

**MINUTES OF THE  
NEBRASKA NATURAL RESOURCES COMMISSION MEETING  
EMBASSY SUITES HOTEL - Lincoln Nebraska  
January 28, 2009**

Those in attendance were:

Clinton Johannes, Chair	Rachel Herpel, UNL	Brian Dunnigan, NDNR
Dick Hadenfeldt, Member	Kyle Hoagland, UNL	Rex Gittins, NDNR
Jim Van Marter, Member	Cindy Miserez, State Budget	Kent Zimmerman, NDNR
Dan Nelsen, Member	Dave Griffith, NRCS	Jill Richters, NDNR
David Kadlecek, Member	John Turnbull, UBBNRD	Karen Best, NDNR
Ladd Reeves, Member	Mike Nuss, UBBNRD	
Larry Moore, Member	Dave Clabaugh, LBBNRD	
Myron Lembke, Member	Marlin Petermann, P-MRNRD	
Joseph Hergott, Member	Bill Halligan, SPNRD	
Garry Anderson, Member	John Miyoshi, LPNNRD	
Keith Rexroth, Member	Mike Murren, LPNNRD	
Dick Mercer, Member	Paul Zillig, LPSNRD	
Dan Watermeier, Member		

**CALL TO ORDER**

The meeting was called to order by Commission Chairman Clint Johannes in the Embassy Suites Hotel Alumni Conference Room, Lincoln, Nebraska, at 1:35 p.m.

**NOTICE OF THE MEETING**

Notice of the meeting was published on the Department's web site and in the *Lincoln Journal Star* on January 17, 2009. Public meeting statutes were available for review near the room entrance. Gittins informed the Commission that, from this date forward, public notices for Commission meetings only be published on the Department's web site at [www.dnr.ne.gov/](http://www.dnr.ne.gov/). Johannes asked if this met statutory requirements, and Gittins responded that Department legal counsel had made that determination.

**INFORMATIONAL MATERIAL**

The following items of informational materials were distributed either prior to or 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. DNR Fund Expenditures for November & December, 2008
3. Nebraska NRCS Report to the NRC & NARD January 2009
4. Nebraska Resources Development Fund Status Report as of January 21, 2009
5. Small Watersheds Flood Control Fund Status Report
6. Soil & Water Conservation Fund Status Report
7. Natural Resources Water Quality Fund Status Report
8. Water Well Decommissioning Fund Status Report
9. Legislative Bills of Interest

10. Proposed Revisions to IWMPP Guidelines November 2008 & Summary
11. Current IWMPP Guidelines
12. Information on Selected Agenda Items (previously mailed to Commissioners)
13. UBBNRD Projects Brochures
14. UNL – Spring Water Seminar Series poster and Important Dates Brochure
15. NARD Handouts re NRDF Funding Discussions - November 19, 2008:
  - Project Benefits
  - Projects Summaries
  - Funding
  - Timelines for Natural Resources Development Fund Projects

### MINUTES

Minutes were approved as written.

### EXPENDITURES REPORT

The expenditures report for the various funds for the months of November & December, 2008, had been distributed to Commission members. Extra copies were available. Gittins reported there was no unusual activity.

### ADVISORS REPORT

#### NRCS

Dave Griffith, NRCS Water Resources Planning Staff, distributed a January 2009 report entitled, “Natural Resource Conservation Service Report to the Nebraska Natural Resources Commission and Nebraska Association of Resources Districts.” A copy of the report is attached to the official copy of these minutes and available for review in the Department. Griffith reviewed a change under the Environmental Quality Incentives Program (EQIP) explaining that the former Ground & Surface Water portion is now the Area Water Enhancement Program (AWEP). This program is funded with \$58 million, but requires applications from local project sponsors for Nebraska to realize any of this funding.

#### UNL Water Center

Rachael Herpel distributed the Spring 2009 Water Seminar Series schedule poster and a brochure listing the dates of upcoming Water Center activities.

### DNR UPDATE

Brian Dunnigan, Director of DNR described the following:

Lower Platte Designation: The status of the preliminary determination of “fully appropriated” for the lower Platte River basin issued on December 16, 2008, by stating that both written and oral comments could be sent to the department or given at the following four hearings:

<u>Time</u>	<u>Date</u>	<u>Location</u>
1:30 p.m.	2-13-09	LLNRD <del>Ord, NE</del> (Postponed to 3/11/09)
1:30 p.m.	3-11-09	Valley Co. Ag Complex (E. Hwy. 11) Ord, NE
1:30 p.m.	2-17-09	Life Long Learning Center Norfolk, NE
1:30 p.m.	2-24-09	Lower Level “A” State Office Bldg. Lincoln, NE
1:30 p.m.	3-12-09	Fremont City Auditorium Fremont, NE

**Republican River Compact:** Dunnigan reviewed the status of the non-binding Republican River arbitration Nebraska entered into on October 21, 2008. The arbitrator, Karl Dreher, former Director of the Idaho Department of Water Resources, has issued a preliminary decision and a final decision on seven legal issues. Trial date should be mid-March with a decision due in mid-June. The states then have 30 days to decide whether they will accept the arbitrator's decision.

**Integrated Management Plans (IMPs):** Dunnigan reported that four IMPs are complete, ten others are in progress, and six are due this fall. Efforts by natural resources districts and the Department are progressing well.

**Platte River Recovery Implementation Project (PRRIP):** The PRRIP Cooperative Agreement group meets every other month with the next meeting set for February 10 & 11, 2009, in Kearney. One of the group's tasks is to offset, in timing and amount, any new depletion that has occurred since 1997. The Platte Basin Habitat Enhancement Program is structured to retire irrigated acres. Ron Bishop has spearheaded an NET grant application to help offset the participants' funding requirements. The land group of PRRIP is currently working to purchase a 700 acre tract of critical habitat. The group needs to obtain 10,000 acres by the year 2019.

**Missouri River:** Two initiatives are in progress on the Missouri River recovery and management. The Missouri River Recovery & Implementation Committee (MRRIC) is holding its third meeting in Council Bluffs, Iowa, to give input and guidance to the Corps of Engineers regarding studies that are underway. This group represents eight states and is made up of 64 members. The Missouri River Association of States and Tribes (MORAST), a policy group made up of eight states and the tribes, address policy issues related to the river. One of the issues before the group is a re-look at the 1944 Flood Control Act.

**DNR Budget & IWMPP:** The Department's budget request proposal for fiscal years 2010 and 2011 stayed at the same level as 2009. This will result in the Department absorbing increases in salary, benefits, and some other cost areas which, in turn, will necessitate reductions in funds available to perform LB 962-related studies. As we move forward, the IWMPP study funds are becoming even more important to address the science required by both the Department and the natural resources districts.

Rexroth noted concern that the Governor had made comments in a rather nonchalant manner regarding Nebraska getting out of the PRRIP. Dunnigan responded that the Governor is very committed to the program and has committed that \$2 million of the \$2.7 million per year needed to fund the program will come from the Water Resources Cash Fund that the Department administers.

Mercer pointed out that one of the fundamental reasons for acceptance of the program has been the commitment to employ a "willing buyer/willing seller" approach as opposed to eminent domain to acquire land. Dunnigan noted that this very point had recently been discussed with the Governor.

### **LEGISLATIVE & BUDGET COMMITTEE**

Rexroth reported that the Committee met on January 27<sup>th</sup>, and was bringing forward a motion to go on record by sending letters to the Natural Resources Committee stating the Commission's position with respect to two bills currently before the Legislature.

**Motion by Rexroth, seconded by Watermeier:**

*To send letters as a Commission to the Natural Resources Committee opposing LB 535 and supporting LB 651.*

*Motion passed. There was no discussion.*

*Aye:* Van Marter, Moore, Lembke, Reeves, Anderson, Mercer, Johannes, Hadenfeldt, Rexroth, Hergott, Nelsen, Watermeier and Kadlecek

*Nay:* None

*Abstain:* None

*Not Present:* Donaldson, Korell & Kramper

Rexroth also described the sub-committee meeting with the Governor in November as being non-eventful. The Governor was understood to say that he would neither support nor oppose efforts to increase funding to the Resources Development Fund. Johannes thanked John Miyoshi and others for bringing Senator Langemeier up to date on the issues and getting his agreement to introduce LB 12 which would increase the Development Fund from \$3.4 million to \$7 million for each of the next two years.

### **PROGRAM COMMITTEE**

Watermeier reported that the Program Committee met on January 27<sup>th</sup> and had reviewed status and financial reports for all programs. He then raised the following motions which were recommended by the Committee:

**Nebraska Resources Development Fund (NRDF)**

**Motion by Watermeier, seconded by Anderson:**

*To approve the request from the Lower Platte South NRD to transfer \$1,104.51 from Component No. 5(Construction) to Component No.4 (Engineering) for the Stevens Creek Watershed Project.*

*Aye:* Kadlecek, Lembke, Reeves, Anderson, Mercer, Moore, Johannes, Hadenfeldt, Rexroth, Hergott, Nelsen, Watermeier and Van Marter

*Nay:* None

*Abstain:* None

*Not Present:* Donaldson, Korell & Kramper

Watermeier mentioned that this is expected to complete the project. In response to Hergott's question about the disposition of any unused obligated funds, Zimmerman explained that any obligated funds remaining would become available for re-obligation. This will not occur until after the project walk-through and close-out this spring. It appears there could be around \$15,000 that may be returned. Paul Zillig, the Lower Platte South NRD Project Manager, stated the NRD is pleased with the outcome of the project.

**Interrelated Water Management Plan Program (IWMPP)**

After a brief review of the Program Committee's intent, it was determined that a motion was needed to take a previously tabled motion from the table.

**Motion by Van Marter, seconded by Anderson:**

To take from the table the motion to revise the IWMPP Guidelines from the November 20, 2008, Natural Resources Commission meeting.

Motion passed.

Aye: Johannes, Hadenfeldt, Hergott, Watermeier, Reeves, Anderson and Van Marter

Nay: Rexroth, Moore, Lembke, Mercer

Abstain: Nelsen, Kadlecsek

Not Present: Donaldson, Korell & Kramper

Watermeier stated that the Committee recommended implementing two of the IWMPP Guidelines changes included in the motion, and deferring action on the remaining recommendations until November 2009. Rexroth asked if NRD Managers had seen the proposed revisions. Gittins replied that the proposed amendments were sent to the NRD Managers and district board chairs in November, but added that several managers had commented that they had not spent a lot of time reviewing proposed revisions. Johannes commented that it would be appropriate for Commissioners to have further discussion with the NRDs regarding the other proposed changes.

**Motion by Watermeier, seconded by Reeves:**

To amend the tabled motion to include only the following two changes to IWMPP Guidelines for FY 2010 and beyond:

- Eliminate payment of 60% of the 1<sup>st</sup> year grant upon contract execution
- Eliminate preference for NRD's using most of their statutory levy limits.

Motion passed.

Aye: Hergott, Nelsen, Watermeier, Van Marter, Kadlecsek, Lembke, Reeves, Anderson, Mercer, Moore, Johannes, Hadenfeldt and Rexroth

Nay: None

Abstain: None

Not Present: Donaldson, Korell & Kramper

**Motion by Watermeier, seconded by Reeves:**

To adopt the amended motion which will change the IWMPP Guidelines in force for fiscal year 2010 applications and obligations.

Motion passed.

Aye: Mercer, Moore, Johannes, Hadenfeldt, Rexroth, Hergott, Nelsen, Watermeier, Kadlecsek, Lembke, Reeves, Anderson and Van Marter

Nay: None

Abstain: None

Not Present: Donaldson, Korell & Kramper

Watermeier thanked Commissioners for their thoughts and ideas in the discussion.

### **ELECTION OF OFFICERS**

Johannes called upon Van Marter to state the recommendations on behalf of the Nominating Committee. Van Marter stated that the Commission was blessed with many well-qualified members, and explained that traditionally the Chairmanship rotated from one section of the State to another.

Van Marter then presented the Nominating Committee's nomination of Richard Hadenfeldt for Commission Chair.

**Motion by Van Marter, seconded by Reeves:**

That nominations cease and a unanimous ballot be cast for Richard Hadenfeldt, Chair.

Motion passed by a unanimous voice vote.

Following the same tradition, Van Marter nominated Myron Lembke for Vice Chair on behalf of the Nominating Committee.

**Motion by Watermeier, seconded by Reeves:**

That nominations cease and a unanimous ballot be cast for Myron Lembke, Vice- Chair.

Motion passed by a unanimous voice vote.

### **COMMITTEE ASSIGNMENTS**

Johannes asked Commissioners to fill out their requests for committee assignments and turn those in to Hadenfeldt. Hadenfeldt said he would assume Commissioners were willing to accept an appointment as committee chair unless indicated otherwise, and noted that he would provide committee assignments to staff for distribution.

### **PROPOSED 2009 COMMISSION MEETING DATES**

Kadlecek invited the Commission to Chadron for the July Commission meeting and described some of the activities the Upper Niobrara-White NRD had planned.

Kramper had previously requested the Commission hold a meeting in the Environmental Trust office. Arrangements were made to hold the Commission meeting on March 12 at that location.

Proposed meeting dates are:

March 11-12

July 8-9

November 18-19

May 13-14

September 28-29

January 26-27, 2010

**Motion by Lembke, seconded by Moore:**

*To accept the invitation by the Upper Niobrara-White NRD to host the July Commission meeting, and to approve 2009 meeting dates as proposed.*

Motion passed.

Aye: Rexroth, Anderson, Mercer, Moore, Johannes, Hadenfeldt, Hergott, Nelsen, Watermeier, Van Marter, Kadlecek, Lembke and Reeves

Nay: None

Abstain: None

Not Present: Donaldson, Korell & Kramper

**ANNOUNCEMENTS**

Lembke requested that in the future all Commissioners be registered at the same hotel to facilitate interaction among Commissioners outside of scheduled activities. Gittins reminded Commissioners of DNR's budget limitations, noting the difference in hotel rates for lodging just over a block away. Mercer noted that with the level of dedication employed by Commissioners, the additional cost should be warranted. Johannes suggested there may also be a safety issue with the traffic in downtown area.

**ADJOURNMENT**

The meeting was adjourned at 2:25 p.m.

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Natural Resources Commission Chair

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Director, DNR