson, Kramper, Lembke, Hergott, Garratt, Johannes, Hadenfeldt, Van Marter, Anderson, Madsen, Korell, Rexroth

Nay: None

Abstained: None

INTERRELATED WATER MANAGEMENT PLAN PROGRAM FUND (IWMPPF)

The results of staff's review and ranking of requests for IWMPPF grants were distributed and discussed. Jeremy Gehle pointed out one minor change made to reflect that only the Upper Republican NRD was within 5% of its levy limit, adding that this did not affect the overall rankings.

Staff reviewed the proposed contract for IWMPPF projects. Commission members questioned the inclusion of the Commission as a party to the contracts. Jim Cook agreed that the contract is between DNR and the sponsors only, and stated that the contract would be revised accordingly.

Motion was made by Kramper and seconded by Jiskra to approve the proposed IWMPPF project contract with the change to remove the Natural Resources Commission as a party to the contracts. Motion carried.

Aye: Burkholder, Hergott, Davis, Jiskra, Watermeier, Donaldson, Kramper, Lembke, Johannes, Hadenfeldt, Van Marter, Anderson, Madsen, Korell, Rexroth

Nay: None

Abstained: None

Absent: Garratt

Ann Bleed stated that staff's review deemed all requests to be eligible. She noted that determinations were made with the understanding that this is the first year for the program and that nearly all requests could be funded. After taking into account funding designated for administration expenses, Applications for IWMPP funding totaled \$2,424,436. This amount exceeded the funds specifically appropriated for grant purposes by \$11,582; however, Ann Bleed committed to a one-time reduction of administration expense funding to make up the difference.

Motion was made by Rexroth and seconded by Lembke to direct DNR to execute contracts with all Interrelated Water Management Plan Program Fund applicants and to distribute funds in accordance with approved guidelines. Motion carried.

Aye: Burkholder, Davis, Jiskra, Watermeier, Donaldson, Kramper, Lembke, Hergott, Johannes, Hadenfeldt, Van Marter, Anderson, Madsen, Korell, Rexroth

Nay: None

Abstained: None

Absent: Garratt

ANNOUNCEMENTS, FUTURE MEETINGS, AGENDA ITEMS

Garry Anderson asked all Commission members to bring a gift basket of local items for a Christmas dinner in November and Cheryl Byler will be asked to arrange a location. The next meeting will be held at the Lower Platte South NRD office in Lincoln.

Van Marter noted that the issue of assisting NRDs with phreatophyte control was not included on the September agenda, and asked that it be on the agenda for discussion at the November meeting.

ADJOURNMENT

The meeting was adjourned at approximately 4:15 p.m.

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Natural Resources Commission Chair

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Acting Director of Natural Resources