

MINUTES

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

February 23, 2023

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 23, 2023. Chairman Eschliman called the meeting to order at 4:10 p.m.

CALL TO ORDER

Directors in attendance:

James C. Adams
Darwin B. Anderson
Robert L. Bauer
James Eschliman, Chairman
Gary A. Kruse
Todd Nitsch
Chad J. Podolak
Henry J. Thoene, Vice Chairman
Rick Vlach

Rollie D. Amsberry, Treasurer
Timothy E. Bartak
John R. Coffey, Secretary
N. Richard Hadenfeldt
Larry Mohrman
Alan Petersen
Gerald Smith
Alexander L. Vlach

Directors absent:

Randy Kauk
Matt Lukasiewicz

Thomas L. Knutson

Staff in attendance:

Russell G. Callan, General Manager
Irene F. Kreifels, Administrative Assistant
Alan Bartels, I & E Coordinator
Dell Harris, Water Resources Specialist
Richard Woollen, District Forester
Brant Bechtold, I&E Specialist
Phil Hill, Shop/Rec Area Manager
LeeAnn Smith, Water Programs Assistant

Tylr Naprstek, Asst. General Manager
Kim A. Lyons, Financial Secretary
V. Anne Freeman, Water Programs Secretary
Kevin Gustafson, District Engineer
Brian Kolar, Projects Technician
Jason Moudry, Water Programs Specialist
Derek Domeier, Parks & Maintenance Technician
Harold Benton, Water Resources Technician

Several guests in attendance

VERIFICATION OF MEETING NOTICE AND ADOPTION OF AGENDA

Chairman Eschliman 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 required newspapers, posted at the NRD Headquarters office in Ord, on the NRD website, and in the eight field office locations.

Eschliman announced that the Water Resources Committee report would be moved to earlier in the meeting.

EXCUSED ABSENCES

Eschliman stated that Directors Kauk, Knutson, and Lukasiewicz had asked to be excused.

Smith motioned, seconded by Kruse, to excuse absent directors Kauk, Knutson, and Lukasiewicz. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Anderson, Bartak, Bauer, Coffey, Eschliman, Hadenfeldt, Kruse, Mohrman, Nitsch, Petersen, Podolak, Smith, Thoene, A. Vlach, R. Vlach. Directors absent: Kauk, Knutson, Lukasiewicz.

MINUTES

Eschliman asked for corrections and/or additions to the January 26, 2023, Board meeting minutes. None were heard.

Vlach motioned, seconded by Bartak, to approve the January 26, 2023, Board meeting minutes as presented. Motion carried by electronic vote, all present voting yes.

TREASURER'S REPORT

Russell Callan, General Manager, highlighted expenditures of \$17,788.11 to Yanda's Music & Pro Audio for equipment for the new conference room and \$12,800.00 to EA Engineering for the Cover Crop Study. He also noted additional expenditures of \$41,305.38 to JEO Consulting Group Inc for work on the Mud and Mira Creek WFPO Projects.

Adams motioned, seconded by Petersen, to approve the February 23, 2023, Treasurer's Report. 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.

WATER RESOURCES COMMITTEE

District Rules and Regulations Update

Tylr Naprstek, Assistant General Manager, stated that the transcript of the public hearing from last month was in the Director's packets. He said that Callan had shown the committee a PowerPoint presentation on the proposed rules changes and there was discussion held on various topics including the merits and risks of fall application of fertilizer inhibitors, manure management and other research that is being done. There have been ongoing discussions with Nebraska Dept. of Environment and Energy, and Callan reported that the Kaizen meeting had been rescheduled for next month.

2022 Water Quality Nitrates Report

Jason Moudry, Water Programs Specialist, went over the 2022 Water Quality Report. He showed a map of the District with the sample locations marked. Moudry stated that 2,703 samples were taken in 2022 across the 30 water quality areas. He pointed out samples that tested over 10 ppm on the map. He explained that duplicate samples were taken as a checks-and-balances system to be sure results were accurate. Moudry reviewed each water quality area separately and discussed the number of samples taken and the median readings for each area. He explained that irrigation sample locations were rotated and resampled every 3 years with chemigation inspections.

Moudry reported that out of the samples taken, 5.2 ppm was the median reading. The median of 2.6 ppm was also discussed after taking out sample data from management areas 28, 29, and 30. Moudry also showed a breakdown of the readings by county and well type.

Callan stated that paper copies of the report were available in the back if anyone wanted one.

Mohrman asked about a monitoring well in Greeley County that had high readings. Naprstek stated there was a lot of ag irrigation and hog confinement nearby that may have affected the reading. Mohrman asked how close it was to irrigation wells in the area. Naprstek stated approximately ¼ mile.

Podolak asked about a commercial well in Platte County that had a high reading. Naprstek stated it was located on the east side of Area 28, so it was in a high nitrate area.

Naprstek stated that sample data was mailed to all producers of sampled wells and that the clearinghouse data had been sent to the state.

Podolak asked about using median vs. average numbers. He stated that the median is about 1/3 lower than the average. He stated that from a water quality perspective, using the median vs. average waters it down a little too much. Naprstek stated that using the median number protects the data from outliers where the average can be skewed from either larger or smaller readings.

Once the 2022 Water Quality Report is approved, the information can be made public via the Lower Loup NRD website. Staff is always trying to develop new ways to get this information out to the public.

Smith motioned, seconded by Amsberry, to approve the 2022 Water Quality Report as presented. Motion carried by electronic vote, all present voting yes.

Water Quality Management Reports

Mike Lorenz, agronomist, and Adam Brockmann, water quality technician, are using the data compiled in Lower Loup NRD's Phoenix system to create the required Areas 28, 29, and 30 water quality nitrate and status of soil sample reports. They have about 60% of the reviews completed, with the help of Jeri Rosno and Alyssa Dubas, field office secretaries in Columbus and Fullerton, respectively. They will start developing the pre-complaint list which is due by mid-March and will start contacting the producers that are out of compliance.

2022 Irrigated Acres Violations

Naprstek reported that staff has gone over the infrared photography data collected in August on potential irrigated acres violations. There are 27 producers shown as being in violation of irrigating more acres than they are certified to irrigate. They will receive a certified letter. He stated that once letters were sent, staff would work with producers to remedy the issue.

Columbus Recharge Project

Callan reported that a draft outline had been received from HDR on the Columbus operating system manual. He stated that he was reviewing it and would have additional information later.

Naprstek reported that the presentation given at the February Committee meetings by Dr. Ray Ward was uploaded to the tablets.

PUBLIC COMMENTS

John Harms, Columbus, addressed the Board and asked where on the website agendas were posted.

Coffey stated that they could be found under "News & Events." Callan added that they are posted and removed after the meeting and minutes are posted online as well.

Harms stated that he thought meeting notices should be posted on Facebook and Twitter and felt that the roughly \$30,000 spent on hearing notices in newspapers was excessive for the number of people aware. Harms commented that the Directors represented the constituents of the district, and not only NRD management.

Mike Preister, Monroe, addressed the Board and discussed the proposed fall fertilizer ban. He stated that he felt that producers were being good stewards and have been working at managing nitrates for several years already. He stated that there wasn't as much anhydrous being used anymore and that, in his business, they spread approximately 40,000 acres of dry fertilizer in the fall. He stated the rule of thumb that he and others follow is that anhydrous is applied either the week before or the week after Thanksgiving based on temperature and not a certain date. Preister added that, as a dealer, he would be willing to work with the NRD on tracking applications and reporting, but felt that anhydrous was being applied correctly. Preister suggested that the producers/dealers could be more proactive with fertilizer application, using inhibitors, soil temperature probes, etc., instead of having mandates. He said there were other forms of organic nitrogen being applied to lawns that needed to be discussed, also.

Nick Harms addressed the Board and asked them to reconsider the fall nitrogen ban. He stated he thought producers were doing a good job of being good stewards of proper nitrogen application. Harms said he understood there was a nitrate problem but didn't like regulations and would rather be educated and try to work together first.

Steve Gleeson, Monroe, stated he was at the October stakeholders meeting and found out about the nitrate level concerns. He stated that he thought dealers and producers were working on being good stewards and didn't want to see nitrate problems, He acknowledged that a lot of areas across the District were trending higher and a few areas do use fall application, but wondered, if nitrogen levels were trending higher across the District, why was the NRD only targeting fall application. He stated they split-apply in the growing season and if they would be forced to do all the application in the spring, it will cost them more money. He stated that he figures the biggest leaching time is between April 1st and May 31st when the big rains happen. He stated he thought we were going backwards if we do a ban on fall application and questioned whether banning fall application would solve the problem. He stated that there is a good program set up for fall anhydrous application, paired with the split application sidedress at planting season and that most people follow that plan. He stated that recent data from the University said it works.

Ralph Weeder, Lindsay, brought in a letter he received on one of his properties. He stated he was confused about what was presented on the map and what was handed out. He reviewed some of the sample results from his wells and stated that some had extreme discrepancies. He wanted to know if there was an acceptable fluctuation in samples. He added that he felt that anhydrous was the best fertilizer to use because it is applied when the ground is below 50° and is stored in the ground until needed, whereas dry fertilizer could be gone after weather exposure.

PROPOSED CHANGES TO GROUNDWATER MANAGEMENT AREA RULES AND REGULATIONS

Eschliman stated that after hearing testimony and reading over the transcript, he saw that the main objection was the fall fertilizer application ban. Several who gave testimony said that something needed to be done, and other said that this topic was brought up without any or short notice. Others said that more education and working with the producers was needed. He stated that some said they don't use fall application. The NRD's two main statute authorities that are approved every year are water quantity and water quality. Eschliman added that he felt the NRD

was doing well on water quantity at sustaining water levels, but water quality needed to be addressed now because the longer we wait, the harder and longer and more costly it will be.

Smith motioned, seconded by Amsberry, to approve the changes to the Lower Loup NRD Groundwater Management Area Rules and Regulations as presented, with the exception of the fall fertilizer ban being delayed until 2025.

Mohrman stated he felt it would be better to work with everyone instead of butt heads. He felt that something needed to be done but thought that working with the producers and more reporting was preferable to more restrictions. He would propose that the NRD break down into smaller areas and monitor soil to restrict application until temperatures reached below 50° at 4" deep for four days. He added that he thought that more reporting was needed on where the nitrogen was going specifically so it was not being overapplied. Mohrman stated that he thought that more soil types could be reviewed, working on reporting for at least one year and then fine-tune things.

Kruse added that he agreed and thought that moving the fall fertilizer ban to January, 2025, was a step in the right direction and that we should take a year to work with producers and suppliers to see if a palatable solution could be worked out. He stated that we realize that there are many soil differences throughout our District. He stated a timeline should be developed on what will be done to go in that direction.

Petersen stated he wanted producers to know the Board does listen and he thought there had been a lot of good testimony and good discussion. He stated he felt that the people testifying were being heard and that we are in between something because protecting this water is so very important, and it is a difficult process.

Nitsch added that the Board was listening and that he has had conversations via phone, email, text, etc. He felt the Board should take their time and do things right and make good decisions that are founded on information and science, instead of forcing things and missing an important link along the way.

Coffey stated that he thought the Board should pull back a little bit. He said that we are looking at irrigated ground, but dry land needs to be looked at, too. He further stated there is also an issue with manure that needs to be looked at. Coffey said he thought that if people are willing to work with the NRD, we should try that first instead of jumping into regulations. He said we will upset people and then they won't want to work with us at all. He added that he thought the fertilizer ban should be dropped but go with the rest of the rules and regulations changes. Coffey also stated that he thinks if people are willing to work with the NRD, they shouldn't have to put extra costs into soil sampling.

Podolak stated that he struggles with the fact that the NRD is responsible for water quality and the trend is going in the wrong direction. He stated he feared that we were on borrowed time and that others in the state might say that, as a governing body, the NRD board couldn't take the steps that were needed, so that others, who may not know as much about the situation, are forced to take action and then we may lose local action, local partnerships, local

problem solving. Podolak added that water quality is such a big deal that the spotlight is on this conversation right now. He added that he thought there were some very good things that could be done but worries that this step won't be the last step if we don't address the water quality issue now. He said the fact is that nitrate levels are going up and that the NRD is supposed to have policies in place to manage that issue. He said we could study it and maybe that would be enough, but there are many watching to see if we can maintain our water quality and get it trending in the right direction, and right now, he doesn't think we are.

Mohrman added that he thought the Board should pass all parts of the rules and regulations changes except the ban because we don't want to rush into it when producers are willing to work with us. He added that it took 50-60 years to get to this point and one more year couldn't hurt.

Podolak asked what we can learn in a year.

Mohrman stated that maybe we could look at more technology, have better reporting, could control when the anhydrous goes on, or the NRD could run temperature plugs, etc.

Smith stated that the motion could be altered with an amendment at any time.

Coffey stated we should work with people for a year or two and get a plan, to see if we can get cooperation and get numbers down.

Mohrman motioned, seconded by Coffey, to amend the current motion to eliminate the restriction for banning fall anhydrous at this time, work with producers, and then revisit this hearing in a year, and in another year revisit the ban, but pass everything else in the new rules and regulations except the anhydrous ban. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Anderson, Bauer, Coffey, Kruse, Mohrman, Nitsch, Petersen, Thoene, A. Vlach, R. Vlach. Directors voting no: Bartak, Eschliman, Hadenfeldt, Podolak. Director abstaining: Smith. Directors absent: Kauk, Knutson, Lukasiewicz.

Vote was held on original amended motion to pass the proposed changes to the Groundwater Management Area Rules and Regulations excluding the ban on fall fertilizer application with review in one year. Motion carried by electronic vote. Directors voting yes: Adams, Amsberry, Anderson, Bartak, Bauer, Coffey, Eschliman, Hadenfeldt, Kruse, Mohrman, Petersen, Podolak, Smith, Thoene, R. Vlach. Directors voting no: Nitsch, A. Vlach. Directors absent: Kauk, Knutson, Lukasiewicz.

Kruse motioned, seconded by Petersen, to adopt Order No. 2023-01: ORDER TO APPROVE AMENDMENTS TO RULES AND REGULATIONS. Motion carried by electronic vote, all present voting yes.

FORESTER'S REPORT

Richard Woollen, District Forester, reported on the conservation tree program. He stated that the nursery still had seedling stock available. Woollen said that, so far, the NRD has sold 35,158 seedlings. Woollen also reported that the Nebraska Forest Service held a staff meeting in Lincoln last week where there was a presentation by a member the Nebraska Chapter of Honor and Remember whose mission is to honor and remember Nebraska's fallen military and first responder heroes, support the families of the fallen and educate and provide ways that Nebraskans can express gratitude to fellow Nebraskans who gave all. They proposed the Nebraska Memorial Forest Project, eventually planting trees in all 93 Nebraska counties by the end of 2024, explaining that each tree would be named after a fallen hero. Woollen mentioned that possibly some Community Forestry money could be used toward this endeavor.

NRCS REPORT

Bryce Bauer, NRCS, Ord, reported that additional funding was received from the Inflation Reduction Act that passed last year. Next year could be double or triple, tapering off in year 4. He stated there was about \$250,000 for the Lower Loup NRD and the amount would be increased every year for 4 years. Areas 28 and 29 will likely be targeted for nutrient management. Bauer added that the funding had to be targeted to climate smart projects, i.e., nutrient management, cover crops, etc. Bauer reported that the Local Work Group would be meeting at Lower Loup headquarters office on Monday to decide 2024 EQIP priorities. He said NRCS would begin advertising to fill 6 soil and range conservationist positions and 1 full-time agronomist in St. Paul with funding tied to the Inflation Reduction Act.

INFORMATION & EDUCATION REPORT

Central Region Envirothon

Alan Bartels, I&E Coordinator, reported that next week the Central Region Envirothon would be held in Columbus and co-hosted with Central Platte.

Backyard Bird Count

Bartels reported that last weekend the Backyard Bird Count was held in the Arboretum, and they documented 617 birds and 18 species.

Washington D.C. Conference

Bartels reported that flight and lodging arrangements had been made and he has not heard back on the White House tour yet.

Scholarships

Bartels reviewed the current scholarships the NRD provides. It was reported that staff recommends increasing the total scholarship budget to \$10,000 and award future scholarships under the name of the *Larry Schultz Outdoor Education Memorial Scholarship*.

Adams motioned, seconded by Anderson, to increase the scholarship budget to \$10,000 for the FY23-24 budget year and award future scholarships under the name of the *Larry Schultz Outdoor Education Memorial Scholarship*. Motion carried by electronic vote, all present voting yes.

ASSISTANT GENERAL MANAGER'S REPORT

Davis Creek Totals

Naprstek reported on the Davis Creek totals for the year and stated that there were camp host positions available. He said that the NRD would start tracking the camp host's volunteer hours for annual federal reporting.

Irrigated Acres Violations

Naprstek reported that staff had been reviewing the 26 violations and letters would be sent next week.

PROGRAMS/PROJECTS COMMITTEE

Davis Creek Road Project

Kruse reported that proposals were received to gravel the west entrance road at Davis Creek up to the original boat dock. Gustafson had reviewed and ranked 4 proposals, along with Callan, Naprstek and Kolar. Bids came in at \$213,000; \$119,000; \$143,000; and \$143, 000. All agreed that Flatwater Group's bid scored the highest.

Kruse motioned, seconded by Mohrman, to accept Flatwater Group Inc's proposal for the Davis Creek Entry Road Project.

Hadenfeldt asked if it was negotiable or if they have a good idea of what would be involved. Gustafson stated staff will sit down with Flatwater Group next week and have them provide a list of what tasks would be completed.

Motion carried by electronic vote, all present voting yes.

Village of Belgrade Bank Stabilization

Kruse reported that Belgrade previously came to the Board and received approval for funding of 25% of the local match funding, not to exceed \$27,000. Kruse stated that the costs

were higher than originally expected on the project, so they are requesting additional contribution from the NRD. Kruse added that the committee recommended staying at the original contribution amount.

Kruse motioned, seconded by Adams, to participate in the Belgrade Bank Stabilization Project at the original approved amount of 25%, not to exceed \$27,000. Motion carried by electronic vote, all present voting yes.

Mud Creek WFPO – Ansley

Kruse reported that the Mud Creek Watershed Plan had been submitted to the Nebraska NRCS, who forwarded it on to the NRCS Water Management Center in Little Rock for review, which could take from 1 to 6 months.

Mira Creek WFPO – North Loup

Kruse reported that there had been an agency review meeting scheduled in February for the Mira Creek WFPO. The watershed plan will be submitted to the Nebraska NRCS, then to the NRCS Water Management Center in Little Rock for review. Callan stated there was a bill up for committee in the Senate to provide additional federal match dollars for such projects.

Sargent Flood Project

Gustafson reported that he reached out to Olsson to find out the status of the HMP grant. He stated that focus had been moved to BRIC applications, so a decision may not be made until summer. It was reported that the Jesse Street culvert was back under construction with the original plans, and they hope to have it completed by May.

Flood Mitigation Study West of Columbus

Kruse reported that Tim Hofbauer, the Platte County Emergency Manager talked to Callan about doing a flood study. Callan stated there wasn't much information available right now, but the NRD would be part of the discussion.

Building Update

Callan reported that the carpets were steam cleaned after the flooding. He also stated that Phil Hill and Derek Domeier were working on remodeling the old water lab. He stated there are some leaks in the main hallway ceiling; however, Chief Construction had been contacted to remedy the issue.

Other

It was reported that the Airport Authority was looking for assistance with riverbank erosion adjacent to the airport in Loup City. A program with the Corps of Engineers is being investigated.

VARIANCE COMMITTEE

Toene reported that there were five variances this month and all were the first hearing so no decisions will be made until next month. He said the variances included:

- 1) Lyon Ranch near Merna was requesting a transfer to fill in their corners;
- 2) Troy Lukasiewicz of Farwell has requested a transfer of surface water acres to several different properties and replace comingled acres with groundwater only;
- 3) A request in Valley County to put a pivot on gravity ground that is certified with irrigation district water;
- 4) Wolf Land in Albion requesting an acres transfer from Area 29 in Wheeler County into Boone County drawdown area;

5) 56 Land & Cattle requesting a transfer out of CPNRD into LLNRD, switching from groundwater to pivot.

MANAGER'S REPORT

Litigation Update

Callan reported that there was litigation between NDEE and Flatwater Press regarding a Freedom of Information Act (FOIA) request that was not fulfilled and NDEE lost. Podolak asked what the request pertained to. Callan stated it was regarding nitrates.

New Hires

Callan reported that Cacey Wilken, the new Water Modeling Coordinator, would begin next week and will spend three days a week in Ord and the other two days working from Lincoln.

Non-action Reports

None

NARD REPORT

Eschliman reported that on page 11 in the supplemental agenda there was a non-attendance criteria policy he wanted Board members to be aware of regarding NRD funded functions. The policy is shown below.

Non-attendance criteria – These criteria would apply when it is determined by the General Manager and the Executive Committee that a director or staff member failed to attend a conference or other function for which district funds

had been expended for registration and/or lodging. The General Manager and the Executive Committee would evaluate any justification provided for the absence (i.e., health issue, weather/travel issue). If the reasons provided were found to be unjustifiable, the district would bill the director or employee for the fees associated with their attendance at the event.

NRC REPORT

Amsberry reported that there was a meeting February 15th in Kearney and members applied for committee appointments and a meeting schedule was received.

Callan announced an award for Hadenfeldt in appreciation of 20 years on the NRC Commission.

ANNOUNCEMENTS / FUTURE MEETING TOPICS

None.

ADJOURNMENT

With no further business before the Board, Chairman Eschliman declared the meeting adjourned at 6:13 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 required newspapers. The next Board of Directors meeting will be held March 23, 2023, at 4:00 p.m., at the Headquarters Office in Ord, Nebraska.

John R. Coffey
Secretary