

# NEBRASKA NATURAL RESOURCES COMMISSION

## MEETING MINUTES – January 29, 2014

EMBASSY SUITES HOTEL - Lincoln, Nebraska

Those in attendance were:

Garry Anderson, Member	Steven Sugden, Member	Tom Mountford, LPNNRD
Darrell Rains, Member	Mick Reynolds, Member	John Miyoshi, LPNNRD
Tom Knutson, Member	Dave Kadlecek, Chair	Mike Murren, LPNNRD
Jeff Steffen, Member	Kevin Fornoff, Member	Mike Almond, LPNNRD
Dick Hadenfeldt, Member	Dave Deines, Member	Brian Dunnigan, NDNR
Joseph Hergott, Member	Craig Derickson, NRCS	Jill Richters, NDNR
Bev Donaldson, Vice Chair	Dave Clabaugh, LBBNRD	LeRoy Sievers, NDNR
Dick Mercer, Member	Marlin Petermann, PMRNRD	Rex Gittins, NDNR
Clint Johannes, Member		Kent Zimmerman, NDNR

### CALL TO ORDER & ROLL CALL

The meeting was called to order by Commission Chairman Kadlecek at 1:30 p.m. at the Embassy Suites Hotel, Lincoln, Nebraska. The following members were absent: Stan Clouse and Keith Rexroth.

### 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). 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. 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 1/23/2014
6. Small Watershed Flood Control Fund Status Report as of 12/31/2013
7. Nebraska Soil & Water Conservation Fund Status Report as of 12/31/2013
8. Nebraska Water Quality Fund Status Report as of 12/31/2013
9. Water Well Decommissioning Fund Status Report as of 12/31/2013
10. Interrelated Water Management Planning Program Report as of 1/15/2014
11. Red-line Changes Drafts Title 256, CH1-005 & Title 262, CH 3-006

## **MINUTES**

*Knutson moved and Hadenfeldt seconded the motion to approve the minutes of the September 28 , 2013, Program Committee Meeting and the September 29, 2013, Commission meeting.*

### **Motion Passed.**

*Aye:* Anderson, Deines, Donaldson, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
*Nay:* None  
*Abstain:* None  
*Not Present:* Clouse and Rexroth

## **EXPENDITURES REPORT**

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

## **ADVISOR REPORTS**

### **NRCS**

Craig Derickson, NRCS State Conservationist, stated that the House passed the Farm Bill today. The bill will likely go to the Senate by Friday, and it could be on the desk of the President early next week. Derickson stated the bill appears quite favorable for conservation funding, although it has a minor reduction of \$50 million in EQIP for 2014, with authorized funding for the next four years ranging between \$1.5 and \$1.65 billion.

Some redundant programs will be consolidated which will reduce the total number of programs from 23 to 13. Big programs like EQIP, CSP and CRP appear to be going forward with similar levels of funding. Up to \$250 million is authorized for the Watershed Rehabilitation Program for the current year with as much as \$85 million for the next four years. Derickson clarified the difference between authorized and appropriated funding. He pointed out that the demand for remedial work funding in Nebraska is large as there are over 900 eligible structures, many of which that have already exceeded the fifty year life expectancy. Derickson also noted that crop insurance is tied to conservation compliance in the House version, but the bill is still subject to revisions by the Senate.

Derickson distributed the NRCS Report to the NRC and noted:

- Provisions in the FY 2014 Omnibus Appropriations Bill that was passed.
- The Administrative Transformation Process that NRCS is implementing.
- Brief status updates on each of the NRCS Conservation Programs.
- Work by the NRCS and the U.S. Army Corps of Engineers (COE) at the national level to develop a new MOA regarding the 404 Permit Process. NRCS offices in each state will develop separate agreements with COE officials to exempt certain types of conservation practices.
- Updates on watershed operation and watershed rehabilitation projects.

## **DNR UPDATE**

Director Dunnigan referred to presentations given during the NARD conference on the Department's INSIGHT initiative and the status of the Republican River dispute and offered to answer questions. He then described organization restructuring and duties reassignments within DNR which are aimed at improving the Department's responsiveness and efficiency. Demands of dealing with litigation matters have severely limited the time the Director and Deputy Director have been able to devote to directing day-to-day Department activities. To ensure operations and administration are not adversely affected, the divisions now report to either Jesse Bradley or Rex Gittins. As the Natural Resources Programs Director, Bradley supervises operating programs while Gittins, the Natural Resources Administration Director, supervises management support and administrative services functions.

## **PROGRAM COMMITTEE**

The Program Committee meeting was held on January 28, 2014. Chair Hadenfeldt led the discussion on agenda topics pertaining to program activities. Financial activity for the six funds since the September meeting was reported to be routine. Other matters addressed are described below.

### **Resources Development Fund**

Chairman Hadenfeldt reported that:

- The Status Report dated January 23, 2014, was reviewed and showed no unusual activity.
- The Little Sandy Creek Project was closed-out with actual expenditures lower than estimated. As a result, \$42,546.55 of the approved allocation and obligated funding was not needed.
- Lower Platte North NRD (LPNNRD) submitted requests regarding the Lake Wanahoo Project which were discussed, and a motion was made but later tabled. LPNNRD representatives were asked to meet with a few Commission members and staff after the Committee meeting to draft a motion that the Commission might endorse. He noted that the group met that evening and again in the morning prior to the Commission meeting to develop and refine a proposed motion.

John Miyoshi, General Manager, Lower Platte North Natural Resources District (LPNNRD), distributed a draft motion for the Commission's consideration. Staff pointed out several key discussion points and related agreements reached during the process of drafting the motion. Appropriate language was then incorporated into the draft motion language which follows.

Whereas; Prior Natural Resources Commission action approved the Lake Wanahoo NRDF Application on July 7, 2007,

It was believed that items listed in the application that had already been purchased or paid for were approved for inclusion as local share and eligible for cost-share due to the open discussion in the application. Those items and subsequent scope changes were:

Component Number	LOWER PLATTE NORTH NRD LAKE WANAHOO LPNNRD Detailed Expenses	(Component Limits) Eligible For Cost Share	Items Deemed Ineligible For Cost Share or Local Share Match
5	LAND RIGHTS - Pre Application Approval	\$ 3,960,825.33	
6	RELOCATION	\$ 60,699.40	
7	WELL ABANDONEMENT	\$ 1,977.75	
8	SAUNDERS CO ROAD "O" BRIDGE		\$ 355,000.00
9	PLATTE RIVER & TRIBS STUDY	\$ 388,610.00	
10	CORPS. PED	\$ 64,075.00	
11	ENGINEERING/DESIGN-LPNNRD (OA)		\$ 629,741.00
12	PMP STUDY/DESIGN		\$ 86,874.57
13	CLEAR & GRUB DAM SITE		\$ 25,885.00
14	SURVEY PROJECT BOUNDARY-(J.E.O.)	\$ 4,000.00	
15	FISHERIES PROJECT	\$ 329,968.50	
16	SEEDING	\$ 1,237.50	
17	INVERTED FILTER	\$ 216,214.75	
18	CCEI LEGAL FEES	\$ 74,600.99	
19	PAVING PARK ENTRANCE-(PLANNED)	\$ 200,000.00	

**Memo: Prior Revenue/Sales Offset - Allocation Reduction January 29, 2014      \$      1,097,500.57**

Therefore;      The Nebraska Natural Resource Commission approves the items listed above under Eligible for Cost Share regardless of any conflicting policies and forever bans those identified as Not-Eligible. It is the intent of the Commission to maintain all current policies as written.

Whereas;      The above actions were approved by the Nebraska Natural Resources Commission.

*Hadenfeldt moved and Mercer seconded the motion to adopt the above draft motion and allow LPNNRD to retain all prior revenue from the project (including borrow pit and hay sales, profit from the sale of two Engle land tracts and the Hoffman land trade) in return for a reduction in the project allocation of \$1,097,500.57. Staff was directed to amend the project contract to reflect the allocation change. NRDF will begin sharing in project revenue starting on January 29, 2014, at the percentage established by the Commission for cost-share reimbursement. Also, the four (4) items in the LPNNRD request listed below will be permanently excluded from consideration as local share costs.*

- # 8 - Saunders County Road "O" Bridge Replacement Expenses (\$355,000);
- #11 - Olsson & Associates Engineering and Design Work (\$629,741);
- #12 - PMP Study (\$86,874.57);
- #13 - Expenses Related to Clearing and Grubbing the Dam Site (\$25,885).

**Motion Passed.**

Aye: Anderson, Deines, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: Donaldson  
Not Present: Clouse and Rexroth

Chairman Hadenfeldt next addressed the Little Sandy Creek Project close-out and subsequent return of unused obligation.

Hadenfeldt moved and Johannes seconded the motion to obligate \$42,546.55 to Component #4 of the Sand Creek Environmental Restoration (Lake Wanahoo) project.

**Motion Passed.**

Aye: Anderson, Deines, Donaldson, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: None  
Not Present: Clouse and Rexroth

Kadlecek commented that he hoped that sponsors, Commissioner members, and staff will all recognize their responsibility to study and understand the rules, policies, and guidelines when applying for, evaluating and approving projects and funding to avoid having to repeat a process like this one in the future.

Anderson questioned whether all funds currently obligated to projects would be spent by the end of June, noting that an unexpended balance would not be supportive of the Commission's request to the Legislature for increased funding. Staff referenced the RDF Financial Status Sheet and projected that most available funds would be paid out. Staff noted that obligated funds will also be assessed during project reviews conducted prior to the June meeting as discussed during the Program Committee meeting.

**Small Watersheds Flood Control Fund**

The status report was reviewed during the Program Committee meeting and showed no activity other than interest receipts. Both the Lower Platte North NRD and Lower Big Blue NRD decided against requesting assistance for the projects discussed during the September 2013 meeting, and Tri-Basin NRD is not ready to move forward with its project at this time.

**Soil and Water Conservation Fund Program**

As described in the September 2013, Commission meeting minutes, staff was asked to draft changes to Commission Rules, Title 256, Ch 1, 005 and Title 262, Ch. 3, 006. During the Program Committee meeting Sievers distributed and explained the draft changes. If directed to proceed with the process, the next steps will be to circulate draft rules to parties with a known interest in this matter and then conduct a public hearing. Feed-back or comments will be reviewed with the Commission at its next meeting. With Commission approval, any revisions would be made and the rules would be sent to the Attorney General and then to the Governor's Office for approvals.

Hadenfeldt moved and Mercer seconded the motion to request that staff proceed with the formal rules change process.

**Motion Passed.**

Aye: Anderson, Deines, Donaldson, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: None  
Not Present: Clouse and Rexroth

**Natural Resources Water Quality Fund**

The status report given during Program Committee meeting showed no unusual activity. The next distribution of available funds will be made in February.

**Water Well Decommissioning Fund**

The status report given during Program Committee meeting showed no unusual activity. Because Water Well Decommissioning Fund receipts in FY2014 have been larger than expected, additional allocations will be made to participating NRDs.

**Interrelated Water Management Plan Program Fund**

The status report discussed at the Program Committee meeting showed no unusual activity. During the Program Committee meeting, staff was asked to meet with sponsors prior to the June meeting to discuss funding needs and contract amendments to adjust project end dates in preparation of the FY 2015 funding distribution.

**ELECTION OF OFFICERS**

Chairman Kadlecek noted that it has been the Commission's practice to elect the Vice-Chairperson to serve as Chair, and rotate the leadership across the state from east to west. On behalf of the nominating committee, Mercer brought forward the following motion.

Mercer nominated Beverly Donaldson to serve as Chairperson for calendar year 2014.

Mercer then moved and Hadenfeldt seconded a motion to cease nominations for Chairperson and cast a unanimous ballot for Beverly Donaldson.

**Motion Passed.**

Aye: Anderson, Deines, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: Donaldson  
Not Present: Clouse and Rexroth

Mercer nominated Kevin Fornoff to serve as Vice-Chairperson for calendar year 2014.

Johannes moved and Sugden seconded a motion to cease nominations for Vice-chairman and cast a unanimous ballot for Kevin Fornoff.

**Motion Passed.**

Aye: Anderson, Deines, Donaldson, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: Fornoff  
Not Present: Clouse and Rexroth

### **COMMITTEE ASSIGNMENTS**

Chair Donaldson:

- Appointed all Commissioners to the Program Committee and appointed TomKnutson as Chairman;
- Announced additional committee appointments will be made at a later date;
- Commended Dave Kadlecek for all of his work during his term as Chairman and for his service in representing the Commission on the Water Funding Task Force.
- Commended Clint Johannes for chairing the Water Funding Task Force.

### **DISCUSSION & ACTION ON MEETING DATES**

Kadlecek chaired the remainder of the meeting.

Dave Kadlecek offered to host a June meeting in Chadron. Meeting dates for the fall NARD Conference and January NARD Legislative Conference were discussed. Commissioners prefer continuing to meet in conjunction with those activities.

*Knutson moved and Anderson seconded a motion to set three meeting dates: June 18-19 (Chadron); September 22-23 (Kearney); January 27-28, 2015 (Lincoln); and authorized staff to schedule special meetings as needed.*

#### **Motion Passed.**

Aye: Anderson, Deines, Donaldson, Fornoff, Hadenfeldt, Hergott, Johannes, Kadlecek, Knutson, Mercer, Rains, Reynolds, Steffen & Sugden  
Nay: None  
Abstain: None  
Not Present: Clouse and Rexroth

### **LEGISLATIVE & BUDGET**

Johannes noted:

- Questions regarding funding and Commission composition will be answered by the June meeting, and implications of any changes and future direction can be addressed at that time.
- Non-commission members on the Task Force had no idea of the detailed rules, policies and guidelines governing the Resources Development Fund. If new members are added, an education process should be initiated to help ensure existing governance is not unreasonably abandoned.

Mercer noted that with new members come new ideas, and the Commission needs to be willing to work with those people. Kadlecek suggested that staff should conduct training

sessions for all Commissioner members to review fund governance processes once the new group is established.

**ANNOUNCEMENTS / OTHER BUSINESS**

No announcements or other business were raised.

\* \* \* \* \*

The meeting was adjourned at 2:42 p.m.