

# LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

February 28, 2013

Ord, Nebraska

The February 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 February 28, 2013. Vice Chairman Citta called the meeting to order at 5:03 p.m.

## CALL TO ORDER

### Directors in attendance

James C. Adams  
Timothy E. Bartak  
James J. Eschliman  
Randy Kauk  
Clifford P. Loseke  
James C. Nelson  
Dean J. Rasmussen  
Gerald P. Smith  
Kim C. Walden

Darwin B. Anderson, Secretary  
Joseph L. Citta, Jr., Vice Chairman  
Virgil W. Gellermann  
Thomas L. Knutson  
Matt Lukasiewicz  
Alan D. Petersen  
Darwin R. Sieh  
Henry J. Thoene

### Directors absent

Rollie D. Amsberry, Treasurer  
N. Richard Hadenfeldt

Michael P. Gutzmer  
Gary A. Kruse, Chairman

### Staff in attendance

Leon "Butch" Koehlmoos, General Manager  
Dell R. Harris, Water Resources Specialist  
Irene F. Kreifels, Financial Secretary  
Jason W. Moudry, Water Programs Specialist  
Larry D. Schultz, I&E Coordinator  
LeeAnn Smith, Water Resources Ass't.

Russell G. Callan, Assistant Manager  
Rita A. Goldfish, Administrative Assistant  
Robert T. Mohler, District Engineer  
Cheryl K. Hornickel, Programs Assistant  
Tylr D. Naprstek, Water Modeling Coordinator

### Guests in attendance

Bryce Bauer, DC, NRCS, Ord  
Dennis Derner, Bartlett  
Tom Klanecky, DNR, Ord  
Tom O'Connor, DNR, Lincoln

Eugene Bredthauer, Ord  
Mark Koperski, Farwell  
Jesse Bradley, DNR, Lincoln  
Craig Frenzen, Fullerton

## NOTICE OF OPEN MEETING LAW POSTING

In the absence of Chairman Kruse, Vice Chairman Joe Citta presided over the Board meeting. Chairman Citta 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 Citta asked for verification of the meeting notice. General Manager Leon “Butch” Koehlmoos said that there was an agenda modification to the Manager’s Report. “Request for a Memorial Bench at Davis Creek” was added. The modification was made 24 hours before the Board meeting, but was not posted on the web site due to computer malfunction. The meeting notice was also posted at the NRD Headquarters office in Ord and the eight field office locations. Koehlmoos verified that the meeting notices were properly published in all newspapers.

**Adams motioned, seconded by Smith, to approve the verification of the meeting notice, adopt the amended agenda, and excuse all absent directors. Motion carried by roll call vote, all present voting yes.**

## MINUTES

Chairman Citta asked for corrections and/or additions to the January 24, 2013, Board meeting minutes. Hearing none, Chairman Citta ruled that the January 24, 2013, Board meeting minutes would stand approved as submitted.

## TREASURER’S REPORT

Chairman Citta directed the Board’s attention to the Treasurer’s Report as published in the regular and supplemental agendas.

Koehlmoos commented on a second certificate of deposit the NRD has at Ericson State Bank for \$130,000.00; the payment to Middle Loup Public Power & Irrigation District for \$30,429.99 which is the NRD’s 10 percent of the local share for the diversion structure; and the payment of \$33,457.00 to USGS for the ELM Project (Phase III).

Koehlmoos mentioned that the NRD is trying to spread out its investments with the banks because NPAIT’s interest rates are low. Koehlmoos said the NRD would like to get resolutions approved for banking transactions with Citizens Bank and with Heritage Bank, both in Loup City, depending on interest rates. Koehlmoos said the NRD would go with the bank who offered the highest interest rate for a deposit around \$150,000.00.

**Knutson motioned, seconded by Petersen, to approve resolutions for banking transactions with Citizens Bank and Heritage Bank. Motion carried by roll call vote, all present voting yes.**

Koehlmoos directed the Board’s attention to the *Profit & Loss* sheets in the Treasurer’s Report showing income and expenses, and also to the *Balance Sheet* as of January 31<sup>st</sup>.

Walden wondered how *Fixed Assets* values were set. Koehlmoos said the NRD's accountant helps with the depreciation schedule.

**Rasmussen motioned, seconded by Loseke, to approve the February, 2013, Treasurer's Report and pay all bills. Motion carried by roll call vote, all present voting yes.**

## PUBLIC COMMENTS

Mark Koperski of Farwell said he applied for 2012 LB-483 acres, got approved for 24 acres, and was going to replace surface water acres with the groundwater acres he received. Koperski said the transfer of surface water acres to another farm was done and wanted to start development of the farm. He said the situation was taken to DNR to see if it could be approved, and DNR said the square portion in the center of the field was unacceptable to them, saying it should have been pied-out to either side. Koehlmoos said this type of situation is usually taken to the Variance Committee and discussed there and the NRD would try to get Koperski on the agenda next month.

Eugene Bredthauer of Ord told the Board that there has been visits and correspondence with individuals regarding the possible rebuilding of a dam that washed out on his property in 2010. He said that cost estimates need to be drawn up.

Dennis Derner of Wheeler County expressed concerns regarding the water table. He said his ranch has sub-irrigated hay meadows and was told the water table was down only 3½ feet, which he thought was disastrous for his area. He said that he was aware of the 3,000 new acres granted for irrigation and felt if this continued it would dry them out. Koehlmoos said the drought played a big part in lowering the water table and anticipates we won't see as much depletion this year as we will next year due to a two-year lag from a wet cycle to a dry cycle. Derner said there needs to be control on the water because so much is being wasted. He said he feels there should be a limit on the amount of water pumped. Koehlmoos invited Derner to stop by the office and visit with him and Callan and they will show him some things that are going on in Lower Loup. Koehlmoos said the NRD Board has been very proactive in water conservation.

## FORESTER'S REPORT

District Forester Rich Woollen reported that the Forest Stewardship Program is a national program that used to have a cost-share program attached to it for different practices, including tree planting. The cost-share is no longer available, but most of the woodland management plans that are put together for landowners are still run through the Forest Stewardship Program. Several woodland management plans are done each year.

Woollen reported that LB-634: Nebraska Wildfire Control Act of 2013, supported by NARD and others, was heard by committee on Tuesday. Woollen said that this bill would help get funds to purchase some single-engine air tankers which would increase initial attack on fires, hopefully keep them smaller, and cut down on costs. He said the tankers would be located in the northwestern part of Nebraska. He said the bill would also provide funds for fuels reduction work and also increased training of local fire department personnel and landowners.

Woollen said that the NRD is taking orders for conservation trees. He also reported that the Conservation Tree Work Group is a state work group that meets quarterly via conference calls. He

said that at a recent meeting, Bessey Nursery, which provides trees both in-state and out-of-state, gave an update on seedling sales. He said the nursery reported a total inventory of 1.9 million seedlings and has sold 475,000.

Woollen said *Timber Talk* is a quarterly publication of the Nebraska Forest Service. He said it includes a section entitled, “Nebraska Forest Industry Spotlight” which highlights a forest industry in the state. Woollen recently wrote an article for *Timber Talk* that featured Countryside Lumber, operated by Rod and Val Smith, on their farm between Fullerton and Genoa. He said the business produces peeled and treated redcedar posts and poles, mulch and kiln-dry lumber. Woollen said that timber sales are posted in *Timber Talk*, as it is a main publication for that type of advertising.

Loseke asked if any action was taken by the legislative committee on LB-634 to move it forward. Koehlmoos said it hasn’t been released from committee but has gotten good comments and no opposition.

### NRCS REPORT

Bryce Bauer, District Conservationist, reported that NRCS has funded 65 EQIP contracts so far and estimated there may be about 15 more. He said funding is nearly \$2 million in the Lower Loup NRD and he thought it may get up to \$2.5 to \$3 million before it’s over.

Bauer reported that the second ranking deadline is March 1<sup>st</sup>. He said the rest of the local money will probably be spent on March 4<sup>th</sup>, and Bauer said 60% of the money was spent the first go-around.

Bauer reported that he and others, including five producers, met with State Agronomist Corey Brubaker to go over cover crop guidelines which are based on soil erosion. Bauer said that most of the producers he works with utilizing cover crops are long-term no-tillers and are more interested in soil health. Bauer said NRCS is going to cut their seeding rate in half and go to several different rates instead of just having the one soil erosion rate. He said that soil health rate will be implemented but will still have the soil erosion rate.

### DNR REPORT ON IMPS AND FULLY-APPROPRIATED DETERMINATIONS – JESSE BRADLEY, DNR

Koehlmoos introduced Jesse Bradley and Tom O’Connor from the State Department of Natural Resources (DNR) office and Tom Klanecky from the DNR office in Ord.

Bradley is the head of the Integrated Water Management Division which works with NRDs to implement integrated management plans (IMPs). He said the main objective of IMPs is to protect existing users and insure compliance with interstate compacts and agreements. State statutes detail the requirements of what the plans need to accomplish.

Bradley gave a powerpoint presentation on the IMP development process, the elements required in the plans, the differences between the voluntary process versus a required IMP, the importance of implementation and monitoring in the process, and collaborative basin-wide planning.

Koehlmoos said that since the Lower Loup NRD has not been declared fully-appropriated, the IMP process is not mandatory. Lower Loup has been able to handle most of its projects and programs through groundwater management protection. Koehlmoos wondered if it was practical, at this point, for the NRD to gather baseline information on municipal/industrial water uses. Bradley said it is a component of the plan and that making contacts would be useful.

Bradley talked about the concepts and methodology used to declare fully-appropriated status. Bradley stated that current rules are in place, but there is a plan to develop new rules and new methods. DNR plans to release the new rules in a few weeks, allow a public review/comment period, make any necessary modifications, and hold a formal public hearing, with a final report coming at the end of the year.

Koehlmoos asked if the Lower Loup NRD would be reviewed this year under the old criteria or the new criteria. Bradley responded that they would be using the new criteria.

Bradley said it is important to remember the intent of the whole determination process, which is to work to protect existing water users, so they never have to worry about a reduction in their water use because new uses continue to be granted.

Bradley mentioned that DNR is developing a project called *INSIGHT*, which is a web-based product that will allow people to have more access to information regarding water supply, water use, categories of water use, and water availability. They hope to have it completed by July, but it may coincide with the end-of-the-year fully-appropriated data. Bradley hopes the project will give people a better view of what's going on with the water resources in Nebraska.

## ENGINEERING REPORT

### Howard County Road Structures

District Engineer Robert Mohler reported that a fifth road structure in Howard County, the Armstrong Road Structure, had been altered. He provided the Board with a powerpoint presentation of pictures he had taken of the structure in which the riser had been completely removed.

Mohler said that documents for this structure were sent to the Howard County attorney. He said the NRD files contained an easement that included the words "water storage." He said it included an elevation and number of acres in permanent storage and temporary flood storage. Mohler said another similar easement was also found for one of the other four road structures that have been discussed. Mohler said the two easements were taken in the name of Howard County.

### Fullerton Powerhouse Park

Mohler said he and Koehlmoos visited the site with Jim Kramer, Fullerton City Administrator. He said that to protect the public, the city of Fullerton plans to put up an 8' chain-link fence along a high retaining wall, and replace the flooring on the bridge that leads to the island which could be used for a recreation area. Mohler said the gates that used to control the river have been removed, as well as two of the wingwalls.

Mohler said Kramer was encouraged to put together a ‘phase’ plan, including cost estimates and time frame for completion of the recreation area. He said at that time, the NRD Board could consider contributing to the project.

Mohler said the island is about 6 acres in size and has the potential for flooding.

## INFORMATION AND EDUCATION REPORT

### North Central Region Envirothon

Information & Education Coordinator Larry Schultz reported that the North Central Region Envirothon will be held March 5<sup>th</sup> in Columbus. He said the top scores at this contest qualify for the State Envirothon which will be held in Omaha on May 4<sup>th</sup>, and then the winner from Nebraska will compete in Montana in August. Schultz said each year there is a topic of national interest that is decided upon by the host state, and Montana chose “Range” as their topic.

Schultz mentioned NRD apparel and will get order forms to the directors.

## ASSISTANT MANAGER’S REPORT

### Water Resources Committee

Assistant Manager Russell Callan reported that the committee met on February 20<sup>th</sup>. He told the Board that since the NRD started allowing transfers, there have been 437 transfers totaling 21,008.97 acres, along with 715.85 ‘banked’ acres. He said staff has been busy with requests due to the March 1<sup>st</sup> deadline in which producers need to get their request submitted in order to irrigate this year.

Callan reported that Senator Christensen’s bill, LB-186, which would take away NRD authority to regulate manure application to farmland, has been pulled. Callan and Koehlmoos had met with him recently in Lincoln regarding the bill. Callan said the NRD will continue lagoon acres discussion with producers.

There was no report at this time regarding the district court status on Robert J. Prokop.

### Variance Committee

Callan reported that the committee met before the Board meeting and heard five variance requests, two being heard a second time.

Callan said Jolyn Farms, Inc. is asking to transfer 42 acres from a 57% depletion to a 27% depletion. Although the effect to the stream was better, the ground had not been irrigated between the years 1998 to 2008, as required by NRD rules. There are 71 acres on the property and the committee allowed him to move 42 acres, and Jolyn Farms will relinquish the remaining 29 acres as part of the transfer.

**Nelson motioned, seconded by Thoene, to approve the Jolyn Farms, Inc. variance request to transfer 42 irrigated acres in Section 15, Township 11 North, Range 16 West, Buffalo County, to Section 25, Township 11 North, Range 16 West, Buffalo County, with the relinquishment and decertification of 29 irrigated acres. Motion carried by roll call vote, all present voting yes.**

Callan said the request from Stobbe/Baillie/Feller/Fowler involves the Middle Loup Irrigation District and its inability to get enough water delivered to their land. The landowners were short on acres and want to transfer some groundwater acres to the property, put up a pivot, and drill a well. That was unacceptable to the committee because the irrigation district could move those acres and new acres would be developed. They met with the irrigation district who agreed to put in a stipulation in an agreement that they could not move the acres.

Citta mentioned that the landowners would continue to pay the irrigation district for the surface water acres so the district would not see a loss of income since they couldn't deliver that water and they were going to leave the water in the system for recharge.

Callan said that with the agreement, there would be no new acres. The surface water acres would stay there and be supplied by a well; and the acres that will be transferred, which are previously irrigated acres at another location, will fill in the rest of it. Callan said there would be new groundwater acres, but no new irrigated acres.

**Nelson motioned, seconded by Adams, to approve the Stobbe/Baillie/Feller/Fowler variance request to maintain a surface water right in Section 28, Township 16 North, Range 15 West, in Sherman County, and develop a groundwater well to irrigate the same field with a three-party agreement between the landowners, irrigation district, and the Lower Loup NRD to keep the acres there and allow the diversion for those acres to be counted as recharge in the canal system to offset the groundwater development.**

Smith asked if the agreement was perpetual, no matter who the owner is, in case the land sells. Callan answered that it is the intention that the agreement is perpetual. Koehlmoos said the NRD would record the agreement with the Sherman County clerk and attach it to the land.

**Motion carried by roll call vote, all present voting yes.**

#### Groundwater Management Area Activities

##### Area 28 Activities

Callan said that the Area 28 annual reports are coming in. A few landowners have not sent in their reports.

##### Update on Robert J. Prokop's Cease and Desist Order

Chairman Citta said that this topic will be postponed until the last agenda item because it is a legal and litigation issue and will be discussed in Executive Session.

#### ELM Update

Callan said that the NRD is waiting for the final report from USGS. Data entry is complete.

## 2012 CHEMIGATION REPORT

Callan reported that 2,696 chemigation applications were approved in 2012, the highest of any NRD in the state. NRD staff made 1,103 inspections. The numbers seem to increase yearly. Callan said that legislation has been introduced to increase chemigation fees. The chemigation program was enacted in 1987, with fees being \$30 for a new permit and \$10 for a renewal. The fees have not changed. The bill has been receiving positive feedback.

## MANAGER'S REPORT

### LPRBWMPC Interlocal Agreement

Koehlmoos mentioned that the final draft of the *Lower Platte River Basin Water Management Plan Coalition Interlocal Agreement* was included in the agenda. The Board has already taken action on it, authorizing Koehlmoos to sign the agreement. Koehlmoos reminded the Board of the \$20,000 membership fee.

### Appointment of Representatives and Alternates to the LPRBC Board

Koehlmoos said that the section of the agreement that deals with the Board was copied in the agenda for reference. Since the Lower Loup NRD is a partner, it can appoint two Board members and any number of alternates. Adams and Sieh expressed interest in serving on the LPRBC Board. Koehlmoos said LPRBC Board members could be NRD directors, staff, or someone outside of the NRD Board. He said there would be at least two meetings per year.

Walden asked about consensus by members to make any changes. Koehlmoos said he introduced that stipulation because he didn't want water districts being forced into something they didn't want. Walden asked if Lower Loup was getting a fee for doing the bookwork. Koehlmoos answered that the group offered to pay out-of-pocket expenses, but Lower Loup had agreed to take care of the bookkeeping for audit purposes.

### Programs/Projects Committee

Koehlmoos said the new committee met for its first meeting on February 19<sup>th</sup>. The history of NRDs was given, as well as information on LLNRD's present programs and projects. Koehlmoos, Mohler, and Woollen made presentations. Naprstek discussed the Nebraska Environmental Trust grant application that was sent in for Pibel Lake. There has been dialogue with DEQ, NARD and others on beginning a watershed management plan.

Koehlmoos said the committee voted to recommend that the NRD proceed with a request for proposals for development of a Clear Creek-Pibel Lake Watershed Management Plan.

There are 63 square miles of watershed above the lake and the NRD has the opportunity to acquire some funds to develop a plan of management within the watershed to protect the lake and resource. There are no mandatory requirements, but it will give the NRD and opportunity to come up with some possible funding for best management practices on a voluntary basis.

**Eschliman motioned, seconded by Walden, that the Lower Loup NRD proceed with a request for proposals for development of a Clear Creek-Pibel Lake Watershed Management Plan. Motion carried by roll call vote, all present voting yes.**

Schultz had given a presentation on the NRD web site which receives 10,000 visits per week. Koehlmoos stated that there is money set aside for improvements to the web site. The NRD is also going to work GIS Solutions to develop an RFP from them to start doing some reporting over the web.

Koehlmoos said the committee discussed the priorities that the directors set up at the 2012 retreat. The consensus of the committee was to try to have another retreat in late March or early April and wondered if that was agreeable to the Board. Hearing no objections, staff will proceed.

#### Move March Board Meeting to March 21

Koehlmoos said that the regularly scheduled March Board meeting falls on Holy Thursday and Chairman Kruse had requested that the meeting possibly be moved up a week to avoid this conflict.

**Petersen motioned, seconded by Smith, to move the March Board meeting to March 21. Motion carried by roll call vote. Directors voting yes: Anderson, Bartak, Gellermann, Knutson, Loseke, Lukasiewicz, Nelson, Petersen, Rasmussen, Sieh, Smith, and Walden. Directors voting no: Adams, Citta, Eschliman, Kauk, and Thoene. Directors absent: Amsberry, Gutzmer, Hadenfeldt, and Kruse.**

#### Request to Address the Board by the Water Balance Alliance – Roric Paulman, Chairman

Koehlmoos said that Roric Paulman of the Water Balance Alliance, an organization that has done some water projects in southwestern Nebraska, has requested time to meet with the Board to present their data on low-risk exposure to water-saving technology.

After discussion, Koehlmoos said he would talk to Paulman and get a copy of his presentation.

#### Request for a Bench Memorial at Davis Creek

Koehlmoos said he received a request from Sheri Freeman for a bench memorial at Davis Creek in memory of her husband, Kenny Freeman. The bench is six feet concrete with a back and will be placed on a concrete slab. Koehlmoos said that if we decide to allow the bench and the style presented, if additional bench requests come in they would have to be the same style. Koehlmoos said the NRD would be responsible for putting in the concrete slab under the bench.

**Rasmussen motioned, seconded by Eschliman, that the NRD allow the memorial bench at Davis Creek and that the NRD use this bench design and style as a standard for any future bench requests. Motion carried by roll call vote, all present voting yes.**

#### New Hires

Koehlmoos said there were no new hires.

## NARD REPORT

### Director's Report

Rasmussen said that the NARD Board met at the Legislative Conference last month. Information was presented on the pipeline and the dam at Wahoo. Rasmussen said the financial report was good. Koehlmoos brought to the Board's attention the Legislative Conference Resolutions Summary in the supplemental agenda.

### NARD Washington, DC Conference – March 9-14, 2013

Schultz said that reservations are made and tickets bought.

## NRC REPORT

Knutson reported that NRC met during the Legislative Conference. NRD project reports were given, funds discussed, and discussion on LB-516 and LB-517.

## RC&D REPORTS

### Loup Basin RC&D

Rasmussen told the Board that Loup Basin RC&D Executive Board met earlier in the month and will meet again next week, presumably regarding a grant of around \$30,000.

### PrairieLand RC&D

Gellermann reported that their regular meeting had been cancelled.

## ANNOUNCEMENTS

Sieh announced he attended a meeting with the National Drought Mitigation Center from the School of Natural Resources. The Center is wanting input on what kind of information they need to get that would help farmers prepare for drought.

## ASSISTANT MANAGER'S REPORT

### c. Groundwater Management Area Activities

#### 2. Update on Robert J. Prokop's Cease and Desist Order

**Rasmussen motioned, seconded by Walden to go into Executive Session to discuss Robert J. Prokop's Cease and Desist Order and pending litigation with Mr. Prokop. Motion carried by roll call vote, all present voting yes.**

Discussion

**Anderson motioned, seconded by Knutson, to come out of Executive Session and continue in Open Session. Motion carried by roll call vote, all present voting yes.**

**ADJOURNMENT**

With no further business before the Board, Chairman Citta declared the meeting adjourned at 8:21 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 Thursday, March 21, 2013, at 5:00 p.m., at the Headquarters Office in Ord, Nebraska.

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Darwin B. Anderson  
Secretary