

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – November 29, 2012

Those in attendance were:

Garry Anderson, Member	Dick Mercer, Chair	Lorrie Benson, UNL
Ken Brockman, Member	Keith Rexroth, Member	Pat O'Brien, NARD
Tom Knutson, Member	Dan Watermeier, Member	Mike Murren, LPNNRD
Jeff Steffen, Member	Dave Kadlecek, Vice-Chair	Rex Gittins, NDNR
Dick Hadenfeldt, Member	Stan Clouse, Member	Kent Zimmerman, NDNR
Joseph Hergott, Member	Tim Haakenstad, NRCS	

CALL TO ORDER & ROLL CALL

The meeting was called to order by Chairman Mercer at 8:30 a.m. at the Hampton Inn – Heritage Park, 5922 Vandervoort Drive, Lincoln, Nebraska. The following members were absent: Dave Deines, Bev Donaldson, Dan Nelsen, Ladd Reeves and Clint Johannes.

NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on the Department of Natural Resources (DNR) web site at www.dnr.ne.gov. A copy of the Nebraska public meeting statutes was available in the room.

INFORMATIONAL MATERIALS

The following informational materials were distributed at the Commission meeting. A copy of each is attached to the file copy of these minutes.

1. Commission Meeting Agenda
2. Selected Agenda Topics Explanation Paper
3. NRCS Report to the NRC
4. Expenditures Report
5. Resources Development Fund:
 - Status Report as of 11/20/12
 - Quarterly Report as of 11/30/12
6. Small Watershed Flood Control Fund:
 - Status Report as of 11/1/12
7. Nebraska Soil & Water Conservation Fund Status Report as of 10/31/12
8. Nebraska Water Quality Fund Status Report as of 10/31/12
9. Water Well Decommissioning Fund Status Report as of 10/31/12
10. Interrelated Water Management Planning Program Funding Needs & Available Balance Report Tables as of 11/20/12

MINUTES

Knutson moved and Anderson seconded the motion to approve the minutes of the September 28th, 2012 Program Committee Meeting; and the September 29th and November 1st Commission meetings.

Motion Passed.

Aye: Anderson, Brockman, Clouse, Rexroth, Kadlecek, Hergott, Hadenfeldt, Mercer, Steffen, Watermeier and Knutson
Nay: None
Abstain: None
Not Present: Deines, Donaldson, Nelsen, Reeves and Johannes

EXPENDITURES REPORT

Fund expenditures reports showing financial activity and ending balances for September through October were distributed prior to the meeting. No unusual expenditures were reported.

DNR UPDATE

DNR staff provided comments on the following topics.

- Review of the 2012 drought, illustrated by four hydrographs from two stations on the Platte and one each on the Blue and Niobrara rivers comparing to flows in 2011.
- List of current projects being worked on by DNR's Integrated Water Management staff.
- Resources Development Fund Biennial Report.
- January 2013 NRC Caucus schedule and activities.
- Status of the Commission's administrative rules changes.

ADVISOR REPORTS

NRCS

Tim Haakenstad, NRCS State Conservation Engineer, distributed a report and commented on each section. He also reported the following:

- NRCS is limited to working on existing projects until a new farm bill is adopted.
- NRCS staff has been "on site" at locations where landowners plan to implement cost-shared soil conservation practices. They are actively reviewing soil moisture to ensure proper soil compaction for terraces, etc., can be met. Reports from western regions of the state show "powdery" dry conditions.
- Watershed work includes rehabilitation of Upper Salt Creek 19-B Site at 96th & Saltillo Road south of Lincoln; the Nemaha NRD is contracting the rehabilitation of Wilson Creek 8-H; and the Lower Big Blue NRD is contracting a new flood control dam on the north west corner of Wilber, Nebraska with construction starting in the summer of 2013. Design work is underway for the Lower Plate South NRD's Upper Salt Creek 3-A Structure and Lower Big Blue NRD's Mud Creek 2-A. Two big projects in the North Platte NRD have been completed; a 2.5 mile channel known as the Yensen Drain and a very long diversion into Dam Site H. Buck Creek site near Peru and Papio site W-3 near Blair were also completed this summer.
- NRCS and DNR are working on an emergency response program known as the Silver Jackets program. DNR Dam Safety group, FEMA, the CORPS and NRCS will work together to respond to any type of emergency disaster including flood, fire and tornado's.
- NRCS is initiating the Dam Watch Program which is a data base inventory of 735 dams that NRCS helped design and build, including an inventory of "as built" plans and inspection records. Each dam's drainage area is being digitized. When a rainfall event exceeding a certain threshold crosses the drainage basin, an automated message is

generated and sent out to designated persons triggering a response to go out and look at this structure.

ENVIRONMENTAL TRUST

- No update was given.

UNL WATER CENTER

Lorrie Benson, Deputy Program Manager, commented on the following:

- A UNL water issues briefing was given on November 28, 2012 for new incoming senators and their staff. Benson shared a map created by Bob Kuzelka showing the differences in surface flows for water year 2008 and 2010.
- Benson also encouraged people to nominate groups or youth for the Master Conservationist award described by Haakenstad above.
- The Spring Water Lecture Series is available online and new software will better match audio/visual to overhead presentations.
- The Water Tour is tentatively set for June 25-27, 2013, and will visit Alma, Kearney and Columbus to view management activities of surface and ground water.
- The Water Center Director's position search committee has forwarded four names, all from outside of UNL, to administration for possible interview in early 2013.

COMMISSION MEMBER CAUCUS

- Staff reported during the Program Committee that caucus scheduling was underway and caucuses would be held January 4 - 11, 2013. Caucuses will be conducted using the same procedure as those held two years ago. Examples of the procedures and related documents were available for review.

PROGRAM COMMITTEE

Program Committee Chair, Hadenfeldt, reported the Committee met on November 28, 2012, to discuss programs and review project status. Hadenfeldt noted that reports on all programs listed under agenda item 8 indicated "business as usual" and that no action was taken.

Hergott commented on the Committee's discussion regarding the Lower Platte North NRD request for funding from the Small Watershed Flood Control Fund including the appraisal and the need to resolve the three land locked tracts prior to Commission action being taken.

Mike Murren, LPNNRD stated that he understood that this fund is operated on a "first come, first served" basis and stated LPNNRD's desire to be placed "in the queue" while completing the steps necessary to trade or sell acres in order to resolve the issue of land locked tracts. Rexroth responded that submitting an appraisal prior to resolving issues should not place it "in the queue". Rexroth stated that he would have concerns making an exception for this project because another project may come forward that is ready, and asked that this point be specifically noted in the minutes.

Murren questioned the justification of the Commission's action to defer action until the issues are resolved. Zimmerman stated that after inspecting the property, he discussed this issue with

John Miyoshi, the LPNNRD Manager. Two possible solutions were discussed: (1) the easement fence could be placed to exclude the use of these tracts; or (2) the NRD could buy the three tracts, put them into wildlife habitat and not allow public access. The first effectively shifts the financial loss associated with landlocked parcels to the Fund, while the second would result in the NRD absorbing the loss. Since neither option is acceptable to both parties, LPNNRD and staff need time to work out an alternative that will provide access to the landlocked parcels to make the tract more attractive to potential buyers.

Staff pointed out that while the NRD has been working on acquiring the tract for quite some time, documentation had only recently been submitted for staff review. The prescribed procedure is for the NRD to review the plans with staff prior to acquiring property and work with staff to get the agreements in place. Then appraisals would be ordered and brought to the Commission for approval before purchasing the land rights. In this case, the NRD has already acquired all necessary land rights and the U.S. Corps of Engineers has let the contract to build the dam. Based on the way LPNNRD handled the transaction, a question could be raised about whether or not the NRD really needs assistance from the Fund.

Anderson pointed out that the NRD could purchase and subsequently resell the property themselves. Gittins noted that the appraisal showed a \$450,000 reduction in value after the project is built. Zimmerman also pointed out that this is a revolving fund and the Commission's role in managing the fund is to keep the fund going. On that basis, the Commission must determine whether or not each project will enable the Fund to continue operating. In broad terms, unless property acquired using the Fund can be resold for an amount equal to or greater than the amount paid, the Fund will eventually dwindle to nothing. The Fund can only stay in business if the Legislature appropriates more funds or if the Commission approves funding only for tracts where anticipated resale will result in a profit or at least return most of the money invested.

In response to a question from Rexroth about easements, Zimmerman replied this Fund has historically been used for relatively small easement purchases during times of surplus. Recent actions have committed hundreds of thousands of dollars for easement purchases which have reduced the fund to the current level.

LEGISLATIVE AND BUDGET UPDATE

Pat O'Brien from the Nebraska Association of Resources Districts reported that two resolutions had been brought forward at the NARD annual meeting in September. The Upper Niobrara NRD's propose to increase chemigation fees collected by the NRDs. These fees have not been changed since 1986 and the \$10 fee adjusted for inflation would be about \$25 today. Little Blue NRD brought forward a request for changes to the Erosion and Sediment Control Act resulting from concerns over changes in land use from pasture and CRP to crop production, including concerns about possible violations of the CRP Act and enforcement. No bill will be introduced. Rather they will work with the Department to revamp and create enforcement procedures and guidelines for use when an application is received by NRCS to break up highly erodible land. The first step will be to survey the NRDs to verify the extent of this problem, and then the NRDs will proceed accordingly.

LB 229, passed during the 2011 legislative session, included a requirement that the Natural Resources Committee examine water funding options. LR 314 initiated a study to identify and

evaluate statewide water projects and funding issues with the objective of outlining "statewide options which create a dedicated, sustainable funding source". The LR 314 report is final and will be submitted to the Chairman of the Legislature and the Natural Resources Committee. The study committee recommends development of a dedicated \$50 million annual funding source with an oversight group to evaluate how funds are used. A dedicated percentage of the state's sales tax and a possible user fee are proposed as the means for acquiring funds. One of the challenges is the projected shortfall for the upcoming 2013-15 budget of \$195 million.

Responding to a question from Gittins regarding whether the Commission should be lobbying for funds, O'Brien responded yes. He added that in the past, Commissioner Watermeier and Dean Edson would talk with the chair of the appropriations committee. With Watermeier moving on to the legislature, another Commissioner will need to fill that void.

ANNOUNCEMENTS / OTHER BUSINESS

Kadlecek brought up the need to review Commission functions as a small group and then report back to the Commission recommendations for change. It was decided to place "Discussion and Possible Action to Form a Sub-Committee to Review the New Project Review and Assessment Process" on the January agenda.

Gittins suggested a new member orientation to be held later in the year.

Rexroth requested the next agenda include discussion of the LR 314 recommendations and related legislative bills.

Watermeier announced that he will resign from the Natural Resources Commission effective January 1, 2013. Anderson called for a round of applause to thank Watermeier for his service as a Commissioner.

Mercer asked the Nominating Committee to proceed with recommendations for January.

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The meeting was adjourned at 10:05 a.m.



Dick Mercer, Chair



Brian P. Dunnigan, Director