

# NEBRASKA NATURAL RESOURCES COMMISSION

## MEETING MINUTES – JUNE 17, 2010

Those in attendance were:

Keith Rexroth, Chair	Ladd Reeves, Member	Lorrie Benson, UNL
Jim Van Marter, Member	Dick Hadenfeldt, Member	Tom Mountford, LPNNRD
Dave Deines, Member	Vince Kramper, Member	Dave Clabaugh, LBBNRD
David Kadlecck, Member	Joseph Hergott, Member	Jill Richters, NDNR
Dick Mercer, Member	Garry Anderson, Member	Rex Gittins, NDNR
Clint Johannes, Member	Robin Sutherland, NRCS	Kent Zimmerman, NDNR

### **CALL TO ORDER & ROLL CALL**

The meeting was called to order by Commission Chairman Rexroth at 8:30 a.m. at the Lower Elkhorn Natural Resources District office in Norfolk, Nebraska. The following members were absent: Beverly Donaldson, Larry Moore, Dan Nelsen and Dan Watermeier. The position appointed by the Governor to represent Surface Water user's interests is vacant.

### **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](http://www.dnr.ne.gov), and a copy of the public meeting statutes was posted in the room.

### **INFORMATIONAL MATERIAL**

The following 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. Selected Agenda Topics Explanation Paper
3. Policy Statements I-IV (current & proposed)
4. Expenditures Report
5. Nebraska Resources Development Fund:
  - Funding Constraints and Possible Actions with NRD Input
  - Proposed FY 2011: Obligations, Restored Allocations & Allocation Increases
  - Status Reports: May 28, June 1, and July 1, 2010 (Projected)
  - Quarterly Report (February 1 to April 30, 2010)
6. Small Watershed Flood Control Fund:
  - Status: June 1 and June 16, 2010
  - Projected Funding Requests for FY 2011
7. Nebraska Soil & Water Conservation Fund Status Report
8. Nebraska Water Quality Fund Status Report
9. Water Well Decommissioning Fund Status Report
10. WWDF Status Reports

11. Interrelated Water Management Plan Program:
  - Anticipated FY 11 through FY 13 Funding
  - Application Overviews – June 2010
  - Ranking Scores for 2011 IWMPP Applications
  - Funding Needed July 1, 2010 by Previously Approved Projects & New Applications
12. NRC Policy Statement XIII:
  - Policy draft (“approved in theory”)
  - Department of Environmental Quality (NDEQ) Assistance to NRDF projects
  - NDEQ Paper - Planning & Construction Costs Associated with New Recreational Reservoirs
  - Water Quality Planning for New Recreational Reservoirs – March 2007
  - Sedimentation Information for the Development of New Recreational Reservoirs – 2008
  - Stepping Toward Better Watershed Management in Nebraska – April 2003
13. NRCS Report to the NRC dated June 2010
14. LENRD publication “*Directions*” dated Spring/Summer 2010

### **MINUTES**

Minutes of the March 24-25, 2010, Commission and Committee meetings were approved.  
*Kramper moved and Van Marter seconded to approve minutes of the March 2010 meetings of the Program Committee and Natural Resources Commission.*

#### **Motion Passed.**

*Aye:* Hadenfeldt, Kadlecck, Deines, Hergott, Kramper, Reeves, Anderson, Johannes, Rexroth, Mercer & Van Marter  
*Nay:* None  
*Abstain:* None  
*Not Present:* Donaldson, Moore, Nelsen and Watermeier

### **EXPENDITURES REPORT**

Fund expenditures reports showing fund activity and balances for the three months ending May 31, 2010 were distributed. Gittins stated that there were no unusual expenditures during that period, but noted that the last FY 2010 cash fund transfers from Commission programs to the State General Fund as required by Legislative Special Session LB 1 would be made in June.

### **ADVISOR REPORTS**

#### **Natural Resources Conservation Service (NRCS)**

District Conservationist Robin Sutherland of the Stanton County NRCS office distributed a report dated June 2010 and reviewed highlights.

- April 27, 2010 marked the 75<sup>th</sup> anniversary of the SCS/NRCS.
- FY 2010 funding contracts are in the final stages for EQIP & WHIP.
- 3,164 WHIP applications requesting \$68,700,000 are competing for \$22 million.
- 112 WHIP applications requesting \$922,425 are competing for \$850,000.
- The initial \$5.2 million FY10 WRP allocation has been increased to \$23.2 million.
- The CSP deadline was extended until June 25, 2010.

- Student Career Experience Program (SCEP) and Student Temporary Employment Program (STEP) hire college and high school students respectively to provide experience in the natural resources field and to learn more about NRCS.

### **Nebraska Environmental Trust**

Vince Kramper reported that the only activity since the last report was that the Trust voted and finalized distribution of \$15 million in grants. Kramper encouraged NRD staff to continue to apply for assistance even if their projects are not funded on the first attempt.

### **UNL Water Center**

Lorrie Benson discussed the following UNL water related events planned for this fall:

- The Fall Water Law Conference
  - Target audience is members of the Bar Association/Practicing Attorneys
  - The program is about 95% complete and will include topics on: water related to property rights, conservation easements, the producer's prospective of IMPs and how to get involved, the attorneys role practicing before DNR and DEQ in administrative hearings, discussion led by the lead attorney for EPA Region 7 looking at enforcement activities required by the Clean Water Act, a discussion led by an attorney with the U.S. Bureau of Reclamation regarding their water management needs, flood plain issues, boundary disputes for ephemeral waters, water-related tort claims and an update on water related cases and statutes.
- Greater Platte River Basins Symposium
  - Focused on all of the State except the Missouri River, stemming from a joint effort of the USGS and UNL to be funded for one of six or seven climate networks in the country.
  - Call for abstracts on research or innovative programming closes on June 14<sup>th</sup> but abstracts are still being accepted.
  - Plans include a national level USGS speaker to open the session.
  - Registration information will be announced in July.
- Water Center and the Global Water for Food Center
  - The relationship between the two is uncertain. The Water Center is a much broader organization.
  - Search for a new Water Center Director has been suspended

### **DNR UPDATE**

Director Brian Dunnigan was unable to attend due to the high water events in eastern Nebraska. Zimmerman provided the following comments at Dunnigan's request:

- The high water events in the eastern part of the state are also occurring on the North Platte system in Wyoming. Bureau of Reclamation Reservoirs (Seminoe, Pathfinder, Glendo, and Guernsey) are all full. Inflows are 129% of normal into Seminoe Reservoir, over 200% of normal into Glendo Reservoir, and over 270% of normal into Guernsey Reservoir.
- The Emergency Operation Center is open and staff is assisting with the Joint Information Center.
- LeRoy Sievers joined DNR as Legal Counsel.

Gittins briefly commented on the Department's budget situation, and noted that three positions had been eliminated due to agency restructuring to address budget constraints.

### **EXECUTIVE COMMITTEE**

Chairman Rexroth summarized committee activity as follows:

- Due to the requirement for a one-meeting delay in acting on policy changes, no action was taken on revising policy statements I through IV. Look for additional discussion and action to modify policy statements I and II and to revoke III and IV at the September Commission meeting.
- Discussion in committee on funding constraints was limited to avoid impacting the scheduled start of the LENRD Tour. Items discussed included limiting to 50% the cost share granted on cost over-runs and new projects, and implementation of a moratorium on accepting (or approving) new applications.

Rexroth then opened the floor for discussion. The following comments were made:

- Cost share is on the local share of a project which is defined as whatever the local organization would have to pay out of its own pocket if the fund wasn't available. Therefore; any Federal, NET, or other state grants would help reduce local share and thus better enable the fund to support higher cost share percentages. Sponsors need to make every effort to get whatever other funding that may be available.
- Issues leading up to the funds shortage is that several projects were stalled by delays in obtaining 404 permits from the U.S. Army Corps of Engineers, project opponents, federal funding constraints and local funding constraints. This slowed the normal flow of reimbursement requests. At the same time, a large project was fast-tracked, resulting in several large reimbursement requests against limited funds. Recent appropriation reductions have further limited funds available to sponsors.
- Reduced cost share percentage maximum would allow funding of additional projects.
- Implementing a moratorium on the filling of new applications would allow the fund to catch up on existing commitments.
- Pursuit of additional funding from the Legislature should be continued. This would reduce the chances of future appropriations being reduced and keep NRDF needs in front of Senators so that a funding increase might be considered when the economic situation turns around. Commissioners added that project sponsors should be encouraged to keep requesting funding assistance for project components even if turned down the first time they apply.
- Project ranking will only come into play if the Commission takes an action to defer action on the Buck and Duck application until July of 2011, and then only if additional project applications are submitted for consideration.
- Limiting the total amount of assistance to any project might be better than limiting the percent cost share.
- All project sponsors understand that RDF funding is limited to legislative funding and that until obligated there is no guarantee that money will become available to them. Also, they now are aware that available obligations are not guaranteed to remain available.
- Commissioners need to be more active in promoting the values associated with and benefits achieved from NRDF-funded projects.

## **PROGRAM COMMITTEE**

Program Committee Chair Johannes reported that the Committee met at 8:45 a.m. on June 16<sup>th</sup>. He noted that the Committee was unable to complete discussion and action on all of the items listed on the Commission's Program Committee agenda due to the length of discussion and tour schedule. Johannes began with the following motions and then led discussion to complete the agenda.

### **Nebraska Resources Development Fund**

#### **Financial and Status Reports**

Financial Status Report and the Quarterly Report showed no unusual activity. The balance of obligated funds for each project at year-end are expected to be zero since remaining balances were transferred to the Sand Creek Environmental Restoration project and will be paid in June as directed by the Commission in March. Allocation reductions required to stay within the \$18.5 million cap as the result of carryover reductions imposed by LB1 in November 2009 will be restored to the Pigeon/Jones Creek and Sand Creek Environmental Restoration projects July 1<sup>st</sup>.

#### **Discussion and possible action to modify project components as necessary for obligation of FY2011 funds**

Johannes moved and Kramper seconded to authorize staff to modify components as necessary for obligation of FY 2011 funds.

#### **Motion Passed.**

Aye: Rexroth, Kramper, Kadlecck, Hergott, Hadenfeldt, Mercer, Deines, Anderson, Van Marter, Johannes and Reeves

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

#### **Discussion and Possible Action to Tentatively Obligate FY 2011 Funds**

Johannes moved, and Van Marter seconded, to obligate FY 2011 funds to the following projects affective July 1, 2010, provided anticipated funding in the amount of \$3,140,325 is provided to the Resources Development Fund from the Nebraska Legislature:

- Maple Creek Recreation Area (Leigh Dam) \$785,441;
- Lower Turkey Creek Watershed Project \$441,000;
- Sand Creek Environmental Restoration Project (Lake Wanahoo) \$785,442;
- Upper Prairie/Silver/Moores Creek Project \$343,000;
- Western Sarpy/Clear Creek Project \$785,442.

#### **Motion Passed.**

Aye: Kramper, Van Marter, Anderson, Mercer, Hergott, Reeves, Kadlecck, Deines, Hadenfeldt, Rexroth and Johannes

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**Discussion & Possible Action on Requested Allocation Increase**

Johannes moved, and Kramper seconded, to approve a portion of Papio –Missouri NRD’s request for an allocation increase of \$1,666,770 on the Western Sarpy/Clear Creek Levee Project. Effective July 1, 2010, the total allocation will be increased by \$954,764.50, raising it from of \$6,481,230.00 to \$7,435,994.50.

Gittins noted that limiting the request to \$954,764.50 was to stay within the \$18.5 million cap, and that the sponsor will request the remaining \$712,005.50 in FY 2012 when obligations reduce the unfunded balance.

Motion Passed.

Aye: Van Marter, Rexroth, Kramper, Kadlecek, Hergott, Hadenfeldt, Mercer, Deines, Anderson, Johannes and Reeves

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**Discussion & Possible Action on NRDF Policy Statement XIII**

Community Based Watershed Planning Discussion - no action was taken. Staff was asked to work with project sponsors and DEQ staff to prepare a recommendation for consideration by the Commission.

**Small Watersheds Flood Control Fund Status Report**

**Status Report** - No unusual activity was reported.

**Discussion & Possible Action to Establish Revolving Fund Base for FY2011:**

As requested by Johannes, Gittins provided a summary of the current SWFC Fund status and described effects of setting the revolving fund base at a level necessary to grant FY 2011 easement funding requests as follows:

- Funds in realty would total about \$177,000 at the valuation published in the most recent County Assessor’s statement.
- Funds currently available to commit include cash plus proceeds from the sale of property last year amount to \$667,661, less cash transfers resulting from LB1, leaving a total available to commit of \$652,661.
- Using the \$177,000 assessed value of land, total Fund assets would be \$829,661.
- After deducting the \$73,290 easement previously approved for the Buck & Duck project, the total amount available to commit in FY2011 would be \$579,371, and Fund assets would total \$756,371.
- The Lower Platte North NRD has a projected request for easements of \$472,000. If granted and reimbursed, this would reduce the balance of Fund assets to \$284,371.
- The Commission has in the past worked to retain a balance of about \$1 million in total Fund assets.

Johannes noted there may be some risk that the Legislature would go after any money that has not been spent. He also pointed out that the assessors’ valuation on land is quite low compared to actual market. Reeves stated that assessed valuation is set significantly below market and

actual sales typically run above the assessor's market value. On this basis, the likely return from sale of current land holdings would be quite a bit higher than \$177,000.

Gittins noted the impact on the Fund could be reduced if Lower Platte North NRD purchased at least some of the tracts in fee title when negotiating with landowners. Proceeds realized from later sale of those tracts would return to the Fund.

Kadlecek pointed out that fee title land purchases, such as the Tri-basin NRD's projected request in for \$960,000 in FY 2012, are required to keep the fund balance at a viable level.

Zimmerman added that other NRDs had stated interest in leveraging this fund, but in years beyond those included in staff's projection. These included the South Platte and Central Platte NRDs. He also related that one NRD manager had commented that they would hate to see the fund killed because it was used up for purchasing easements.

Anderson stated that he felt the future of the fund was at stake, and the FY11 base would need to all go to fee title to maintain the \$1 million balance.

Gittins summarized that for every dollar committed to the revolving fund base, an equal dollar would be unavailable to spend on easements.

Johannes moved, and Reeves seconded to establish the revolving Fund Base for the Small Watersheds Flood Control Fund at \$200,000 for Fiscal Year 2011.

Johannes explained that he was on the board of the Lower Platte North NRD and he would like to see the revolving fund base set as low as possible to free up as much money as possible for easements.

Anderson moved, and Hergott seconded, to amend the motion to establish the revolving Fund Base for the Small Watersheds Flood Control Fund at \$400,000 for Fiscal Year 2011.

Anderson stated he would like to allow Lower Platte North half of what they are asking in order to maintain the integrity of the fund.

Motion to Amend Failed.

Aye: Kramper, Hergott, Mercer and Anderson

Nay: Van Marter, Deines, Reeves, Rexroth, Johannes, Hadenfeldt and Kadlecek

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

No additional discussion was offered.

Motion Passed.

Aye: Mercer, Van Marter, Deines, Reeves, Rexroth, Johannes, Hergott, Anderson, Kramper, Hadenfeldt and Kadlecek

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**Discussion & Possible Action to Set the Sales Schedule for FY2011:**

Kadlecek moved, and Kramper seconded to schedule the sale of the Heidemann property in FY 2011.

Discussion addressed the pros and cons of holding the tract for one additional year.

Reeves reminded staff that notice must be given to the tenants prior to September 1<sup>st</sup> if the tract is to be sold in FY 2011.

Motion Passed.

Aye: Van Marter, Johannes, Deines, Reeves Rexroth, Anderson, Kramper, Hadenfeldt, Kadlecek, Hergott and Mercer

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

Zimmerman reported that he appreciated the efforts of Mike Onnen and the Little Blue NRD staff on the property sale last January, and also thanked them for handling sales and other related expenses after the sale. Staff expects Little Blue NRD will remit the net proceeds in July and these will be added to the Fund balance.

**Soil & Water Conservation Program Fund**

Normal activity reported. Gittins reported the Fund balance will be under the \$1 million cap. Therefore, no redistribution of prior allocations will be necessary. Gittins also distributed a preliminary schedule of FY11 allocations but noted that this is very tentative.

**Natural Resources Water Quality Fund**

Normal activity reported. The next allocation will be in August.

**Water Well Decommissioning Fund**

Normal activity reported. This Fund has continued to be hampered by declining water well registration fees. In anticipation of declining registration receipts and a shortfall in FY 2009 of about \$15,000, allocations for FY 2010 were reduced from the \$100,000 allocated in FY 2009 to \$75,000. The reduction was still insufficient to cover the total decline in receipts, so this year total allocations will likely be reduced to around \$50,000.

**Interrelated Water Management Plan Program**

**Status Report:**

The status report showed normal activity.

Kent Miller requested additional cost share on a cost overrun associated with the Middle Platte Groundwater Management plan. The project will then be closed.

After reviews and discussion with sponsors, staff prepared a projection of funding needed by each project for FY 2011.

The Little Blue NRD will be expediting their project by drilling the rest of the wells this year.

The Upper Niobrara/White NRD will be hiring a student intern to input data and will be looking for about \$16,800 in cost over-run next year.

Lower Platte North NRD is shifting primary responsibility of the ENWRA project to Lower Platte South NRD, one of the co-sponsors.

Funding is adequate to continue funding the existing projects, and approve funding to new applications for FY11.

**Discussion & Possible Action to Approve Contract Extensions/Funding Increases**

Johannes moved, and Anderson seconded to approve the Twin Platte NRD's request for 80% cost-share on the projects cost over-run in an amount not to exceed \$4,000.00 for the Middle Platte Ground Water Modeling Project (contract #08-03-014).

Motion Passed.

Aye: Deines, Reeves Rexroth, Anderson, Kramper, Hadenfeldt, Kadlecek, Hergott, Mercer, Van Marter and Johannes

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**Discussion & Possible Action to Approve FY2011 Applications**

Johannes moved, and Kadlecek seconded to approve the FY 2011 IWMPP applications No. 44 through 49.

Motion Passed.

Aye: Deines, Reeves, Rexroth, Kramper, Anderson, Hadenfeldt, Kadlecek, Hergott, Mercer, Van Marter and Johannes

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**Discussion & Possible Action to Tentatively Obligate FY2011 Funds**

Johannes moved, and Kramper seconded to approve the FY 2011 IWMPP funding grants and make obligations as listed on the IWMPP Anticipated FY 11 through FY 13 Funding needs table, to become effective July 1, 2010 subject to availability of sufficient legislative funding.

Motion Passed.

Aye: Reeves, Rexroth, Kramper, Kadlecek, Van Marter, Hadenfeldt, Hergott, Mercer, Johannes, Anderson and Deines

Nay: None

Abstain: None

Not Present: Donaldson, Moore, Nelsen and Watermeier

**ANNOUNCEMENTS**

The September Commission meeting will be held in conjunction with the NARD conference in Kearney on September 27<sup>th</sup> & 28<sup>th</sup>. Discussion of possible actions to deal with Resources Development Fund funding constraints will remain on the agenda for that meeting. The Legislative & Budget Committee will meet in September.

Discussion and possible action to approve revisions to Policy Statements I through IV will be on the September agenda.

A commissioner orientation/review will be offered in November.

A BIG THANKS TO THE LENRD FOR THEIR HOSPITALITY!

\* \* \* \* \*

Meeting adjourned at 10:40 a.m.



Keith Rexroth, NRC Chair



Brian P. Dunnigan, Director - DNR