

MINUTES

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

April 25, 2019

Ord, Nebraska

The April 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 April 25, 2019. Chairman Citta called the meeting to order at 5:00 p.m.

CALL TO ORDER

Directors in attendance

James C. Adams
Darwin B. Anderson
Beth Boesch
John Coffey
Randy Kauk
Matt Lukasiewicz
James C. Nelson
Gerald Smith
Henry J. Thoene, Secretary

Rollie D. Amsberry, Treasurer
Robert L. Bauer
Joseph L. Citta, Chairman
Jim Eschliman, Vice Chairman
Gary A. Kruse
Larry Mohrman
Chad J. Podolak
Dean G. Thede
Rick Vlach

Directors absent

Timothy E. Bartak
Alan D. Petersen

N. Richard Hadenfeldt

Staff in attendance

Russell G. Callan, General Manager
Irene F. Kreifels, Administrative Assistant
Larry D. Schultz, I&E Coordinator
V. Anne Freeman, Water Programs Secretary
Cam Conrad, Water Modeling Coordinator
Jane Klanecky, Receptionist
Jason Moudry, Water Programs Specialist
LeAnn Smith, Water Programs Assistant

Tylr Naprstek, Assistant General Manager
Kim A. Lyons, Financial Secretary
Cheryl Hornickel, Programs Assistant
Rich Woollen, District Forrester
Brian Kolar, Projects Technician
Dan Ruterbories, Rangeland Mgt. Tech
Brent D. Lakin, Water Resources Tech

Guests in attendance

Mark Sintek, RC, NRCS, Ord
Karl Davis, Sargent
Bill Hart, Sargent
Martin Riddle, Sargent

Todd Nitsch, Boelus
Ellis & Lois Schrunck, Bartlett
Gerry Sheets, Sargent

NOTICE OF OPEN MEETING LAW POSTING

Chairman Citta referred those in attendance to the open meeting law information posted in the Board room and that meeting material was available at the entrance to the Board room.

VERIFICATION OF MEETING NOTICE AND ADOPTION OF AGENDA

Chairman Citta asked for verification of the meeting notice. General Manager Russell Callan stated that the agenda was current, and that the meeting notices were properly published in all newspapers, posted at the NRD Headquarters office in Ord, on the NRD web site, and in the eight field office locations. Callan noted the addition of Pibel Lake Construction Bids to the agenda and stated the agenda was republished.

ROLL CALL AND EXCUSED ABSENCES

Roll Call was conducted electronically. Directors present: Adams, Amsberry, Anderson, Bauer, Boesch, Citta, Coffey, Eschliman, Kauk, Kruse, Lukasiewicz, Mohrman, Nelson, Smith, Thede, and Thoene, Vlach. Directors Absent: Bartak, Hadenfeldt, Petersen, Podolak.

Citta stated that Directors Bartak, Hadenfeldt, and Petersen had asked to be excused, and that Podolak would be arriving to the meeting late.

Boesch motioned, seconded by Smith, to excuse all absent directors. Motion carried by electronic vote. All present voting yes.

MINUTES

Chairman Citta asked for corrections and/or additions to the March 28, 2019, Board meeting minutes. None were heard.

Anderson motioned, seconded by Vlach, to approve the March 28, 2019, Board meeting minutes as presented. Motion carried by electronic vote. All present voting yes.

TREASURER'S REPORT

Russell Callan, General Manager, highlighted expenditures for a new mower for \$11,615.00; project construction costs of \$25,759.45 to HDR for the Columbus project; \$15,500.00 to Gene's Electric for electrical work at Davis Creek; \$8,947.88 to B-Systems for

new computer upgrades; \$13,300.00 to the Albion Trail Project; and \$14,160.75 to USGS for the South Loup E. coli sampling and gaging.

Anderson motioned, seconded by Eschliman, to approve the April 25, 2019, Treasurer's Report and pay all bills. Motion carried by electronic vote, all present voting yes.

The Treasurer's Report Approval Policy states that the approved expenditures are to be published and each director who has per diem and/or reimbursement of expenses included in such financial reports, abstains from voting for the approval of his or her own per diem and/or expense reimbursement.

Podolak arrived at 5:08pm.

PUBLIC COMMENTS

Citta asked for any public comments. Bill Hart, Sargent, expressed his concern about the ongoing drainage problem in Sargent and asked the Board if there was anything the NRD could do to help alleviate the problem. He stated that the Central Platte NRD had done a flood control project in their district 20 years ago and urged the Board to investigate options.

Martin Riddle, Sargent, also expressed concern about the Sargent drainage issue. Adams asked Riddle to which location the water was being pumped, and he replied that it was currently being pumped into a ditch on the east end of town toward the river. It was noted that the City of Sargent had previously come to the NRD with an idea of a dewatering plant, but nothing further had been done at the time.

Citta asked Callan to place the issue on the agenda as an item for the Board to discuss.

FORESTER'S REPORT

Richard Woollen, District Forester, reported that tree planting had started and that the first load of trees was picked up April 8th. He said staff was working on distributing hand plants, with machine plants to follow. Woollen reported that he had recently helped handplant 50,000 Ponderosa pine trees in the Niobrara burn areas. Woollen said that he had helped with the State Envirothon Contest at Pibel Lake and was glad to see the interest of the students in forestry issues. Woollen said that he had had several calls regarding buffer strips and flooding. He said NRCS would be reviewing the buffer strip plans and move forward with renewals.

NRCS REPORT

Mark Sintek, NRCS, reported that staff had been in the field looking at flood damage for their emergency conservation program and reported that, per federal rules, there needed to be at least \$1,000 in damage to be eligible for funding. Sintek reported that EQIP contracts had been approved and work could be started, and most CSP renewals were done. He said pipelines and wells were being completed for NSWCP cost-share. Boesch asked what type of damage they

were seeing. Sintek reported that it was mostly erosion through the crop fields, gullies, and dams. He reported that there was a flat rate on the docket for repairs.

COMMENTS/QUESTIONS ON PROPOSED CHANGES TO LOWER LOUP NRD RULES & REGULATIONS

Citta asked for questions and comments on the proposed rules and regulations before the public hearing begins. Ellis Schrunk stated he read about the rule changes in the paper and is concerned about penalties if a meter breaks down. He said he didn't think meters were needed. Callan stated that meters would be required only in Phase 2 areas, based on water quality issues and high nitrates, such as the northeast corner of Wheeler County. He said that meters were also proposed for industrial, commercial, and municipal wells.

Lukasiewicz asked for an explanation on the two letters received from DNR and DEQ. Callan stated they he had met with DNR and they wanted to be notified before water is shut off due to water quality issues and that they wanted to be the ones to decide if an order needed to be issued. Citta stated that one of the NRD's rights is to be able to regulate water quality issues. Citta said that testimony from DEQ stated that the manure reference should be removed and make it all lagoon water, but the rule was advertised for only manure application; and for any other issues, the NRD would have to advertise. Boesch asked if the NRD was accepting the letters. Callan replied that they are part of the testimony for the hearing and it could be discussed after the hearing whether the NRD accepts the recommendations of DNR and DEQ.

PUBLIC HEARING ON PROPOSED CHANGES TO LOWER LOUP NRD RULES AND REGULATIONS

Chairman Citta provided the structure for the public hearing and formally opened the hearing on proposed changes to the Lower Loup NRD's Groundwater Management Area Rules and Regulations at 5:27 p.m.

Naprstek entered the exhibits from the Lower Loup Natural Resources District into the hearing record including the Lower Loup Natural Resources District's Groundwater Management Plan; the Lower Loup NRD's revision to the Groundwater Quality Section of the Groundwater Management Plan; the Lower Loup NRD's Rules and Regulations for the Enforcement of the Nebraska Groundwater Management and Protection Act; copies of letters sent requesting testimony as outlined in the Nebraska Groundwater Management and Protection Act to each of the following entities: Jeff Fassett with the Department of Natural Resources, Jim Macy with the Department of Environmental Quality, and to the Middle Loup Public Power & Irrigation District and North Loup River Public Power & Irrigation District as required for holders of incidental or intentional recharge permits; Notices of Publication and Affidavits of Publication from Columbus Telegram, Grand Island Independent, Albion News, Burwell Tribune, Custer County Chief, Phonograph-Herald, Sherman County Times, Greeley Citizen, Nance County Journal, Ravenna News, and Ord Quiz; press releases that were sent to District radio stations KNLV, KCNI/KBBN, and KTTT and was posted on the Lower Loup NRD website; and sign-in sheets from the Public Meetings on the proposed Groundwater Rule Changes. The meetings were held at the Lower Loup NRD Headquarters on April 22nd at 7:00

p.m. and in Bartlett at the Wheeler County Exhibit Hall on April 23rd at 1:30 p.m. No written testimony was received.

Citta asked for testimony by the Nebraska Department of Natural Resources and Callan entered into the record a copy of a letter from Jeff Fassett, Director of the Nebraska Department of Natural Resources. Callan also entered into the record a copy of a letter received from the Nebraska Department of Environmental Quality.

Citta asked for testimony by any holders of incidental or intentional recharge permits, specifically the Middle Loup Public Power & Irrigation District or the North Loup River Public Power & Irrigation District. None heard.

Citta asked for testimony from the public from those who oppose the rule changes. None heard.

Citta asked for testimony from those who are proponents of the rule changes. None heard.

Citta asked for testimony from those who were neutral on the rule changes. None heard.

Citta asked for comments from the Directors of the Lower Loup Natural Resources District Board of Directors.

Coffey commented on the flowmeters that were required in his area. He stated the NRD maintains flowmeters and contracts with Northern Ag for repairs and he hadn't heard of any trouble with them. Coffey stated that he felt the NRD had a good maintenance program. No other Director comments were heard.

Citta asked if there was any person who hadn't had a chance to testify. None heard.

Chairman Citta closed the hearing at 5:35 p.m.

ACTION TO APPROVE PROPOSED CHANGES TO LOWER LOUP NRD RULES & REGULATIONS

Smith motioned, seconded by Eschliman, to approve the proposed changes to the Lower Loup NRD's Rules and Regulations.

Podolak asked how many people were present at the Wheeler County meeting and Naprstek replied that six people were present. He said questions were asked about the flowmeters and reporting requirements. Eschliman stated he felt that changing the rules would help the NRD fine-tune areas of concern. Citta said that DNR had made requests in their letter to the NRD regarding orders to suspend. Callan said that he had worked with DNR on proposed additional language stating that the NRD would need to contact DNR first before issuing an order to suspend surface water irrigation. Callan said he was not proposing that DNR have sole authority to suspend, but that the NRD correspond with DNR prior to issuing an order to suspend.

Callan read the following proposed change -- "*Rule 3-2.A1: A reduction of, or limitation upon, in whole or in part, a person's right to irrigate property located within a Groundwater Management Area, provided, however, that if such property is irrigated, in whole or in part, through a surface water right, the District shall provide notice to and consult with the Nebraska Department of Natural Resources prior to imposing any reduction or limitation under this subsection;*"

Callan recommended that the above-mentioned paragraph be added to the rules. Citta stated that this would leave the authority with this Board for penalty or enforcement of regulation, but the NRD would consult with DNR.

Motion was rescinded by Smith and Eschliman.

Naprstek reported that there was another proposed change to Rule 7A on page 12 regarding specific dates pertaining to the Master Plan and Long-Range Implementation Plan. He said staff recommends removing the specified dates. Another proposed change to Rule 7 on page 16, item G.5.e., regarding what an operator must do as it pertains to Phase II Sub-area. He said it is recommended to change the date from 2016 to do three years following the designation of an area. Citta stated these were administrative changes so no additional advertising would be necessary.

Smith motioned, seconded by Eschliman, to approve the rules with the three proposed changes that were discussed.

Kauk wondered if there were surface water issues on irrigated land, would they be communicated with DNR? Callan explained that the authority would still be with the NRD Board, but would get DNR involved in the process earlier. Mohrman asked why DNR wanted to do things differently and Callan stated DNR is in charge of permitting and appropriating surface water, and they felt it was an infringement on their authority. He said they wanted to be the one to decide to issue as order. Callan stated that since these are NRD rules, the NRD should decide. Vlach asked, if approved, would that limit discussion with DNR, and Callan replied no. Boesch stated that she liked the revised language, showing that the NRD considered DNR's concerns.

Motion carried by electronic vote, all present voting yes.

ACTION TO PUBLISH ORDER OF DESIGNATION No. 2019-01

Callan read aloud Order of Designation No. 2019-01:

WHEREAS, the Lower Loup Natural Resources District has adopted proposed Rules and Regulations for the implementation of the Lower Loup Natural Resources District's Groundwater Management Area; and

WHEREAS, a Public Hearing was held on April 25, 2019, in accordance with NEB. REV. STAT. § 46-743; and

WHEREAS, the District deems it to be in the best interest of the District and its citizens; and

WHEREAS, the District has undertaken a review of the existing Rules and Regulations to ensure conformity with Nebraska law and internal consistency;

WHEREAS, the modification of Rules 3 and 4 provide clarity as to the District's complaint and enforcement process; and

WHEREAS, the implementation of new rules regarding sub-area designation and use of flow meters prepare the District for changes in water resources; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Lower Loup Natural Resources District adopt the changes proposed for Rule 1 – Definitions; Rule 2 – Enforcement Authority; Generally, Rule 3 – Complaints; Rule 4 – District Court Actions; Rule 7 – Groundwater Quality Management Areas; Designation; Controls; repeal Rule 14 – Flow Meters; insert new provisions; and renumber existing rules as required.

AND, THEREFORE, BE IT FURTHER RESOLVED that this Order take effect April 26, 2019.

Approved April 25, 2019

Adams motioned, seconded by Kruse, to publish Order of Designation No. 2019-01. Motion carried by electronic vote. All present voting yes.

Callan explained that the Order would be published for three consecutive weeks before taking effect.

INFORMATION & EDUCATION REPORT

State Envirothon

Larry Schultz, I&E Coordinator, reported that the State Envirothon was held at Pibel Lake. Eschliman reported that he was a judge for the oral portion and felt it was a good contest and a good experience for the kids to get out and become familiar with natural resources. Schultz reported that Phil Hill and Ken Dawson had dug the soil pit for the contest and reported that various broken bottles were found and thought the area of the old hotel may have been located. Schultz reported that there were many volunteers and several teams had stayed overnight at the Bible camp and some at hotels in Ord.

Schultz reported that he and NARD staff had visited the Basin Tour sites.

Children's Groundwater Festival

Schultz informed the Board that the festival wasn't held last year due to logistical issues with CCC, and they were planning on having it at the college in Grand Island this year on May 7th. He reported that he and Jason Moudry would be doing the Water Drop Relay which teaches the water cycle.

Quarterly Statewide I&E Meeting

Schultz reported that he attended the Statewide I&E meeting in Grand Island. They toured the Nebraska Building on the fairgrounds and were trying to get everyone involved in displays and attractions for the State Fair. He reported that the National Envirothon would be held in Nebraska in 2020 and that the end of the month was the deadline for the NARD award entries.

Boesch asked if the Basin Tour would include the Aagaard Farm and Schultz reported it was not listed as a site at this time. He said NARD had requested flood sites and wanted to showcase the NRD recreation areas.

Schultz reported that the State Envirothon teams from Lower Loup did well. He said St. Paul won the contest, Loup City placed 2nd, Burwell was 5th, and Ord placed 8th.

ASSISTANT GENERAL MANAGER'S REPORT

Davis Creek Update

Naprstek reported that facilities at Davis Creek had been de-winterized and are operational and both docks had been launched. He said there were leaks in the shower house and RV dump that had been repaired. He reported that online reservations are being made and that all online sites are full for Memorial Day. Naprstek reported that the electrician attempted to make it out to bring electricity to the old loop and have delayed work until the area dries out.

Pibel Lake Update

Naprstek reported that the lake remained drawn down, but didn't have an impact on the Envirothon. He said he gave a tour of the area to teachers. He said the dock was put into the lake earlier today.

Buffalo County, Ravenna Lake Report

No report

Columbus Area Water Resources Assessment Study Update

Naprstek reported that the Columbus Area Recharge study would be discussed during the Water Resources Committee report.

PIBEL LAKE CONSTRUCTION BIDS – REVIEW & ACTION

Naprstek reported that memos were sent to potential planholders for the work being done at Pibel Lake. He said a pre-construction meeting was held April 9th with two potential contractors in attendance. He reported that he had received one request for soil sediment survey

information. The bid opening was held with HDR on April 22nd in which one bid was received from Frahm Construction and approved by the HDR.

Naprstek presented the Board with the engineering estimate and the bid amount that was received. The bid total was \$415,113.50 to use concrete; using asphalt would be close to \$8,000 more. It was reported that construction was estimated to be completed the first part of August, pending bid approval, and there would be about one month of non-access on the road next to the lake when construction was in process.

Citta asked if the Board should re-advertise for bids to see if more come in. Naprstek stated that the engineers are recommending acceptance of the bid. Eschlman stated that there may be trouble getting more bids because of all the bridges and other flood damage being repaired. Boesch asked if waiting four or five months to re-bid might open for more bidders. Vlach responded that it didn't matter to him if the NRD waited to re-bid or not, because the project didn't fit his timeline, as he had other projects lined up.

Smith motioned, seconded by Mohrman, to accept the bid of \$415,113.50 received from Frahm Construction to replace the auxiliary outlet pipes in the Pibel Dam, and to accept a modification to replace the roadway with concrete rather than asphalt.

Kauk stated that if the work was set to be done by August, waiting for additional bids may cause a loss of access to the road during harvest, and thought the project should be done now even if the cost was higher.

Motion carried by electronic vote, all present voting yes.

WATER RESOURCES COMMITTEE

Columbus Recharge Project

Naprstek reported that the WaterSMART grant was submitted to USBR and feedback and questions were received regarding the process of permitting, where the NRD stood with the applications, and the NRD's connection with Title 28 funds through Davis Creek. It was reported that the Bureau was very pleased with the work at Davis Creek through the Title 28 funding program.

2018 Irrigated Acres Violations Report

Naprstek reported that 61 potential acres violation letters of irrigation taking place on non-certified ground were sent out and 6 Schedules of Compliance had been set up. The remainder have either history to show allowances or need to recertify and/or change their field boundaries. He said that the procedure set forth by the Board in 2011 was that if a violation was found, the producer has to set aside double the amount of irrigation the following year. Naprstek reported that there was one potential cease and desist order for applying lagoon water on a field and that a hearing would held next month. Naprstek also reported that the post office returned

two packets because they had not been picked up, and also four had been signed for but the landowners hadn't responded to the NRD.

2018 Chemigation Report and Totals

Naprstek reported that there were 2,724 chemigation renewals and 357 new applications.

Lower Platte River Coalition Report -2018

Naprstek said the report was submitted in time and was produced to make sure the District was not fully appropriated. He said that the NRD was at 5,000 acre-feet for carry-over on the amount allotted to Lower Loup for additional development going forward.

Other

Callan reported on the EWP program with NRCS. He stated that the sponsor for the projects through the program are responsible for 25% of the cost for each project, so he suggested that projects come to the NRD for participation instead of sponsorship.

PROGRAMS/PROJECTS COMMITTEE

Belgrade Erosion Problem

Kruse reported that there was a lot of flood control discussion and that representatives from the City of Belgrade had come to discuss riverbank stabilization.

Lake Ericson Damage

Kruse said that Joe Wadas was present at the Committee meeting to discuss repairs to Lake Ericson.

Fullerton Swimming Pool Request

Kruse said that no Fullerton representative were present at the Committee meeting, as their area had received flooding.

South Loup Project

Kruse reported that the Committee had asked Callan to contact the Upper Loup NRD for possible participation in the South Loup Project. He said they would be discussing it with their Board.

Flooding Updates

Kolar showed pictures of flood damage in the Duncan East area. There was discussion that St. Paul would be approaching the Board for assistance with bank stabilization due to the recent flooding.

Mud Creek Plan

Callan reported that the Mud Creek watershed plan would be further discussed to locate potential dam sites to help prevent or lessen flooding. He said the grant is 100% of the plan, design and construction. He said the NRD would be responsible for the permitting and land rights.

VARIANCE COMMITTEE

Thoene reported that Dave Setlik was present for his second hearing on a variance that dealt with high water levels in Mira Valley. Setlik had purchased property and wanted to drill a well to complete a pivot circle. He would be moving surface water acres to another parcel and Twin Loups had okayed the transfer.

Thoene motioned, seconded by Nelson, to approve the variance request from Dave Setlik to utilize groundwater irrigation on Section 13 Township 18 North, Range 15 West, Valley County. Motion carried by electronic vote, all present voting yes.

MANAGER'S REPORT

Litigation Update

Citta said that Executive Session would be held later in the meeting to discuss legal and proprietary issues.

New Hires

Callan reported that there were three new hires. The new hires were students for the internship program and would be housed in the NRCS offices. New hires for the program are Abby Hill who would go to Burwell, Alli Smith who would work in Ord, and T.J. Dubas who will be in Fullerton.

Non-Action Reports

None.

NARD REPORT

Eschliman reminded everyone of the upcoming Basin Tour that would take place June 10-11, 2019. Schultz said he would send out registrations once they are received from NARD.

NRC REPORT

Hadenfeldt was not present to give a report.

RC&D REPORT

Thoene reported that there was concern with Custer County Recycling closing; however, they may remain in operation. The RC&D has been networking flooding assistance items that have been received. He said there was no news on the tire grant that was applied for.

ANNOUNCEMENTS / FUTURE MEETING TOPICS

Callan reported that the Board and staff would begin the budget workshops in May.

Lukasiewicz motioned, seconded by Amsberry, to enter into Executive Session at 6:33 p.m. to discuss legal and personnel issues. Motion carried by electronic vote, all present voting yes.

Adams motioned, seconded by Boesch, to exit Executive Session at 6:59 p.m. with no action taken. Motion carried by electronic vote, all present voting yes.

The Board discussed the Washington, DC, trip and the White House tour.

Kauk shared his experience with using rye cover crop. He said his erosion wasn't stopped because he felt the rye didn't have a chance to grow enough for the roots to hold soil together.

ADJOURNMENT

With no further business before the Board, Citta declared the meeting adjourned at 7:06 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 a newspaper in each county within the District. The next Board of Directors meeting will be held May 23, 2019, at 5:00 p.m., at the Headquarters Office in Ord, Nebraska.

Henry J. Thoene
Secretary