

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

July 22, 2010

Ord, Nebraska

The July meeting of the Board of Directors of the Lower Loup Natural Resources District was held at the Headquarters Office, 2620 Airport Drive, Ord, Nebraska, on July 22, 2010. Chairman Kruse called the meeting to order at 5:03 p.m.

CALL TO ORDER

Directors in attendance

James C. Adams
Darwin B. Anderson, Secretary
Allen G. Conner
Craig E. Frenzen
Michael P. Gutzmer
Gary A. Kruse, Chairman
James C. Nelson
Lyle D. Rasmussen
Gerald P. Smith
Henry J. Thoene

Rollie D. Amsberry, Treasurer
Joseph L. Citta, Jr., Vice Chairman
James J. Eschliman
Virgil W. Gellermann
N. Richard Hadenfeldt
James F. Lightner
Dean J. Rasmussen
Darwin R. Sieh
Bradley R. Staab
Kim Walden

Directors absent

Alan D. Petersen

Staff in attendance

Leon "Butch" Koehlmoos, General Manager
Cheryl Hornickel, Programs Assistant
Robert T. Mohler, District Engineer
Larry D. Schultz, I&E Coordinator
Margaret Valladao-Smith, Range TSP, Broken Bow

Russell Callan, Assistant Manager
Dell Harris, Water Resources Specialist
Tylr Naprstek, Water Modeling Coord.
Richard Woollen, District Forester
Peggy Griffin, District Secretary, St. Paul

Guests in attendance

Bryce Bauer, DC, NRCS, Ord
Mark Ulferts, Fullerton
Melanie Gutzmer, Columbus

Eugene Bredthauer, Ord
Randy Cullers, Ord
Wendy Alexander, Ord

NOTICE OF OPEN MEETING LAW POSTING

Chairman Kruse referred those in attendance to the open meeting law information posted in the Board room.

APPROVAL OF VERIFICATION OF MEETING NOTICE, ADOPTION OF AGENDA AND EXCUSED ABSENCES

Chairman Kruse asked for verification of the meeting notice. General Manager Leon “Butch” Koehlmoos verified that the meeting notices were properly published in all newspapers. The meeting notice was also posted at the NRD Headquarters office in Ord, the NRD web site, and the eight field office locations. He told the Board that the agenda had been modified 24 hours prior to the meeting. “Lake Ericson” and “Changes to the District Insurance Program” were added.

Frenzen motioned, seconded by Gellermann, to approve the verification of the meeting notice, adopt the modified agenda, and excuse all absent directors. Motion carried by roll call vote, all present voting yes.

MINUTES

Chairman Kruse asked for corrections and/or additions to the June 24, 2010, Board meeting minutes. Hadenfeldt said that in the June NRC Report, it should have stated that the reservoir at Leigh Dam filled in three weeks, rather than three days. Kruse then ruled that the June 24, 2010, minutes would stand approved as corrected.

TREASURER’S REPORT

Chairman Kruse directed the Board’s attention to the Treasurer’s Report as published in the regular and supplemental agendas. Koehlmoos told the Board that there were more bills reported than usual as work was done to wrap up the fiscal year.

Sieh motioned, seconded by D. Rasmussen to approve the July, 2010, Treasurer’s Report and pay all the bills. Motion carried by roll call vote, all present voting yes.

PUBLIC COMMENTS

Koehlmoos introduced Peggy Griffin, District Secretary in St. Paul. Assistant Manager Russell Callan introduced Wendy Alexander, a teacher in the Ord Public Schools, working with District employees to earn an additional teaching endorsement. Koehlmoos said that Margaret Valladao-Smith, Range TSP from Broken Bow, would provide a report later in the meeting.

Mark Ulferts of Fullerton told the Board that he had concerns with reporting on nitrogen applications in Area 28. He said that monitoring needs to be done as there are numerous fertilizer applications that violate NRD regulations and the reports being submitted don’t reflect

actual applications. He said that he felt that reports should also be submitted for dryland fields in Area 28.

Eugene Bredthauer told that he was concerned with the status of his farm dam near North Loup. He had discussed the situation with NRCS. Koehlmoos said that NRD policy requires compilation of data and costs and he recommended Bredthauer work with District Engineer Robert Mohler on getting that data together. Bredthauer said that State Senator Kate Sullivan had visited the dam site.

PUBLIC HEARING DISCUSSION AND POSSIBLE ACTION

Koehlmoos told the Board that the public hearing was held earlier in the day at 3:00 p.m. The hearing included the NRD Inspector's report findings, the alleged violators were given the opportunity to speak, and the Board would need to act if they had found a violation had occurred. He said the Board could take action to authorize the chairman to sign a cease and desist order regarding the violation or dismiss the complaint. He said that if a cease and desist order were issued, it notifies the violator that they have been found guilty and the violation must stop. He said that in the event of continued violations, the violation would then go to the District Court for a decision. Koehlmoos said that if a complaint is dismissed, future violation would proceed through the process.

Mike Santin

Koehlmoos said that the findings were that Mike Santin had failed to file annual reports prior to January 31st and was in violation of the NRD's rules and regulations.

Citta motioned, seconded by Anderson, to issue a cease and desist order to Mike Santin and authorize the chairman's signature on it. Motion carried by roll call vote. Directors voting yes: Adams, Anderson, Citta, Conner, Eschliman, Frenzen, Gellermann, Hadenfeldt, Kruse, Nelson, D. Rasmussen, L. Rasmussen, Sieh, and Walden. Directors abstaining: Amsberry, Gutzmer, Lightner, Smith, Staab, and Thoene. Director absent: Petersen.

John Santin Jr.

Koehlmoos said that the findings were that John Santin Jr. had failed to file annual reports prior to January 31st, applied more than 50% of his nitrogen fertilizer pre-plant without an inhibitor, failed to take soil samples, had no nitrogen applicators certification number, and was in violation of the NRD's rules and regulations.

Hadenfeldt motioned, seconded by D. Rasmussen, to issue a cease and desist order to John Santin, Jr. and authorize the chairman's signature on it. Motion carried by roll call vote. Directors voting yes: Adams, Anderson, Citta, Conner, Eschliman, Frenzen, Gellermann, Hadenfeldt, Kruse, Lightner, Nelson, D. Rasmussen, L. Rasmussen, Sieh, Staab, and Walden. Directors abstaining: Amsberry, Gutzmer, Smith, and Thoene. Director absent: Petersen.

Robert J. Prokop

Koehlmoos said that the findings were that Robert J. Prokop had failed to file annual reports prior to January 31st and was in violation of the NRD's rules and regulations.

Walden motioned, seconded by Thoene, to issue a cease and desist order to Robert J. Prokop and authorize the chairman's signature on it. Motion carried by roll call vote. Directors voting yes: Adams, Anderson, Citta, Conner, Eschliman, Frenzen, Gellermann, Hadenfeldt, Kruse, Lightner, Nelson, D. Rasmussen, L. Rasmussen, Sieh, Staab, Thoene, and Walden. Directors abstaining: Amsberry, Gutzmer, and Smith. Director absent: Petersen.

Richard Urban

Koehlmoos said that the findings were that Richard Urban failed to obtain soil samples, failed to file annual reports prior to January 31st and was in violation of the NRD's rules and regulations.

Sieh motioned, seconded by Eschliman, to issue a cease and desist order to Richard Urban and authorize the chairman's signature on it. Motion carried by roll call vote. Directors voting yes: Adams, Anderson, Citta, Conner, Eschliman, Frenzen, Gellermann, Hadenfeldt, Kruse, Lightner, Nelson, D. Rasmussen, L. Rasmussen, Sieh, Staab, Thoene, and Walden. Directors abstaining: Amsberry, Gutzmer, and Smith. Director absent: Petersen.

Mark Ulferts

Koehlmoos said that the findings were that Mark Ulferts failed to obtain nitrogen applicator certification, failed to file annual reports prior to January 31st and was in violation of the NRD's rules and regulations.

Frenzen motioned, seconded by Adams, to dismiss the complaint against Mark Ulferts. Motion carried by roll call vote. Directors voting yes: Adams, Eschliman, Frenzen, Gellermann, Hadenfeldt, Lightner, Nelson, D. Rasmussen, Sieh, Staab, and Thoene. Directors voting no: Anderson, Citta, Conner, Kruse, L. Rasmussen, and Walden. Directors abstaining: Amsberry, Gutzmer, and Smith. Director absent: Petersen.

Kruse thanked the Board for its participation, and management and staff for its work on the violations. Walden asked what the next step would be should the violators fail to take action and NRD Attorney Randy Cullers said that there is a procedural time limit for violators to be informed of the Board decision and to react. He said that prosecution would be via a private attorney, county attorney or Attorney General. Koehlmoos said that if the violator fails to respond properly in 2011, prosecution would likely result. Frenzen asked how the violators would be made aware of decisions made at today's meeting and Cullers said that it would be by certified mail or personal service.

Gutzmer asked how future enforcement of other rules violations would be handled and Koehlmoos said that the NRD relies on whistle blowers or staff observations for notification of

rules violations. Callan said that the NRD could require more reporting including receipts of purchased fertilizer. Gellermann asked if the NRD had means to tackle over-fertilization through the fertilizer distributors and Cullers said it was unlikely they could be asked to serve as a watchdog. Citta said he felt the enforcement actions taken by the Board today would serve as notice that the NRD takes the issues and regulations seriously.

REQUESTS FOR ASSISTANCE ON 2010 FLOODING

Koehlmoos said that Eugene Bredthauer had made his interest in NRD assistance known and Bredthauer had been instructed to contact Mohler to work through the *Project Participation Policy*. Koehlmoos said the Lake Ericson Corporation had hired an engineer and was working on cost estimates for repairs to the spillway. He said that Jim Pinkman of the North Loup River Public Power & Irrigation District had provided some preliminary information on the dam at Taylor. Koehlmoos requested that Al Schmidt of the Middle Loup Public Power & Irrigation District provide receipts prior to payment of the NRD contribution toward the cofferdam.

FORESTER'S REPORT

North Central District Forester Rich Woollen referred the Board to his written report included in the agenda. He said that the Nebraska Forest Service had been required to assemble a statewide Forest Resources Assessment and Strategy as part of the last farm bill. He said the total document was approximately 200 pages, but that he had included a summary of some of the information in the agenda. He informed the Board that there was funding available for the *Nebraska Buffer Strip Program* and he had received two requests for assistance from Custer County. He said that most producers are now opting to utilize the state program over using it in combination with CRP. He passed out a summary of the 2010 tree sales to the Board. He said that 90,501 conservation trees were sold in the NRD.

NRCS REPORT

District Conservationist Bryce Bauer said that NRCS staff had completed interviews with about 100 producers that were part of the Conservation Stewardship Program (CSP). He said that several contracts had been pre-approved: 4 in Valley County, 1 in Nance County, 10 in Garfield-Loup-Wheeler Counties, and 5 in Boone County. The contracts will total over \$1 million annually for the next five years and expected to be allocated 1 million acres for the program next year. The CSP program rewards producers for their past conservation work. The amount of paperwork involved in the CSP program has kept sign-up below expected levels.

Bauer said that Paul Schroeder has been hired as the new Resource Conservationist for the Fullerton office. Schroeder has been working as the Soil Conservationist at the Albion office. Bauer stated that it did not appear Schroeder would be replaced.

Bauer said that staff will be reviewing about 70 requests for funding through the ECP program. He said that some of the larger dams were not likely to fit in the scope of the program. Ten sites had been reviewed through the EWP program. The criteria of the program might require that rock be brought in from South Dakota, which might make the program's price tag too high.

Frenzen asked if rejected CSP applications could be resubmitted and Bauer said that they could be. Koehlmoos asked what the most common applications were for CSP and Bauer said range applications were popular and many were 100% funded. He said some crop-only applications were also funded. Applications are scored based on current practices and then scored for practices planned for the future. He said payments are based on how many points an application scores. Bauer said CSP is not a cost-share program, but a reward program for conservation efforts.

Bauer introduced Range TSP Margaret Valladao-Smith of the Broken Bow office. She told a little about herself and provided a powerpoint presentation of her work for NRCS and the NRD. She said that she worked on range conservation planning, prescribed burns, and other activities.

LAKE ERICSON REPORT

Koehlmoos said that Lake Ericson officials were still working on cost figures and would appear at a later meeting.

ENGINEERING REPORTS

Emergency Watershed Protection

District Engineer Robert Mohler referred the Board to his report in the agenda and to what Bryce Bauer had reported on earlier in the meeting. Koehlmoos asked if a timetable had been established for FEMA and NEMA action on requests for assistance. Bauer said it would likely be a couple of months before decisions are made by emergency management officials. He said that action through EWP would likely come first. Koehlmoos said changes in staffing at NEMA appear to have slowed the process.

FEMA Hazard Mitigation Plan

Mohler told the Board that FEMA officials have contacted the consultant regarding ways to consolidate the plan which currently stands at about 1,400 pages. He said that similar sections have been identified as potential areas for consolidation. Koehlmoos said that the consultant hoped to send the plan to the participants on computer disc, but some communities might not have computers available.

INFORMATION AND EDUCATION REPORT

Quarterly I&E Meeting

Information/Education Coordinator Larry Schultz told the Board that I&E personnel from across the state met in Thedford for a quarterly meeting at the Upper Loup NRD. He said the group toured the Bessey Nursery and State 4-H Camp facilities.

At the meeting, the group got a report on the new conservation tree booklets which are expected to be distributed at the NARD Annual Conference. The NRDs will have booths at the

Nebraska State Fair in Grand Island and at Husker Harvest Days. He said volunteers are needed for both events. Husker Harvest Days is September 14-16, 2010.

NARD Annual Conference

Schultz told the Board that the annual conference would be held at the Holiday Inn in Kearney on September 27th and 28th. The LLNRD will reserve rooms at the Wingate Inn. He passed to the Board a sign-up sheet for the conference and lodging.

Schultz reported that the “In The Loup” newsletter had been distributed to residents across the NRD. Amsberry asked if the newsletter for Area 28 residents could be assembled and Callan said that another issue would be assembled.

ASSISTANT MANAGER’S REPORT

Groundwater Management Area Activities

Area 28 Activities

Assistant Manager Russell Callan said that Mike Lorenz has had his crews taking water samples in Area 28. Callan said that the persistent rain has meant fewer wells are running and sampling is behind schedule. Callan said that Brian Kolar has been setting elevations on wells in Area 28 and has been able to do about 25 each day.

Area 28 Aquifer Study Update

Callan reported that staff would meet the following week in Genoa with Karen O’Conner of Olsson Associates. He said the plan was to determine locations for installation of monitoring wells. Gutzmer said that he might be able to contribute additional information on potential locations.

Callan said work continues on a “319” grant from the Nebraska Department of Environmental Quality. Pat O’Brien, the liaison for DEQ/NARD, has been a tremendous help with the grant, which will pay for 15 monitoring wells and 3 years worth of sampling.

New Irrigated Acres Criteria

Callan said that staff has been working on updates for LB 483 acres in 2011. He said the criteria would include concentration of irrigation, groundwater/surface water status, stream depletion factors, number of acres being developed, and soil classification. He provided the Board with a powerpoint presentation on the criteria.

ELM Update

Water Modeling Coordinator Tylr Naprstek told the Board that Phase II of the ELM Study is now complete. He said that it has not yet been published to the USGS web site but a PDF copy has been made available to the NRDs. He said the ELM Work Group would meet on

August 27th. He provided a powerpoint presentation on the geophysical work done on the study. The work at each site takes 2-3 hours. Downey Well Drilling will be putting in test wells in August. Naprstek reported that he and Dell Harris had placed pressure transducers in a number of wells. Ten flow meters had been installed through the cost-share program.

FY-2011 BUDGET WORK

Koehlmoos directed the Board to the budget information included in the agenda.

Koehlmoos presented the budget items for Special Projects \$500,000; Water Quality Fund \$100,000; Water Well Decommissioning Fund \$55,000; Land Treatment \$152,400; Project Construction \$3,052,000; Assessment Projects \$10,000; FEMA Hazard Mitigation Plan \$70,000; Stock and Stock Purchases \$56,846.43; Machinery & Equipment \$35,000; Community Forestry Program \$25,000; Prescribed Burn Program \$25,000; and Capital Improvements \$108,000.

Staab motioned, seconded by Gutzmer, to give tentative approval to the second half of the FY 2011 Budget. Motion carried by roll call vote, all present voting yes.

He said that the budget hearing would be part of the August meeting. At that time the counties should have supplied valuations and final numbers on taxes required and the required levy will be in place. Koehlmoos said that the public hearing would be set for August 26th at 5:15 p.m.

MANAGER'S REPORT

Possible Changes to the Lower Platte River Basin Coalition Agreement

Koehlmoos said that the coalition is made up of the Lower Loup NRD and six other NRDs. The group worked together to reverse the fully appropriated designation for the lower Platte River Basin. He said the group continues to meet on issues like endangered species issues, integrated water management plans and other items. The Lower Platte South NRD is interested in joining the group as an associate to work on the new issues. He said that the group retains a legal advisor and that means some funding needs.

Walden asked what kind of endangered species issues the group would be considering and Koehlmoos said the group has been negotiating with Nebraska Game and Parks Commission on consultation of projects, approval of permits, and establishment of a programmatic water mitigation process to offset any project's effect on a river.

Frenzen motioned, seconded by Amsberry, to authorize the General Manager to sign a new agreement for Lower Loup NRD membership in the Lower Platte River Basin Coalition. Motion carried by roll call vote, all present voting yes.

New Hires

Koehlmoos reported that there were no new hires.

NARD REPORT

Director's Report

D. Rasmussen said the NARD Board had not met.

Changes to the District Insurance Program

Koehlmoos said the NARD Board had approved a resolution to make necessary changes to the retirement program required by federal law. He said there were three primary changes required.

D. Rasmussen motioned, seconded by Sieh, to approve the resolution to make changes in the District Insurance Program and authorize the General Manager's signature. Motion carried by roll call vote, all present voting yes.

Edson's Report

Koehlmoos said there was no report.

NRC REPORT

Commissioner's Report

Dick Hadenfeldt said that Governor Heineman had appointed Tom Knutson of the Farwell Reclamation District to the Natural Resources Commission to represent surface water users. He said that there are 16 members on the NRC with 3 appointed by the Governor. He said that the UNL Water Center had a nationwide search for a new director and are now considering a merger with the Global Water for Food Center. He said that a new legal counsel, LeRoy Sievers, had been hired by DNR. He said that funding continues to be an issue for the NRC.

RC&D REPORTS

Loup Basin RC&D

D. Rasmussen referred the Board to the written report included in the supplemental agenda.

PrairieLand RC&D

Lightner said the RC&D met in Monroe and Columbus and toured the Andy Daniels produce operation. Daniels operates 660 acres of sweet corn production and all corn is hand-picked. He said that the meeting was held in Monroe and then moved to Columbus to a celebration for a garden project in which the RC&D participated.

ANNOUNCEMENTS

Koehlmoos said he has received some contact from the public regarding the Keystone Pipeline project. Opposition to the project is building and stated the NRD's position toward the project is neutral. The NRD continues to monitor the project.

Citta said that the permitting process will address a number of the issues that have arisen in public discussion. Koehlmoos said that he wanted to inform Directors that the Lower Niobrara NRD and the Upper Elkhorn NRD have both voted to oppose the project.

Callan asked the Water Resources Committee to plan on meeting Wednesday, August 18th.

ADJOURNMENT

With no further business before the Board, Chairman Kruse declared the meeting adjourned at 7:30 p.m.

Roster for attendance of this meeting and tally of votes cast on motions at this meeting are being filed with the official minutes of this meeting at the Lower Loup Natural Resources District's Headquarters Office, 2620 Airport Drive, Ord, Nebraska. Publication notification of this meeting was made via newspaper in each county within the District. The next Board of Directors meeting will be held Thursday, August 26, 2010, at 5:00 p.m., at the Headquarters Office in Ord, Nebraska.

Darwin B. Anderson
Secretary