

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – June 19, 2014

Chadron State Park - Chadron, Nebraska

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Anderson	Garry	X		Kosman	Henry (Hod)		X
Barels	Brian		X	Kraus	Don		X
Batie	Donald		X	Mercer	Dick		X
Christensen	Joel		X	Palm	Owen		X
Clouse	Stan	X		Palmertree	Tom		X
Deines	Dave		X	Rains	Darrell M.		X
Donaldson	Beverly		X	Rexroth	Keith	X	
Fornoff	Kevin		X	Reynolds	Michael (Mick)		X
Hadenfeldt	N. Richard		X	Smathers	Scott		X
Hergott	Joseph		X	Smith	Lindsey		X
Huggenberger	Steve		X	Steffen	Jeff		X
Johannes	Clint		X	Strauch	Walter Dennis		X
Kadlecek	David		X	Sugden	Steven		X
Knutson	Thomas		X				

DNR staff in attendance:

Rex Gittins Kent Zimmerman LeRoy Sievers Jill Richters

Others in attendance were:

Paul Woodward, Olsson Assoc.	Robin Foulk, NRCS	Lynn Webster, UNWNRD
Mike Placke, Olsson Assoc.	Dave Clabaugh, LBBNRD	John Miyoshi, LPNNRD
John Winkler, PMRNRD	Pat O'Brien, UNWNRD	Mike Murren, LPNNRD
Marlin Petermann, MRNRD		

CALL TO ORDER & ROLL CALL

Commission Chairman, Donaldson, called the meeting to order at 8:30 a.m. at the Central Building, Chadron State Park, Chadron, Nebraska. She thanked Dave Kadlecek and the Upper Niobrara White NRD staff for their hospitality in planning and conducting the watershed tours and hosting the fine meals.

NOTICE OF THE MEETING

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

INFORMATIONAL MATERIALS

The following informational materials were distributed at the Commission meeting. Copies are attached to the file copy of these minutes.

1. Commission Meeting Agenda
2. Natural Resources Conservation Service (NRCS) Report to the Commission
3. Expenditures Report
4. Resources Development Fund (RDF) Status Reports as of 6/10/14
5. RDF Quarterly Report as of April 30, 2014
6. Nemaha NRD letter to Chair Donaldson NARD letter to Chair Donaldson & Commissioners dated 6-18-2014
7. Small Watershed Flood Control Fund Status Report as of 5/31/14
8. Small Watershed Flood Control Fund Projected Funding Requests for FY15 & 16
9. Nebraska Soil & Water Conservation Fund (NSWCPF) Status Report as of 5/31/2014
10. Nebraska Water Quality Fund Status Report as of 5/31/2014
11. Water Well Decommissioning Fund Status Report as of 5/31/2014
12. Interrelated Water Management Planning Program Report as of 6/10/14
13. CPNRD letter dated 6-16-2014

INTRODUCTION OF NEW COMMISSIONERS

Chairman Donaldson noted that all commissioners had introduced themselves during the Program Committee meeting on June 18.

MINUTES

Knutson moved and Fornoff seconded the motion to approve the minutes of the Program Committee and Commission meetings held on January 28 and 29, 2014.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman			X	
Barels			X		Kraus			X	
Batie			X		Mercer	X			
Christensen			X		Palm			X	
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger			X		Steffen	X			
Johannes	X				Strauch			X	
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	16	0	8	3

ADVISOR REPORTS

NRCS

Robin Foulk, District Conservationist, distributed a report and highlighted key items. Foulk noted that NRCS would be hosting another teleconference briefing at 10:00 A.M. C.T. on June 20, 2014 to explain the Regional Conservation Partnership Program (RCPP) as many NRD managers were unable to attend the previous call. NRCS field offices are very busy as the result of conservation program work being conducted. When the Farm Bill was signed on February 7, 2014 all work on initial applications was suspended until the end of May so that the accounting system could be updated with new treasury and financial system information. As a result, time for field offices to process applications was very short.

DNR UPDATE

Gittins noted Director Dunnigan had enjoyed the opportunity to meet with Commissioners the previous day while he joined them for the tour. Due to prior commitments and meetings about recent storm issues, the Director was not able to attend the Commission meeting.

EXPENDITURES REPORT

No unusual expenditures were reported. Kraus noted that the Fund Expenditures for January through May 2014 Report showed negative balances for some funds. Gittins stated he would investigate as these were not accurate based on his review of other budget analysis reports. It was subsequently confirmed that reappropriations carried over from FY2013 were inadvertently excluded from budget totals shown on the report. A corrected report will be distributed to commissioners.

PROGRAM COMMITTEE

The following actions were recommended by the Program Committee at its meeting on June 18, 2014, and brought forward as motions.

Resources Development Fund

Motion was made by Knutson and seconded by Kraus that the Natural Resources Commission hereby makes the following findings of fact:

- (1) The Pigeon/Jones Creek Project was approved by the Commission on July 11, 2007;
- (2) The Project was approved with \$0 allocation;
- (3) Subsequent allocation increases have raised the allocation to \$4,254,920.55;
- (4) LB906 capped all Resources Development Fund projects at their existing allocation level;
- (6) The Director's recommendation memorandum dated January 22, 2007, recommended funding be in the form of a grant not to exceed 65% of eligible total local project costs.

Therefore, the Commission resolves that:

- (1) The funding will be in the form of a grant for up to \$4,254,920.55, not to exceed 65% of the eligible local share of project costs, including feasibility study costs up to \$250,000;

- (2) The Director of the Department of Natural Resources is authorized to negotiate and enter into a contract with the Papio Missouri NRD for implementing the conditions for the utilization of NRDF funds for the project.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Motion was made by Knutson and seconded by Steffen that the Natural Resources Commission hereby makes the following findings of fact:

- (1) The Buck & Duck Creeks Watershed Project was approved by the Commission on November 18, 2010;
- (2) The project was approved with \$0 allocation;
- (3) Subsequent allocation increases have raised the allocation to \$130,000;
- (4) LB 906 capped all Resources Development Fund projects at their existing allocation level;
- (6) The Director's recommendation memorandum dated June 25, 2010, recommended funding be in the form of a grant not to exceed 65% of eligible total local project costs.

Therefore, the Commission resolves that:

- (1) The funding will be in the form of a grant for up to \$130,000, not to exceed 65% of the eligible local share of project costs, including feasibility study costs up to \$250,000;
- (2) The Director of the Department of Natural Resources is authorized to negotiate and enter into a contract with the Nemaha NRD for implementing the conditions for the utilization of NRDF funds for the project.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Knutson moved and Fornoff seconded the motion to authorize staff to modify project components as necessary for obligation of FY2015 funds.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Knutson moved and Reynolds seconded the motion to obligate FY2015 funds at an equal percentage to projects effective July 1, 2014. (This was subsequently determined to be:)

<i>Buck & Duck Creek Watershed Project</i>	<i>\$ 102,091.60</i>
<i>Lower Turkey Creek Watershed Project</i>	<i>\$1,140,311.75</i>

<i>Pigeon/Jones Creek Watershed Project</i>	<i>\$3,341,474.16</i>
<i>Sand Creek Environmental Restoration (Wanahoo)</i>	<i>\$5,103,081.70</i>
<i>Upper Prairie/Silver/Moores Creek</i>	<i>\$1,903,726.56</i>
<i>Western Sarpy/Clear Creek Project</i>	<i>\$2,042,432.23</i>

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen			X		Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	23	0	1	3

Subsequent to the Commission meeting, staff worked with each project sponsor to determine how obligated FY15 funds were to be assigned by project component. The following modifications to components were made.

<u>NRD</u>	<u>Project</u>	<u>FY 15 Obligation</u>	<u>Component</u>	<u>Amount</u>
Nemaha	Buck & Duck	\$ 102,091.60	#1 Land Rights	\$ 102,091.60
Lower				
Big Blue	Lower Turkey	\$1,140,311.75	#2 Engineering	\$ 40,000.00
			#3 Land Rights	\$ 278,250.00
			#4 Construction	\$ 822,061.75
Papio-				
Missouri	Pigeon/Jones	\$3,341,474.16	#1 Land Rights	\$3,341,474.16
Central				
Platter	Upper Prairie	\$1,903,726.56	#2 Land Rights	\$ 597,726.56
			#3 Engineering	\$ 186,000.00
			#4 Construction	\$1,120,000.00
Lower				
Platte				
North	Wanahoo	\$5,103,081.70	#1 Application	\$ 133,853.96

			#2 Engineering	\$ 788,488.67
			#4 Construction	\$2,455,491.63
			#5 Land (Pre-Approval)	\$1,725,247.44
Papio-				
Missouri	Western Sarpy	\$2,042,432.23	#3 ROW	\$ 239,950.78
			#4 Construction	\$1,802,481.45

Note: Staff reported the following transfers had been made under the authority of the Commission's Rules, Title 256, Chapter 4 – No. 12 to facilitate sponsor reimbursements:

<u>Project</u>	<u>Component Reduced</u>	<u>Component Increased</u>	<u>Amount</u>
Lower Turkey Creek	#2 Engineering	#3 Land	\$ 9,310.81
	#4 Construction	#3 Land	\$112,221.68
Upper Prairie S/M	#4 Construction	#2 Land	\$326,872.06
	#4 Construction	#3 Engineering	\$102,046.56
Western Sarpy	#3 ROW	#4 Construction	\$296,035.95

Small Watersheds Flood Control Fund

Knutson moved and Palmertree seconded the motion to establish the Revolving Fund Base for the Small Watersheds Flood Control Fund at \$682,102.75 for FY15.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Soil and Water Conservation Fund Program

Knutson moved and Christensen seconded the motion to proceed with rules change.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Natural Resources Water Quality Fund

No action.

Water Well Decommissioning Fund

No action.

Interrelated Water Management Plan Program Fund

Motion by Knutson, seconded by Batie to approve the Central Platte NRD request to commit remaining unobligated funding for project #43 to project #41; and authorize the Director of DNR to amend the contracts by reducing the Total Reimbursement Amount of project #43 and increasing the Total Reimbursement Amount of project #41 by \$29,232.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Motion by Knutson, seconded by Sugden to approve the FY 2015 IWMPP funding grants effective July 1, 2014, as follows:

Project # Obligation

31	\$209,337.88
41	\$ 29,232.00
48	\$114,720.88
TOTAL	\$353,290.76

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Kosman	X			
Barels	X				Kraus	X			
Batie	X				Mercer	X			
Christensen	X				Palm	X			
Clouse				X	Palmertree	X			
Deines	X				Rains	X			
Donaldson	X				Rexroth				X
Fornoff	X				Reynolds	X			
Hadenfeldt	X				Smathers	X			
Hergott	X				Smith	X			
Huggenberger	X				Steffen	X			
Johannes	X				Strauch	X			
Kadlecek	X				Sugden	X			
Knutson	X				TOTALS	24	0	0	3

Kraus commented that project #48, *Identifying the difference between Over and Fully Appropriated Basins*, should be more open and transparent. A request to do so has been submitted to the basin group, NRD managers and the Director of DNR. Gittins mentioned all funded project descriptions are available under the Commission on the Department’s web site.

Johannes commented that because everyone is appointed to the Program Committee, the Commission should consider changing its structure such that the Program Committee action is a final action.

FUTURE MEETINGS

Palmertree questioned the need for scheduling an August meeting and asked whether the Comprehensive Planning Committee was confident they would be ready. Commissioners stated that it would be better to set the meeting and cancel if it was not necessary. The meeting was set for 8:30 a.m. on August 13, 2014, in Kearney, Nebraska. Goals of the August meeting would include:

- Comprehensive Planning Committee – status and discussion on work to develop draft rules for the Water Sustainability Fund (WSF).

- Legislative Committee – discussion and action on the proposed preliminary findings regarding the need for a cap on WSF project approvals in excess of appropriated funding.
- Executive Committee – status and discussion of proposed revisions to Commission policies.

POLICY CHANGE DISCUSSION

Chair Donaldson stated that the Executive Committee will be reviewing current administrative policies of the Commission, and report any proposed changes at the next meeting. Any such proposed changes would be voted on by the Commission at the meeting following the meeting they were presented.

LEGISLATIVE & BUDGET COMMITTEE REPORT

Chair Johannes reported the Committee met on June 18, 2014, to discuss the following:

- LB1098A requires the Commission to provide preliminary findings regarding the need for a funding cap for the Water Sustainability Fund as part of the Department's biennium budget request which is due September 15, 2014. There was committee consensus in favor of requesting a cap be established but recommended waiting to recommend an amount until rules are final and the initial project funding applications are assessed. The following draft of preliminary findings was presented for consideration and action at the next Commission meeting.

Preliminary Findings of the Nebraska Natural Resources Commission Regarding the Need for a Water Sustainability Fund Funding Cap

Draft for Consideration – 6-19/2014

The Nebraska Natural Resources Commission has considered the need for a funding cap to help insure both the prudent management of the Water Sustainability Fund (WSF) and the timely cash flow of programs, projects, and activities (PPAs) approved for funding. Preliminary findings, recognizing that rules for administration of the Fund are still in the process of being developed, are that:

- 1) *Applications for funds toward PPAs eligible for WSF funding are expected to significantly exceed appropriations.*
- 2) *Many eligible PPAs are expected to require several years to complete, and costs incurred by project sponsors will be spread over the implementation timeframes lasting several years.*
- 3) *Aid from the WSF is expected to be provided on a cost reimbursement basis. Setting aside appropriated funds equal to approved PPA project totals would limit the number of projects that can be approved, and would likely result in a significant WSF balance being carried over from year to year.*

Based on the above findings, the Commission believes a funding cap should be established to best support prudent management and timely use of Water Sustainability Fund appropriations in achieving benefits from approved PPAs, while also providing some assurance to PPA sponsors that approved PPAs would be funded. A recommendation for the cap amount will be made upon completion of WSF rules and assessment of initial applications received.

- Future legislation needs will be considered later this year.
- Although it was not carried forward in statute, the Water Funding Task Force report recommended a committee made up of the committee chairs of the Revenue, Appropriations, Natural Resources, Executive and Agriculture committees be formed and attend Commission meetings where programs, projects, and activities are discussed. The Legislative Committee could be kept apprised of everything that the Commission is doing so that they could act as advocates in the Legislature. At this time the Legislative & Budget Committee recommended that this idea be discussed with the next chair of the Natural Resources Committee and other chairs.

COMPREHENSIVE PLANNING COMMITTEE REPORT

Chair Smathers reported that members of the committee met briefly on June 18, 2014, for the purpose of organization. Smathers noted that because nine members do not constitute a quorum, the committee can proceed more quickly to draft recommendations for consideration by the full Commission. This is important as the committee has a tremendous amount to accomplish. To expedite that process, it was decided to utilize an interactive online meeting tool (*GoToMeetings.com*) in order to meet often to begin structuring draft rules. As draft rules and proposed approaches are defined, the committee will present them to the full body to vet out issues and receive comments and ideas from the Commission as well as the public.

Sugden requested the ability to follow Committee discussion and be able to provide feedback. Smathers responded that notes of the meetings will be taken and provided to Chair Donaldson to distribute. He asked that feedback be via emails directed to Donaldson who will forward comments to the committee for consideration and inclusion in future discussions.

Johannes stated an interest that all commissioners be allowed to participate in the rule making process and noted a concern that the interests of moving quickly and the need for transparency seemed to be in conflict. Palmertree responded that transparency will be addressed by distribution of committee notes and documents, adding that other commissioners will have the opportunity to provide feedback through emails before the next Commission meeting.

Johannes then noted that commissioners represent all water users in the state and need to take the responsibility to inform constituents. Smathers agreed and suggested constituent input be presented at Commission meetings. Johannes also asked that meeting agendas be distributed before committee meetings to allow commissioners with strong concerns to get into that loop.

Sugden noted that the public will have opportunity for comment as the committee will bring forward recommendations to the commission and those meetings are noticed and the information will be available.

Johannes asked if everything would be available on the web site. Since the committee meetings will not be public, it was agreed that Donaldson would distribute the material to commissioners. It was further agreed that DNR would be asked to document committee notes.

Mercer noted that he was pleased to see how far this has come and that the group is working together. He stated that the Commission needs to act on this and he agrees with the smaller, non-public meeting structure to move on. Johannes stated the process needs to be monitored to assure it works as intended.

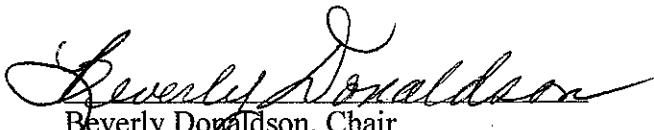
ANNOUNCEMENTS / OTHER BUSINESS


Chair Donaldson briefly described the committee assignment process and explained why all members were assigned to the Program Committee. The Legislative & Budget and Comprehensive Planning committees were limited to nine members, with each committee being comprised of a chair and four members of the previous Commissioners and four of the recently appointed Commissioners. Since the committee membership is less than a quorum, meetings can proceed as needed to provide flexibility and expedite activities. Any action recommended by committees will be discussed by all commissioners at a Commission meeting prior to any Commission action. The public will also be given ample opportunity to express their views prior to Commission action.

Richters reminded Commissioners to submit detailed receipts with reimbursement requests.

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The meeting was adjourned at 10:04 a.m.


Beverly Donaldson, Chair


Brian P. Dunnigan, Director