

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

October 24, 2013

Ord, Nebraska

The October 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 October 24, 2013. Vice Chairman Citta called the meeting to order at 5:02 p.m.

CALL TO ORDER

Directors in attendance

James C. Adams
Darwin B. Anderson, Secretary
James J. Eschliman
Randy Kauk
Matt Lukasiewicz
Alan D. Petersen
Gerald P. Smith
Kim C. Walden

Rollie D. Amsberry, Treasurer
Joseph L. Citta, Jr., Vice Chairman
Virgil W. Gellermann
Clifford P. Loseke
James C. Nelson
Dean J. Rasmussen
Henry J. Thoene

Directors absent

Timothy E. Bartak
N. Richard Hadenfeldt
Gary A. Kruse, Chairman

Michael P. Gutzmer
Thomas L. Knutson
Darwin R. Sieh

Staff in attendance

Leon "Butch" Koehlmoos, General Manager
Dell R. Harris, Water Resources Specialist
Cheryl K. Hornickel, Programs Assistant
Larry D. Schultz, I&E Coordinator
Jane K. Klanecky, Receptionist
Mike Lorenz, Agronomist, Fullerton

Russell G. Callan, Assistant Manager
Irene F. Kreifels, Financial Secretary
Richard L. Woollen, District Forester
Rita A. Goldfish, Administrative Assistant
Anne Freeman, Program Secretary
Peggy Griffin, FO Secretary, St. Paul

Guests in attendance

Bryce Bauer, LDC, NRCS, Ord
Mike Wells, Twin Loups Irrig. Dist., Scotia
Paul Groeteke, Cedar Rapids
Tyler Petersen, Wolbach
Rueben Holeman, Ansley

Galen Maresh, York
Jim Wurst, NLRPP&I District, Ord
Don Dugan, Greeley
Eugene Holeman, Westerville
John Baldwin, Greeley

Tom Dugan, Greeley
Charlie Thoene, Burwell

Jerry Glaser, Greeley
James Lowery, Burwell

NOTICE OF OPEN MEETING LAW POSTING

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 verified that the meeting notices were properly published in all newspapers, posted at the NRD Headquarters office in Ord and the eight field office locations, and on the NRD web site. Koehlmoos said there were no modifications to the agenda.

Anderson motioned, seconded by Adams, to approve the verification of the meeting notice, adopt the 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 September 26, 2013, Board meeting minutes. Koehlmoos said he had reported at the September meeting that staff was allowed 11 holidays and 1 discretionary day. He said the minutes should be corrected to reflect that staff is allowed 10 holidays and 1 discretionary day.

Smith motioned, seconded by Anderson, to approve the corrected minutes. Motion carried by roll call vote, all present voting yes.

TREASURER’S REPORT

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

Koehlmoos highlighted expenditures to NARD Research for \$20,000 for Coalition membership dues; USGS for \$33,456 for the ELM Study; and the City of Sargent for \$6,000 for a swimming pool liner.

Staff said the \$2,845.68 expense to Ultra Graphics was the printing cost for the quarterly newsletter, *In the Loup*, which was mailed to over 16,000 residents. The charge did not include postage.

Koehlmoos reported that the NRD has been buying Certificates of Deposit using funds invested in NPAIT. He had three resolutions for banking transactions: Heritage Bank in Loup City, Bank of Broken Bow in Broken Bow, and Custer Federal in Broken Bow, and said the

approved resolutions would allow the NRD to invest money in those banks. Koehlmoos said the NRD currently has CDs in nine banks. He would like to have one CD come due each month through the year, so in case money is necessary, no penalty will have to be paid as long as the CD continues to roll over.

Rasmussen motioned, seconded by Loseke, to approve three banking resolutions. Motion carried by roll call vote, all present voting yes.

Anderson motioned, seconded by Walden, to approve the October, 2013, Treasurer's Report and pay all bills. Motion carried by roll call vote, all present voting yes.

PUBLIC HEARING-PROPOSED RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE LOWER LOUP NATURAL RESOURCES DISTRICT'S GROUNDWATER MANAGEMENT PLAN

Chairman Citta opened the public hearing on modifications to the Lower Loup NRD's Groundwater Management Area Rules and Regulations at 5:17 p.m. Callan submitted into the record the Lower Loup Natural Resources District Groundwater Management Plan; the revision to the Water Quality Section of the Groundwater Management Plan; the NRD's rules and regulations for the Enforcement of the Nebraska Groundwater Management and Protection Act; the proposed changes/addition to the rules and regulations for the LLNRD's Groundwater Management Area Rules and Regulations; a copy of the letter requesting testimony from the Nebraska Department of Natural Resources; a copy of the letter requesting testimony from the Nebraska Department of Environmental Quality; a copy of a letter of notice to the Middle Loup Public Power and Irrigation District and its return receipt; a copy of a letter of notice to the North Loup River Public Power and Irrigation District and its return receipt; Notices of Publication and Affidavits of Publication from newspapers; press release sent to newspapers and radio stations; and written testimony from Martin Jareske, Jr., Nebraska Cattlemen, and Don and Patty Jensen.

Chairman Citta asked for testimony from the Nebraska Department of Natural Resources and Callan read into the record a copy of a letter from Brian Dunnigan, Director of the Nebraska Department of Natural Resources. Callan read into the record a copy of the letter from Jon Kenning of the Department of Environmental Quality.

Chairman Citta asked for public testimony in opposition to the rule changes.

James Lowery of Burwell commented that Rule 20 stated that flow meters would be required on "all" water wells and he wondered if that included stock and domestic wells. Callan said that, at this time, flow meters are required on irrigation wells only in Area 28 which is south of the Loup River from Palmer to Columbus. Lowery said he would like the Rule 20 to be better defined to delete "all" water wells, and include "irrigation" wells.

Paul Groeteke of Cedar Rapids commented that he would like clarification on the transfer of irrigated rights and wondered what would be included in the "criteria." Callan responded that the criteria discussion so far has dealt with slope and soil component. Groeteke commented that

NRCS already has guidelines regarding slope and soil erosion and felt the NRD didn't need to deploy rules that are already in place through NRCS. He felt the NRD shouldn't regulate what type of land a producer can transfer water onto via slope and erosion. Groetke also commented on lagoon water, which, according to the rules, is neither groundwater nor surface water. He felt that the NRD shouldn't regulate lagoon water since DEQ already has rules in place for lagoon water and nutrient management. He hoped that government agencies weren't double-duplicating each other and he wasn't in favor of two sets of government regulations on the same issue.

Don Dugan of Greeley commented about flow meters and wondered how many inches of water per year the producers in Area 28 were getting. Callan answered that producers don't receive inches of water. He said there is a water quality concern in Area 28 and there are no restrictions on pumping. He said the NRD is attempting to measure how much nitrate is being applied in the field through the irrigation water, and said that several producers could meet most of their nitrogen requirement through their irrigation water.

Chairman Citta asked for public testimony from those who are proponents to the rule changes. No testimony was heard.

Chairman Citta asked for neutral testimony of the proposed rules.

Galen Maresh of York testified that he has MS which affects his cognitive function, and when acres were certified for his mother's land, some errors were made. He said he caught them "after the fact," but when he tried to correct them, he couldn't. He has tried to do things that are efficient and cost effective to the land, but continues to run into roadblocks. He questioned why the NRD allowed some pivots to be developed on questionable ground. He said he tried to develop some flat pivot corners but couldn't get approval from the NRD. He said common sense needs to be used.

Eugene Holeman of Westerville testified that when the NRD shut down land development, it should have never been opened up again. He said he works for Trotter and has seen land that should have never been broken up. He said it doesn't make sense to build a bridge across a canyon.

Citta asked for comments from the NRD Directors.

Walden questioned the arrival time of the Jensen letter of testimony. Koehlmoos said the clock on the fax machine was incorrect and he verified that the letter did arrive before the 2:30 p.m. cut-off time.

Amsberry asked if the rules follow what was written in the letter from Nebraska Cattlemen. Callan answered that he didn't have time to review the letter closely, so he couldn't say if things were correct or not. Koehlmoos said that DEQ's letter indicated support for the language of the proposed rule changes, and further said that if the Nebraska Cattlemen want to address their issues with the Water Resources Committee, they are welcome to do so. Koehlmoos said most of the points brought up in the letter have been discussed with the Water Resources Committee or the Board.

Smith said the objective of putting the criteria together was to avoid situations like the one west of Ord and in Greeley and Boone Counties. He said this was probably something that was needed years ago.

Maresh commented that a friend of his in York County was putting drip systems in every corner of his pivots because he is afraid of what's going on here and the restrictions the NRD is making.

Citta closed the hearing at 5:55 p.m.

Citta asked the Board if they would like to take action on the proposed rules. Koehlmoos said the normal procedure would be to adopt the rules, modify or make changes to the rules based on testimony, or suspend and not adopt them.

Koehlmoos mentioned Mr. Lowery's comment regarding "all" water wells and the confusion it might cause. Koehlmoos said the rules could be clarified to say "irrigation" wells if the Board chooses. Koehlmoos said it's not the intention of the NRD to include stock or domestic wells in Rule 20. He said the "4-inch" portion of the rule was because of the metering question and will be taken care of through variance. Callan said the only thing that is required in the NRD's rules and regulations are wells applying water to irrigated land within Area 28.

Loseke said Rule 20 would be more clear if the change was made from "all" water wells to "irrigation" wells. Citta added, "Just so it's consistent with our definition of a regulated well."

Koehlmoos read the *Order of Designation No. 2013-01*.

Smith motioned, seconded by Thoene, to approve the proposed rules and regulations for the implementation of the Lower Loup Natural Resources District Groundwater Management Plan and adopt the Order of Designation No. 2013-01 regarding the modifications to the rules and regulations of the NRD's Groundwater Management Plan. Motion carried by roll call vote, all present voting yes.

PUBLIC COMMENTS

Eugene Holeman said that several years ago when flow meters were introduced, he was wanting to put one on his system but was advised by a flow meter dealer not to install one because "they're not that accurate." Holeman wondered if they're more accurate now. Callan said that the industry standard is +/- two percent. Koehlmoos said if a flow meter is installed it has to be according to specifications. He said flow meters are tools that give additional information to make better management decisions, and the landowner has to decide if that is worth the money or not.

Holeman asked if landowners were going to have a choice whether to put flow meters on or not. Koehlmoos answered that, at this time, the NRD is mandating flow meters in a special water quality management area of about 50,000 acres over an 8,000 square mile NRD. Koehlmoos said the water nitrate-nitrogen concentration is very high in Area 28, and the NRD is

trying to get a handle on how much nitrogen is being recycled in the groundwater. Koehlmoos said he cannot determine if the NRD will ever mandate flow meters in Custer County, but at the present time, there is neither a nitrogen problem nor a water quantity problem in that area.

Citta said the rules and regulations that were just passed do not affect Mr. Holeman's location since he is not in a water quality management area; therefore, he is not required to install a flow meter.

Holeman asked if the installation of flow meters would stop the development of land that should not be developed. Koehlmoos answered that the meters would provide a tool for the landowner to better manage his own water resource.

Citta stated that the new rules package just approved contains provisions that allow the Lower Loup NRD Board of Directors to establish criteria on where irrigation transfers can and cannot take place.

Amsberry said that a lot of acres are being developed that aren't being irrigated.

Eschliman said cost-share is available for meters that are going to be installed in Area 28 and wondered if there was cost-share available for others in the District. Koehlmoos answered that there is limited cost-share through NSWCP and state water quality funds, and there is EQIP and federal money available. Also, the NRD has applied for another Environmental Trust grant to extend the program that was used to cost-share on meters earlier. Koehlmoos said these cost-share avenues would not be the same type that is being made available to Area 28 landowners.

LOWER LOUP NRD FY-2013 AUDIT

Bruce Lammers of Severson, Lammers & Abel provided a summary of the information presented in the Audit Report. He said what used to be a 2-page report is now 35 pages long. Lammers said that all the NRD finances were found to be in order.

Walden noted page 17 which listed definitions under "Governmental Fund Balances" and questioned whether NRD funds were restricted or unrestricted. Lammers answered that the NRD funds are all restricted for certain things. Walden then referred to the accountant's letter regarding internal controls and the recommendation proposed that stated, "The Board of Directors and the General Manager should review all transactions and all bank reconciliations on a monthly basis to provide additional oversight," and hoped that the Board would not have to go through the checkbook every month. Lammers explained that the intent of the statement was that the Board should get the monthly balances each month. He said he would try to reword it for future audits. Citta asked if the accountant's understanding of what the Board does in reviewing the Treasurer's Report each month addresses the deficiency Lammers noted in the audit. Lammers responded that it did.

Walden motioned, seconded by Smith, to approve the LLNRD FY-2013 Audit Report. Motion carried by roll call vote, all present voting yes.

FORESTER'S REPORT

District Forester Rich Woollen reported that trees sales will begin November 1st. Tree seedlings will sell for \$0.80 each and machine planting cost will be \$0.55 per tree. Woollen attended Clients Day and said the tree stock at Halsey looks good. He said that recent snowstorms in South Dakota and Wyoming resulted in some heavy livestock losses, and said to keep in mind field windbreaks which help protect livestock.

NRCS REPORT

Bryce Bauer, LDC with NRCS, reported that, due to the government shutdown, the EQIP deadline has been moved from October 15th to November 15th. Bauer is expecting 300-400 applications. NRCS is going to promote irrigation water management in the District. It involves putting sensors in the ground to monitor soil moisture levels and EQIP would pay about \$1100.

Bauer said there will be a meeting Monday to talk about changes in the EQIP ranking rules. Presently, regarding pivot conversions, extra points are given if the producer puts one of the new pivot corners into wildlife habitat. There are also extra points for no-tilling the pivot.

Bauer said that EQIP cost-shares on flow meters.

Bauer thanked the NRD staff and Board for their understanding during the government shutdown.

Gellermann asked if the soil moisture sensors included a rainfall gauge. Bauer said they do not tell how much rain a person gets, but it does measure rainfall.

INFORMATION & EDUCATION REPORT

Environmental Festival

Information & Education Coordinator Larry Schultz reported that 160 kids attended the Environmental Festival which was moved to the fairgrounds due to inclement weather. Schultz said he presented the Wildlife CSI and water rocket launch sessions.

Statewide I&E Staff Quarterly Meeting

Schultz attended the statewide I&E meeting in Hastings last week where the group discussed ACE Camp, land and range judging contests and the Nebraska State Fair. Schultz said the Nebraska State Fair is seeking donations for the new \$5 million Agriculture Building, a "buy-your-way-in" type of thing. He said that corn boards, soybean boards and livestock producer groups would probably be utilizing most of the building.

Schultz was unsure what type of message the NRDs would be able to send out from the fair in the future. He liked having the NRD booth and the one-on-one contact with the public.

He said there is a lot of money to be made in the commercial exhibits building and they don't want government entities in there anymore.

Schultz said he helped with the state land judging contest in Shelton yesterday and a team from Fullerton qualified for the national contest. Wisner-Pilger won the contest. Schultz said 1600 kids competed in state range judging including 800 from contests hosted by Lower Loup NRD, and 1400 kids in land judging.

Schultz said the Legislative Conference is scheduled for January 28-29, 2014. He passed around a sign-up sheet.

PROGRAMS/PROJECTS COMMITTEE REPORT

Pibel Lake Update

Callan said that five renovation proposals were received for the Pibel Lake project. The Committee discussed the top two proposals received from JEO and Olsson Associates. Callan said the Committee is recommending the Olsson Associates proposal.

Eschlman motioned, seconded by Rasmussen, that the Lower Loup NRD accept the bid of \$89,500 from Olsson Associates for the Pibel Lake Renovation Project. Motion carried by roll call vote, all present voting yes.

South Loup Recharge Project

Callan said the NRD has been working with USGS on the recharge project on the top end of the South Loup basin. Two more sites have been added and new wells in Arnold's wellhead protection area have been drilled. Some wells have been upgraded from 2-inch wells to 4-inch wells. Staff hopes to get some transducers installed in the wells in a few days. Callan said that the majority of landowners contacted were not supportive of the project and Naprstek put an article about the project in the local newspaper to help minimize their concerns.

Davis Creek Recreation Area

Callan said paperwork needs to be finalized by the state regarding the archaeological assessment of the property. He said REA and the Bureau of Reclamation have signed the necessary papers to begin work on the electrical main line.

Aagaard Farm Progress

Callan reported that the steel sidewalls of the building are up at the Aagaard Farm.

Long-Range Implementation Plan

Callan said the Committee reviewed some of the items of the Long- Range Implementation Plan. Information for the plan had been received during discussions with the

Water Resources Committee, the Programs/Projects Committee and the NRD Board. Callan said additional topics had been included in the plan. Callan said staff received direction for dealing with a couple items.

LONG-RANGE IMPLEMENTATION PLAN

Callan reported that a draft of the Long-Range Implementation Plan has been completed and a copy has been given to members of the Executive Committee for their review. Callan said the plan will be discussed with the Executive Committee regarding any changes and a copy of the final plan will be sent to Directors with next month's agenda.

ASSISTANT MANAGER'S REPORT

Variance Committee

The Variance Committee did not meet in October.

Water Resources Committee

Callan said the next Water Resources Committee meeting is scheduled for November 13th at 10:00 a.m. Criteria will be discussed.

Area 28 Activities

Callan announced that a public hearing will be held November 21st regarding alleged violations of the District's Groundwater Management Area Rules and Regulations and the enforcement of the Nebraska Groundwater Management and Protection Act. He said the alleged violator is Lehr, Inc.

ELM Update

Callan reported that a quarterly payment of \$33,456 was made for the final report.

MANAGER'S REPORT

U.S. Government Shutdown

Koehlmoos said the Executive Committee met earlier to discuss options for field office staff who were affected by the government shutdown.

Citta said that the Committee unanimously recommends to the Board that the NRD consider paying the back wages to field office personnel that were affected by the closure of federal offices.

Eschliman motioned, seconded by Thoene, that the NRD pay for the time that NRD employees were not able to work during the time the federal government agencies were shut down.

Lukasiewicz asked if the vacation time that was used during the shutdown would be reimbursed. Koehlmoos answered that it would be reimbursed.

Walden asked if staff would have to work overtime as a result of being out of the office for two weeks, if any employees sought unemployment, and what the cost would be to pay back wages. Citta answered that none of those issues were discussed at the Executive Committee meeting; it was discussed as a policy recommendation. Koehlmoos said there would be no overtime paid, just the straight 40-hour week.

Eschliman wanted to clarify a misconception and said that the NRD is not being reimbursed by NRCS for half of the wages; the NRD is paying the entire bill. Eschliman said the employees work for the NRD, not the NRCS. Citta said the offices were closed, so the employees could not go to work.

Smith thought the NRD should apply to NRCS to be reimbursed part of the compensation. Koehlmoos said NRCS has no funds for NRD employees, so there would be no reimbursement. Smith felt the NRD should apply anyway, because the situation may come up in a couple months. Koehlmoos said that a request would need to be made to the congressional staff in Washington, DC because there is no state, local, or regional office that could make a reimbursement. Koehlmoos said the state NRCS was going to try to allow the secretaries to work, but were superseded by Washington saying the offices were to be closed. Koehlmoos said it was a direct NRCS policy that no one could enter the buildings and work.

Koehlmoos said the recommendation that was given is for this occurrence only, not to set future policy.

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

Report on NARD Basins and Their Membership

Koehlmoos directed the Board's attention to the information in the agenda regarding NARD basin groupings. He said that the NARD had regional basin groupings by District that are part of the NARD bylaws. The different region groupings in the bylaws set up all the insurance and who represents whom on insurance and retirement. Lower Loup NRD is part of Region 6 and is grouped with Middle Niobrara, Lower Niobrara and Upper Loup NRDs. Koehlmoos said we wouldn't want to change bylaws groupings.

Koehlmoos directed the Board to the fall conference basin listing and said Lower Loup NRD may want to meet with other basin groups at future conferences. He said Lower Loup NRD has been part of the Niobrara River Basin since 1972, which includes .

Pibel Lake Easement for Sediment Basin from Pibel Bible Camp

Koehlmoos said he attended the camp's Board of Directors meeting on October 19th to make sure they were on board as far as easements and/or land transfers are concerned regarding an area the NRD is looking at for a sediment basin. Koehlmoos said the NRD didn't need a formal commitment from them until the NRD gets a recommendation back from the engineer. He said the group is willing to work with the NRD.

Pibel Dam Land Transfer from NDOR

Koehlmoos said that NDOR had sent the transfer agreement for the Pibel Dam transfer, but it did not contain the provision that the NRD would maintain the dam and NDOR would continue to be responsible for the blacktop and hard surface road over the dam. The transfer agreement was returned for those additions and the NRD is waiting for the formal document from NDOR.

New Hires

There were no new hires.

NARD REPORT

Director's Report

Rasmussen reported that the next meeting will be in Crofton on November 10-11, 2013.

NRC REPORT

Commissioner's Report

Hadenfeldt was absent, but Koehlmoos reported that the Water Sustainability Task Force is making progress. He said there is outside interest from NRDs who are wanting more say and control in what is going on.

RC&D REPORTS

Loup Basin RC&D

Rasmussen said that 250 tons of tires were collected in Ord recently.

PrairieLand

Gellermann had no report.

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

With no further business before the Board, Chairman Citta declared the meeting adjourned at 7:17 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, November 21, 2013, at 5:00 p.m., at the Headquarters Office in Ord, Nebraska.

Darwin B. Anderson
Secretary